



Bar Council response to the Consultation on the Future of Training for the Bar: Future Routes to Authorisation

1. This is the response of the General Council of the Bar of England and Wales (the Bar Council) to (a) the Bar Standards Board's 2016 consultation paper on Training for the Bar: Future Routes to Authorisation¹; and (b) the Addendum to that paper².
2. The Bar Council represents over 16,000 barristers in England and Wales. It promotes the Bar's high quality specialist advocacy and advisory services; fair access to justice for all; the highest standards of ethics, equality and diversity across the profession; and the development of business opportunities for barristers at home and abroad.
3. A strong and independent Bar exists to serve the public and is crucial to the administration of justice. As specialist, independent advocates, barristers enable people to uphold their legal rights and duties, often acting on behalf of the most vulnerable members of society. The Bar makes a vital contribution to the efficient operation of criminal and civil courts. It provides a pool of talented men and women from increasingly diverse backgrounds from which a significant proportion of the judiciary is drawn, on whose independence the Rule of Law and our democratic way of life depend. The Bar Council is the Approved Regulator for the Bar of England and Wales. It discharges its regulatory functions through the independent Bar Standards Board (BSB).
4. This Response has been prepared by the Education and Training Committee and the Young Barristers' Committee, both committees of the Bar Council whose membership comprises a cross-section of members of the employed and self-employed practising Bar, representing all levels of seniority, geography and with experience in a wide range of fields of practice. It has been approved by the General Management Committee of the Bar Council, and should therefore be taken as the official response of the Bar Council to this consultation.
5. References in this Response to "the Paper" should be taken as a reference to the BSB Consultation Paper; while references to "the Addendum" should be taken as a reference to the Addendum to the Paper drafted by the Council of the Inns of Court (COIC) and the Bar Council.

¹ Bar Standards Board (2016) Future Bar Training- Consultation on the Future of Training for the Bar: Future Routes to Authorisation.

² Addendum to the BSB's Consultation paper "The Future of Training for the Bar: Future Routes to Authorisation".

SUMMARY

6. The Bar Council's view in summary is as follows.

7. The current authorised BPTC model is unsatisfactory, and extremely unpopular with the vast majority of those who take it. It leads to too many people wasting too much money paying for expensive courses which in most cases do not lead either to employment or to tenancy. The system does not ensure that those who wish to come to the Bar have a chance to do so at reasonable expense and with a prospect of success that is reasonable given the investment of time and money required. The system will only be satisfactory if this vocational stage is made much less expensive, and correspondingly open to a wider segment of society.

8. The Bar is a small profession of only 16,000, recruiting perhaps only a few hundred individuals to tenancy or employed positions each year. To permit the multiple routes put forward in the Paper will in our view:

- a. increase regulatory cost;
- b. create confusion amongst students and employers/chambers;
- c. lead to there being a preferred model or models and a series of less well-regarded alternatives;
- d. have an adverse impact on equality, diversity and social mobility, because applicants for work-based training will not be applying from equivalent positions;
- e. have the effect that no viable or popular alternative models will emerge and thrive, so that the majority of students will continue to pursue Option A/B(i) at its present increasing and unsatisfactory cost. There will therefore be no real change, and this opportunity for long-awaited reform will have been missed.

9. It is therefore not appropriate to have multiple routes to authorisation which merge elements of the academic, vocational and work-based stages of learning in different ways. Rather the academic and work-based stages should be retained in their current format, but opportunities should be opened up to provide the vocational stage more flexibly, in the way we propose in this paper, whilst still delivering a syllabus similar to the present BPTC syllabus (which has not been substantially criticised). The BSB's concentration should be on reform of the structural delivery and therefore the cost of the vocational stage only.

10. The COIC/Bar Council proposal is the best model for the vocational stage. It is likely to be cheaper, fairer and more efficient than any of the other models considered. It is likely to promote equality and diversity more effectively than the present, very expensive system, and more effectively than any of the alternatives on which the BSB is consulting. The COIC/Bar Council proposal has the widespread support of the profession, which has no financial vested interest in the subject matter of the present consultation and, indeed, a complete identity of interest with the BSB, students and the general public in promoting training that will be fit for purpose and available to the widest range of able applicants at proportionate cost.

PRELIMINARY

11. It is surprising and unfortunate that the COIC/Bar Council proposal was not mentioned at all in the Paper, particularly given that it was put forward in terms by the Bar Council in its Response to the BSB's previous consultation paper in 2015³; was put forward in equally clear terms by COIC in its own response; was clearly understood for what it was in the BSB's Summary of Consultation Responses dated January 2016; and was supported by the majority of those responding to the 2015 consultation.

12. We note (and are pleased) that the BSB has issued the Addendum in an attempt to rectify the position; but (a) it is unlikely that all those responding to the Paper will have taken that into account when producing their responses; and (b) although the Addendum allows the profession and other interested parties to see the COIC/Bar Council Proposal as an alternative option to the six models set out in the Paper, the Bar Council continues to labour under the disadvantage that, while the BSB has carefully measured its original six models against its criteria, it has not done the same in relation to the COIC/Bar Council Proposal. When the BSB Board members consider what policy to adopt, and read for themselves (as we trust they will do) the consultation responses from the principal stakeholders and representative bodies, it is important that they understand and bear in mind this significant flaw in the way in which the consultation exercise has been carried out.

13. We remain open to further discussion with the BSB if it would be appropriate and useful. The Bar Council remains committed to engaging productively on this important consultation.

INTRODUCTION

14. We start by setting out the common ground between the Bar Council and the BSB on the issues raised by the Paper, before giving our responses to the individual consultation questions.

15. First, we broadly agree with the identification in the Paper of the fundamental principles of accessibility, affordability and sustaining high standards which should guide the BSB in its decisions concerning future training systems for barristers. However, we do not agree with the BSB's identification of flexibility as a fourth principle or aim (although it is our contention that the COIC/Bar Council proposal is rather more flexible than any other model suggested by the BSB.) We acknowledge that flexibility may be a consideration to be borne in mind when weighing up the various models, but we disagree with the proposition that it is necessarily a good end in itself, still less that it should be a governing criterion. As we reason below, flexibility of future routes to authorisation is likely to lead to confusion, but more importantly is likely to result in perceptions of a "best" route and one or more "second rate" routes. A

³ Bar Standards Board (2015) Future Bar Training- Consultation on the Future of Training for the Bar: The Academic, Vocational and Professional Stages of Training: see in particular paras 17, 47-54, 83, 89 and 104.

level-playing field – one in which the vocational stage of training is the same for everyone - makes it easier for individuals from non-traditional backgrounds to compete on their merits. A multi-pathway approach, of the sort apparently favoured by the BSB, runs a real risk that candidates from the best universities dominate the more focussed and rigorous training routes. The more flexible, or part time, or dispersed routes – designed to be attractive and easy to access for those from less traditional backgrounds - will in our view end up as a sink where the chances of progressing to a successful career are much poorer. We are therefore concerned that flexibility, borne of a desire to broaden access, will not have the desired effect, but will in fact be counterproductive. However, we believe that an inflexible approach to delivery of the vocational stage is a significant contributing factor to the deficiencies in the current model. The fundamental principles of accessibility, affordability and sustaining high standards are more likely to be achieved if some flexibility is introduced into delivery of the vocational stage, as indeed we propose.

16. We also agree with and endorse the wider criteria set out in paragraph 57 of the Paper, by which the BSB seeks to measure the training options. That said, we note that there is no indication of whether these fundamental principles are to be given equal weight. The key principles from the Bar Council’s perspective are that high standards are sustained and that training should be affordable. We, like the BSB, are very concerned by the current cost of completing all three stages of training to become a barrister. We consider that deregulation of the current BPTC structure so as to promote both these principles is of the utmost importance, both in itself, and because of the contribution towards social mobility (through greater access to the Bar) that such deregulation will allow.

17. Secondly, we agree with the policy points which should be common to future Bar training, namely:

- A general expectation that the Bar would remain a graduate profession and normally meet the minimum degree classification of 2:2;
- Students would need to pass an aptitude test and BSB centralised assessments;
- The BSB should reduce to a minimum their regulatory involvement in the academic legal education (i.e. the “Qualifying Law Degree” or “Graduate Diploma in Law” under the current system); and
- During any transitional period between the BSB’s final decision on future pathways in spring 2017 and the coming into force of a new system, specific reforms to the current education and training arrangements should continue.

We add the policy point which we stressed in our response to the 2015 Paper:

- The retention in the academic stage of the seven core subjects.

18. As part of this, we agree that the BSB should continue to pursue as much of a common agenda with other legal regulators, and the Solicitors Regulation Authority (SRA) in particular, as can be achieved in pursuit of their principles. That said, we are of the view that it is important that the BSB recognises its role as a specialist regulator of barristers, and that there will be issues on which common ground with the SRA cannot and should not be

reached. There are important distinctions between the work of a solicitor and a barrister, as recognised in paragraph 5 of the Paper, and it is important that individuals are given appropriate training which recognises those distinctions. We therefore welcome the important recognition in paragraph 50 of the Paper that a 'fusion' of the legal professions is not proposed.

19. Thirdly, we note the BSB's readiness, mentioned in paragraph 68 of the Paper, to consider other options for future Bar Training. Given that readiness, we expect the BSB to find no difficulty in embracing the COIC/Bar Council proposal depicted in the Addendum. As will be clear from this Response, however, we do not believe that it will be in the interests either of aspiring barristers, or the public, for there to be a multiplicity of options. Our view, set out in detail below, is that the COIC/Bar Council Proposal both amply meets the fundamental principles and criteria identified by the BSB, and also renders superfluous the need for new models other than (with our considerable reservations) the retention for the time being of those models currently available.

20. Fourthly, we also agree with and welcome the BSB's recognition, expressed in paragraph 58 of the Paper, of the importance of close involvement by the profession in the selection of the appropriate training model, in order to ensure that qualifications carry credibility with those chambers and employers who will engage newly qualified barristers. We would also draw to the BSB's attention that this response is fully endorsed by the Young Barristers' Committee, which is made up of individuals who have most recently undertaken training and who therefore have immediate experience of the affordability and access issues that the BSB is seeking to address.

21. The importance of choosing the correct option is not simply one of credibility within the profession, but underlines the importance of providing training that is fit for purpose, - namely for practice within the profession. Newly qualified barristers should feel that they enter into practice having received appropriate training during the vocational stage, which equips them to best represent their clients and assist the court. Choosing the correct option for training is all the more important because of the central role the profession plays in maintaining access to justice.

22. Fifthly, we endorse what is said in paragraph 66 of the Paper regarding the need for deregulation of training options to provide flexibility for students and providers, improve accessibility to the profession, and improve affordability of training. These criteria are of course linked: greater accessibility will not be achievable without improvements in affordability. However, as we have already remarked, contrary to the proposal outlined in paragraph 67 of the Paper to move away from the current, single route to authorisation that is prescribed by the BSB, to one in which candidates demonstrate that they meet the requirements of the Professional Statement and which allows for legal education and training institutions to make proposals to the BSB for routes which will best prepare students under these circumstances, we (and we speak of course for our profession) are very much against a regulatory free for all. As we emphasise throughout this Response, the BSB should be cautious in its proposed deregulation, and should not remove all the controls it has hitherto held in high esteem, at least without weighing up the various pathways both individually, and in combination.

23. Sixthly, we agree with the BSB that the proper focus of the Paper is the BPTC. There is little criticism of the qualifying law degree, while pupillage is regarded by most practitioners as the best way to train at the ‘work-based’ level, and many employed pupils also spend part of their training in chambers. We are therefore firmly of the view that the real issues with training for the Bar lie in the current BPTC, which is the most expensive and least flexible part of a barrister’s training.

24. Seventhly, we endorse the BSB’s proposal (expressed in paragraph 33 of the Paper) to maintain a role in controlling assessments at specific points on the route to qualifying as a barrister.

25. Eighthly, by way of preliminary observation, we think it is important to draw attention to one further agreed matter: the BSB’s own recent data on the BPTC. This demonstrates that:

- a. Less than 40% of full-time UK/EU BPTC graduates are likely to secure pupillage (the equivalent figure for part timers is just over 20%)⁴;
- b. Students obtaining only a competent grading on the BPTC have very poor prospects indeed of obtaining pupillage⁵;
- c. The proportion of BPTC graduates who obtain pupillage varies markedly between training institutions.⁶ As of 2016, for the 2011 cohort of BPTC students, 50% of those from BPP London had obtained pupillage, but for some of the smaller providers the equivalent figure was under 15%.

It follows that the present single route to practice (i.e. with only one qualification route available) has the consequence that there is a large number of students who are wasting substantial amounts of money because there is such a mismatch between the number of pupillages and the number of students applying for, and being accepted by, BPTC providers.

26. If one were to regard money spent on a BPTC course as being wasted by those who do not obtain pupillage, the sum wasted, just on course fees, is in the order of £25m each year.⁷ These statistics should surely compel the conclusion that reform, but not major disruption, is vital.

27. We end this introduction with a number of points. First, we highlight the fact that the BSB’s evaluation of the options in the Paper fails to consider the growth of online learning and technology impacting on the way that individuals study and learn. This is of particular importance when considering the effect that any change in regulation or training route would have on the current education market. There are two ways in which this could affect the market: first, in relation to the location of learning; and secondly, in relation to timing of learning and potentially assessment.

⁴ See table 4.A.4 in the BSB key statistics at https://www.barstandardsboard.org.uk/media/1758971/bptc_key_statistics_report_2016_-_all_parts.pdf.

⁵ *ibid* table 4.A.5.1.

⁶ *ibid* table 4.B.2.

⁷ Assuming that (1) 40% eventually obtain pupillage (which is almost certainly too high a figure), (2) fees average £16,000, and (3) there are 2,600 students a year.

28. Secondly, in relation to Part II of the Paper (General Principles applying to any future training scheme), there is reference in paragraphs 29 and 30 to the point of authorisation, and the proposed Authorisation Framework. We look forward to being able to comment on the draft Authorisation Framework in due course, and would hope that the BSB would consider us key stakeholders who should be asked for comment. As a general principle, we would note the current distinction between a provisional practising certificate and a full practising certificate - namely, that the holder of a provisional practicing certificate has not completing training and is therefore not a fully-fledged barrister. This important distinction appears to have been overlooked in the Paper, and we would suggest it is an important distinction to maintain, particularly in the public interest.

29. Thirdly, we note at paragraph 55 of the Paper that the BSB has indicated that it is committed to making small improvements and changes, pending the outcome of the current review. Similarly, in paragraph 62, it is indicated that changes are already being made. We would appreciate sight of those proposed changes in order to be able to assist with developments.

30. Fourthly, it is fair to say that barristers trained in England and Wales are still very well regarded throughout the world, and there are clearly benefits to the current training. Pupillage is regarded by most self-employed practitioners as the best way to train at the 'work-based' level, and many employed pupils will also do 6 months in chambers as part of their training. We are firmly of the view that the real issues with training for the bar lie in the current BPTC, which is the most expensive and least flexible part of a barrister's training.

31. We turn now to consider the consultation questions in detail. In doing so, we ask the BSB to stand back and remember that what is under discussion is the route (or routes) for training and qualification into a small profession, in which there is already a great oversupply of students who invest their time and resources by paying very high fees for the vocational stage of training.

THE BAR COUNCIL RESPONSE

Q1: Do you agree with the BSB's proposal not to seek changes to s207(1) of the LSA 2007? If you do not agree, please state why not.

32. We completely agree, for exactly the reasons set out in paragraph 34 of the Paper: the Inns make an important contribution to promoting the professional principles, especially integrity and ethical conduct. The importance and value of advocacy training delivered by those with relevant and current advocacy experience, and interaction with practising barristers, cannot be under-estimated.

Q2: Do you agree with the BSB's proposal to maintain the principle the Bar remain a graduate profession? If not, please state why not.

33. We agree with the principle that the Bar remains a graduate profession. This was the Bar Council's position in response to the previous consultation paper, and we continue to agree with this proposal. We note that the question shies away from the issue of whether a degree is needed at entry to the vocational or work-based stages; this is a distinct question that needs to be addressed and is noted in more detail below.

34. We add that we disagree, for reasons previously set out, with the proposal to depart from the foundation subjects. We are concerned that the general requirement as articulated in paragraph 39 of the Paper is far too vague and has the potential to devalue a law degree. There is a danger that the subject-matter covered in degrees would not be taught or assessed in as rigorous a way as is currently the case. Providers of law degrees already have the flexibility to teach a variety of additional options which students can choose to take, in addition to the foundation subjects. These additional options already allow for greater contextual training. For example, the University of York provides a 'Clinical Stream' portion of their LLB to students in Years 2 and 3, whereby the students work with a Law Centre. Dissertations also allow for training in independent thought.

35. In our view, it is important that a degree is an entry requirement to the other stages of training. This is for two substantial reasons:

- a. The analytical skills learnt during the academic stage of legal training are building blocks for later study. As noted in our previous response regarding the necessity of a degree, these skills are required to practise competently as a barrister. A student without these skills will find later aspects of the course difficult to access.
- b. It is important that a student feels confident that they have these analytical skills before spending money on later aspects of training. The Bar is a demanding profession, and rigorous analytical skills are part of that demand. A student may decide that such work is not for them, and it is important that they are able to make such a decision before embarking on the other stages of training and incurring their associated costs.

36. We are concerned by the lack of clarity as to which bodies or organisations would have degree-awarding power in the absence of a degree being required as an entry requirement.

Q3: Do you agree with the BSB’s proposal to maintain the normal expectation of a minimum degree classification of 2:2? If not, please state why not.

37. We agree, for the reasons expressed in the Paper, and in paragraphs 23 and 24 of our response to the previous consultation paper, which we repeat here for ease of reference:

“23. There may be many reasons explaining the low level of attainment represented by a lower second class degree (poor family support; the need to work to pay fees; medical crises). Pupillage interviewers are familiar with such cases, and there have been students with lower second class degrees who have gone on to have successful careers at the Bar. These reasons are disproportionately likely to affect disadvantaged groups, and accordingly to eliminate holders of lower second class degrees would or might have a correspondingly disproportionate effect on diversity.

24. Further, there is a difference between and even within academic institutions as to the proportion of students given a particular grade for different subjects within a year and between years. This may well mean that it is meaningless to differentiate between a student with a very high 2:2 from a very good educational provider from a student with a very low 2:1 from another.”

38. In line with our comments above, we do not think that it is appropriate to assess candidates as having a minimum of a 2:2 at the end of training. While it is acceptable and understandable that a 2:2 should be the minimum requirement at the current place in the training and education of barristers (i.e. between the academic and vocational stages), this is because of the appropriateness of this as a level of knowledge and training at that stage. By the end of training, one would expect an individual’s abilities and knowledge to exceed that of a 2:2. We would therefore strongly encourage the BSB to give due consideration to the development of knowledge and experience that currently exists, and for the standards to be replicated in any new system.

OPTION A

Q4: Do you agree with our analysis of this option’s capability to meet the requirements of the Professional Statement? If not, please state why not.

39. Yes.

Q5: Do you agree with our analysis of this option’s capability to meet our regulatory objectives in general, and access to the profession, supporting the rule of law and promoting the interests of consumers in particular? If not, please state why not.

40. In part. We do not agree with the premise behind this analysis, namely that it is the sequential nature of the current system that increases cost. Our view is that the inflexibility and increased cost, both to the profession if regulation of more ‘creative approaches’ is necessary, and to the student, do not arise because of the sequencing of academic and vocational training: they arise because of the current BPTC regulatory arrangements, upon which we focus below.

41. Our view, reasoned in our response to the previous consultation paper, is that it is rational and logical for an academic grounding in law to be obtained first, in order to serve as a context for vocational training. Such sequential training also allows students to change paths and the end of each stage in the sequence if they wish, and therefore enhances flexibility. We note that a combined training course is offered only by one institution - Northumbria University. This seems to us to be testament to the fact that sequential training is widely preferred by students, and, it would appear, providers too. We understand from our meetings with the BSB that Northumbria University has been allowed to provide the course by way of an 'exception' from the current rules; however, we assume that other providers have not approached the BSB seeking the same exception (which surely would have to be granted on a rational basis).

42. We do notice however that the Northumbria model is advanced under Option B as an example of a more flexible pathway that avoids sequentiality by combining the academic and vocational stages. This is a distinct different pathway, because it requires students to commit to a particular provider with a particular course structure at a different stage of their studies. A student who wishes to study on the Northumbria model must apply to Northumbria University, typically at the age of 17 in Year 12. He or she will not commit to the BPTC element of the course until the 3rd year of their degree, but in order to have the potential to study in this way, he or she must be on the relevant course at Northumbria. Students on the standard BPTC on the other hand may apply to any University to complete their academic studies and commit to the idea of qualifying as a barrister only at the end. We believe that the Northumbria model has potentially negative diversity implications, because it may encourage poorly-informed students from non-traditional backgrounds to believe that if they want to be a barrister, they should apply to Northumbria for the academic stage, rather than institutions with a stronger academic reputation, thereby disadvantaging themselves in terms of pupillage prospects. We do not therefore consider that the continuation of the Northumbria model can be reconciled with the idea of allowing flexible variations to the existing vocational stage, at least without a proper assessment of the diversity implications.

Q6: Do you agree with our analysis of this option's capability to meet the LSB's statutory guidance? If not, please state why not.

43. In part. Our chief reservations with the current arrangements are (a) their high cost (with the chief contributor to cost being the BPTC); and (b) the comparative ease with which low quality candidates can take the course, driving down standards for the more able candidates. The current model therefore serves both student cohorts badly: those who stand little chance of entering the profession fail at high cost; while those who may well succeed have their tuition dragged down by poorly performing colleagues.

Q7: Do you agree with how ethics is taught and assessed under Option A? If not, please state why not.

44. No. The 2016 Report by Professor Moorhead and others "The Ethical Capacities of New Advocates" concluded that ethics training before and after qualification was "insufficiently

robust or frequent to enable confident ethical practice amongst new advocates". While the new practitioner programmes may have to take their share of the blame for this, we think it apparent that the current ethics training provided at the BPTC stage is unfit for purpose. In addition, the current ethics training focuses almost entirely on ethical issues that arise in criminal law.

45. We agree that ethics is best taught as an integrated and applied subject (as noted in paragraph 85 of the Paper); however, such integration has to be done with the right approach. We commend the way that the staff on the Bar Council Ethical Enquiries Line are taught ethics; a) by reading and being taught the Handbook; then (b) by applying the Handbook to written scenarios, demonstrating the ability to use the materials as research; and finally (c) by role-playing scenarios where advice has to be given on the telephone.

46. We do not think that it is appropriate to teach ethics at an undergraduate level. This is for two reasons: (a) a different skill set is being learnt during a degree, namely the intricacies and workings of the substantive law; and (b) only a small proportion of students studying a law degree (or equivalent) want to come to the Bar (which faces ethical issues which are not necessarily identical to those faced by solicitors.) The BSB must bear in mind the size of the barristers' profession compared to that of the solicitors' profession.

Q8: Do you agree with the cost analysis we have set out for Option A? If not, please state why not.

47. We have no reason to disagree. We add that we are sceptical that any decrease in the cost to the providers of delivering the BPTC resulting from a lessening of regulatory requirements will be passed on to students.

48. The Young Barristers' Committee in particular is concerned by the reference in paragraph 93 of the Paper to the "perception" of the debt burden. At the current time, the debt burden faced by students is not merely a perception, but a stark reality: one that is putting financial pressure on individuals at an early stage of their career and leading some, particularly those from less advantaged backgrounds, to leave the profession. The importance of debt and the financial implications of Bar Training as a deterrent to diversity within the profession should not be under-estimated.

Q9: Do you agree with the higher education implications we have set out for Option A? If not, please state why not.

49. Yes. It is very important, not merely for students who go on to become barristers, but also for those who pass the course and do not obtain pupillage, that the BPTC or vocational training is recognised as being robust and providing a valuable and marketable outcome. In this regard, the BSB should not without good reason abandon the current course (albeit split as we urge) to introduce a new option which will not be recognised by employers.

Q10: Do you agree with the equality and diversity implications we have set out for Option A? If not, please state why not.

50. Yes. We go further: paragraph 104 of the Paper asserts that Option A provides “a low degree of improved accessibility to training”. We do not see that the paper identifies *any* such improvement.

OPTION B

51. As a general comment on Option B, we are concerned by the increased costs and level of regulation which is likely to be required as a consequence of increasing the number of potential routes that an individual can take to train to become a barrister.

52. We are also concerned that a multiplicity of routes will prove a complicated landscape both for an individual considering becoming a barrister and pursuing a career at the Bar, and for the training organisations that will be expected to grapple with the difficulties that multiple routes will engender. We note that the routes are described as those which the BSB “may define”. Such complexity and uncertainty as to the relative merits of multiple routes may have a negative impact on social mobility; those with family members, teachers or friends who are familiar with the routes will be able to guide individuals through the system, whereas those who are in the first generation of their family to go to university, or who do not have family or friends from professional backgrounds, will find the various routes more difficult to navigate. It is already difficult to describe the way that training works to a person who is unfamiliar with the system.

53. It should be noted that the diversity and social mobility impacts of Option B derive, not just from the particular structure of any particular pathway, nor just from the number of pathways which may be permitted, but also from the potential interaction between different pathways. For example, if chambers were to adopt Option B(iii), this would reduce the number of work-based learning placements available to those graduating from their academic and vocational training under Option B(ii). Furthermore, students would be making choices between different pathways at different stages: for example, some students choosing Option B(ii) would be as young as 17, basing their choice of university on the availability of a combined academic and vocational training course, and thereby potentially limiting their marketability at a later stage by their choice of institution and also subsequently finding it more difficult to secure work-based learning, depending on the other pathways which are authorised and their popularity. The BSB’s proposed approach to Option B, namely to permit different pathways to come forward at different times, means that it will be unable to properly consider the complex interactions between potential pathways when initially granting authorisation for any one of them. We believe that the risk of unintended consequences with Option B is very high and we would expect to see very robust evidence of potential diversity and social mobility impacts before this Option were adopted.

54. We have been encouraged by the BSB’s indication in meetings that it would not allow “a thousand flowers to bloom in the desert”; however, this is not apparent in the Paper and we would strongly urge the BSB to give full consideration to the point we have made in the paragraph above. As an aside, insofar as the route to the Bar is perceived as complex or difficult to understand, particularly amongst those least familiar with it, multiple pathways

may have the added negative impact of discouraging entry to the profession at all to such candidates, as compared with the option of becoming a solicitor.

55. We also note that at paragraph 118 of the Paper, the BSB refers to the “perceived inability of the BPTC adequately to prepare students for pupillage”. All the young barrister members of the Education and Training Committee and the Young Barristers’ Committee who contributed to this response are in agreement that the BPTC did not prepare them properly for pupillage. While we acknowledge the limitations of anecdotal evidence, we can speak to the following deficiencies from our own experience on our committees:

- a. There are gaps in the procedural knowledge that is taught;
- b. Ethical training is focused predominantly on criminal trial advocacy, which is either irrelevant or incomparable to common ethical issues in the civil or family spheres, and is not taught in a practical way;
- c. The standard within classrooms is too low (as a consequence of those of insufficient ability attempting skills-based training). The effect of this low standard within classrooms is starkest when advocacy training skills are considered: advocacy exercises are often undertaken within group settings where a lack of linguistic sophistication can render the exercise valueless;
- d. The drafting exercises do not mimic those in practice and in many cases are oversimplified.

56. We are also concerned by the disparity between the timing and point of Call within the various Option B models. As a general principle, we note the current distinction between a provisional practising certificate and a full practising certificate. This important distinction appears to have been overlooked in the Paper, and we suggest it is in the public interest that it should be maintained.

57. We particularly note that in relation to Option B(iii), Call would come after completion of work-based learning rather than before. We query how a training barrister could carry out work during their work-based learning if they had not been granted the title of barrister by their Inn of Court? A training barrister who has not been called to the Bar would be unable to conduct the court work that is currently permitted under the provisional practising certificate issued during the second six months of pupillage.

58. It therefore appears that some of the models tabled under Option B would deny students the ability to undertake the court work that criminal and most civil chambers consider to be an essential part of work-based training. This particular feature would make it impossible to move between the different models within Option B, which would limit flexibility and social mobility.

59. In addition to this, it is likely that, for example, chambers practising in a wide variety of fields would be reluctant to recruit graduates with no court experience as full practising tenants, without a further period of training. Therefore graduates of pathways that have not enabled them to obtain practical court experience prior to full authorisation would be disadvantaged in competing for tenancy in independent practice alongside graduates of

pathways that had facilitated acceptance of advocacy instructions during work-based training.

60. There is therefore a danger, if multiple pathways are permitted, that training would be viewed as “first-class”, “second-class” and “third-class”. Chambers and employers would determine the successful model, as they would have to make clear which ‘model’ they were recruiting from (given their position as training organisations), and a stratification of the market would be likely to arise. We are concerned that those least familiar with the pathways to the Bar will end up on the “third-class” routes.

61. By contrast, if the BSB allows only the current models and the COIC/Bar Council proposal, we would hope that students will select their route according to notions of cost and flexibility. Over time, we would expect that some courses will receive more acclaim than others – but that, it will be observed, is no more and no less than what currently happens with the BPTC. Our proposal would have the merit that students could select the best online (or other home-training) course, at comparable rates to others, before only later being confronted with the more difficult question of which Part 2 provider to select.

Q11: Do you agree with our analysis of Option B’s ability to meet the requirements of the Professional Statement? If not, please state why not.

62. Yes, although we are interested to know what input the BSB has had from educationalists in developing Option B. The criticism of “strictly sequential” learning appears to have no firm basis.

63. In paragraph 126 of the Paper, there is reference to Option B(iv) as being particularly good for “developing a student’s ability to problem-solve”; our experience is that problem solving can be taught in a variety of ways, some of which are not necessarily work-based. We ask the BSB what evidence it has for this statement.

Q12: Do you agree with our analysis of Option B’s ability to meet our regulatory objectives in general, and access to the profession, supporting the rule of law and promoting the interests of consumers in particular? If not, please state why not.

64. No. The variety and multiplicity of routes that are outlined in Option B are likely to increase confusion among students and among training organisations. As we have said above, we are concerned that the emergence of different pathways will command differing levels of support among students and training and recruitment organisations. We query how the BSB intends to regulate and ensure the standard of the various courses that may be offered.

65. We are also of the view that not only would this multiplicity of options be confusing for students and those training, but it would also be confusing for consumers. If there are a multiplicity of routes, we query how consumers will feel capable of judging the quality of the barrister that they are instructing. This is not in the public interest and does not improve access to justice.

66. We are also very concerned with the costs implications of Option B. If the BSB is seeking to regulate and supervise a variety of routes to the profession, and therefore having to adopt a different approach to each, irrespective of the Authorisation Framework (a draft of which we have yet to see), we cannot see how this will not increase costs. There will be no possibility of using robust comparable criteria over a number of training routes. It does not seem to be anticipated that the profession, or other interested parties, will be consulted before new pathways are adopted: in the absence of consultation there is plainly some risk that the BSB may authorise options that do not have the widespread support of chambers or employing organisations.

67. Further, we are concerned that this cost will be passed onto students, which affects the affordability criteria being considered in the assessment of the Options. Alternatively, this cost will be passed onto the profession, which we consider to be a critical issue, as it is possible that such costs would then be passed on to the consumer. In publicly-funded work, for which the rates are set by the state, there would not be such an option. Accordingly, any increased regulatory cost further squeezes the profitability of practice so that able practitioners may be forced to reassess remaining at the Bar. In addition to removing those talented practitioners from the consumers' choice, there is likely to be an adverse impact on diversity. Furthermore, this increased cost may well affect the decision of those employers who meet the costs of these training courses as to whether or whom to recruit.

Q13: Do you agree with our analysis of Option B's ability to meet the LSB's statutory guidance? If not, please state why not.

68. No. We do not agree that Option B finds the right balance between regulatory controls and over-prescription. In our view, the regulatory balance will be skewed, as the BSB tries to deal with a multiplicity of routes which are being offered.

69. We are also concerned that the proposed adoption in 2018 (after lengthy consultation in 2015 and 2016-2017) of Option B – which in substance amounts to little more than a policy decision that the BSB will in future consider the authorisation (pursuant to criteria yet to be devised) of a further number of unspecified but potentially diverse pathways that may or may not be developed by existing or potential providers – appears to defer any concrete reforming action.

70. No pathway would be authorised until a provider had fully specified its structure and content and submitted it to the BSB for review and approval. It is not clear that there are entities proposing to deliver *any* of the modified pathways identified at high level within Option B in the BSB's paper in any acceptable timeframe. It is also not clear that providers would be likely to invest the potentially considerable sums that may be required to (a) devise wholly novel pathways involving disruption of the current three stage structure and (b) carry out the market research required to identify whether there is real demand for such pathways, without some confidence that the BSB would be likely to approve the proposed new pathway.

71. By comparison, the COIC/Bar Council proposal requires no alteration to the content of the course. Existing providers will, we expect, be familiar with what is proposed. All that the

Bar Council seeks is the release of the regulatory restrictions that currently mandate that the established BPTC content must be delivered in the form of a single 30 week taught course (or 2 year part time course). We propose instead that the course be split: a relatively straightforward enabling change that we would expect the BSB to be capable of implementing in short order - thereby permitting existing and new providers to develop innovative and cheaper ways of delivering the current BPTC syllabus.

Q14: Do you agree with our view of how professional ethics is taught and assessed, and how ethical behaviour and professional integrity are fostered, under Option B? If not, please state why not.

72. Yes – and we note and entirely agree with the observation in paragraph 144 of the Paper that the greater flexibility offered by Option B may enable providers and the institutions of the profession such as the Inns of Court, Circuits, the Bar Council and Specialist Bar Associations, to develop new ways of interacting with those training for the Bar, encouraging exposure to role models and peer learning, which are essential aspects of professional development of ethical behaviour and integrity. In that regard, we note our comments above in relation to how professional ethics can be best learnt.

Q15: Do you agree with the cost implications we have set out for Option B? If not, please state why not.

73. Yes, provided that individuals are able to pay for parts of the courses offered at a time on an ‘instalment’ basis, rather than having to make upfront payments. In relation to competition, we would note that the BPTC market currently seems to be inflating rather than reducing costs, and therefore we would argue that it is in need of radical change.

Q16: Do you agree with higher education implications we have set out for Option B? If not, please state why not.

74. Yes.

Q17: Do you agree with the market risk analysis we have set out for Option B? If not, please state why not.

75. Yes, in part.

76. In analysing whether training centres would become more London-centric, we query whether the BSB has considered the impact of online learning. Although institutions may have London bases, there is every possibility that this will become less of an issue if more learning is done online. Further, such online learning would increase accessibility of training – for the obvious reason that no student will need to travel to an institution and incur accommodation costs and potentially increased living expenses.

77. Second, while it is true that chambers do train pupils, smaller chambers may only take 1 or 2 pupils, or perhaps none. We agree with the concerns expressed in paragraph 159 of the Paper – that putting more responsibility on chambers may cause them to cease to offer pupillages. The BSB must understand that chambers (in particular smaller sets) are groups of self-employed individuals, which may not have the administration or infrastructure to be able to deal with heavy regulatory burdens. Chambers are paid for by individuals out of their own earnings. There is no ‘external’ funding of any kind. If individual self-employed barristers are earning less (because of market pressures or the fact they do predominantly publicly funded work), they will be incapable of dealing with the additional costs and burdens that may be imposed. Any time which a self-employed barrister spends training a pupil brings with it no financial gain. A pupil may assist with work, but while training is taking place, that individual barrister is giving their time freely and without reward. This dynamic must be understood and borne in mind by the BSB. In relation to employed barristers, moreover, we have already made the point that those employers who pay for their employees’ training may cease to do so if the cost burden is not lessened.

78. We add that we would hope that the process of considering and managing risks to which paragraph 162 of the Paper refers will be accomplished swiftly, in order not to delay the implementation of the new regulatory arrangements.

Q18: Do you agree with the equality and diversity implications we have set out for Option B? If not, please state why not.

79. No. There is no evidence to suggest that equality and diversity would increase or decrease under Option B. An increase in the number of students who train for the Bar would not mean that the diversity of the profession would subsequently increase. If the BSB asserts the contrary, we would expect to see its supporting evidence.

80. We are also concerned that an increase in the number of students who train for the Bar could decrease the equality and diversity of candidates who are later successful in pupillage, and later, tenancy applications, as candidates who attended institutions such as Oxford or Cambridge University, or those who received a First Class degree, may be prioritised, as this would be the likely way that work-based training providers would distinguish individuals from high numbers of applications.

81. By contrast, were the COIC/Bar Council proposal to be adopted, only those with good success rates in Part 1 would be selected for Part 2, and overall numbers of graduates from the BPTC would therefore decrease. This would not impact social mobility: quite the reverse, in that promising candidates with poor academic performance at school or degree level would be given the chance to shine at Part 1.

OPTION C

82. We preface our response concerning Option C with some observations.

83. First, we do not understand the descriptor for this option, “‘Bar Specialist’ approach’. This was not an option supported by the Bar Council, and we do not understand it to have been advanced by any specialist Bar association. We are concerned that respondents to the Paper who do not have the advantage of reading the Addendum may wrongly conclude from this label that the Bar Council supports this Option. Indeed, this is precisely the mistake that was made by James Welsh, director of the BPTC at BPP, in his article for the December 2016 edition of Counsel magazine.

84. Secondly, although there are aspects of this Option with which we agree, there are many other aspects with which we disagree. In particular, (a) we do not consider that it would be right to make this Option compulsory; (b) we do not consider that it would be appropriate to introduce a Bar Entrance Exam; and (c) we do not favour a “short skills course”. As indicated above, we instead favour the COIC/Bar Council Proposal.

Q19: Do you agree with our analysis of this option’s ability to meet the requirements of the Professional Statement? If not, please state why not.

85. Yes. As we have said, we have never advocated that the BSB should formulate a qualifying examination covering the knowledge requirements of the Qualifying Law Degree. Were it to do so, we agree that it would be complex and costly to deliver. We see no purpose in the BSB taking over such assessments from the existing providers.

Q20: Do you agree with our analysis of this option’s capability to meet our regulatory objectives in general, and access to the profession, supporting the rule of law and promoting the interests of consumers in particular? If not, please state why not.

86. We have two points to make. First, we do not suggest (and have never suggested) that vocational training should take the form of a “three-month short skills course”. Secondly, however, we have suggested (and maintain) that the vocational training should be split into two modules, in accordance with the COIC/Bar Council Proposal.

87. The first module should cover evidence and procedure, both subjects which can be taught online at minimal expense. There would be no need to specify a length for this course, because students would be able to learn in their own time, without having to attend any particular institution.

88. The second module should be classroom-based, covering drafting, opinion writing, advocacy, conference skills and ethics. The length of this course would depend upon the providers’ estimate of the time it should reasonably take to bring their students up to the necessary Threshold Standards. We envisage that such a course need take no longer than four or five months, if taught competently, enabling providers to offer two such courses each academic year, with all the savings in overheads that might entail.

89. Secondly, if our proposal were adopted, we consider that it would be not merely ultimately flexible, but also much less expensive, for the reasons set out above. To that extent

(but making the caveat that we do not support the actual Option C proposal), we agree with the point made in paragraph 178 of the Paper concerning the increased access to the profession that would be likely to result.

Q21: Do you agree with our analysis of Option C's ability to meet the LSB's statutory guidance? If not, please state why not.

90. Yes.

Q22: Do you agree or disagree with our understanding of how Option C promotes the professional principles, ethical behaviour and integrity? If not, please state why not.

91. Yes. We would stress, however, that the disadvantages expressed stem from ethics being covered in the "short skills course", which is apparently a feature of Option C, but not of the COIC/Bar Council Proposal.

Q23: Do you agree with the cost implications we have set out above for Option C? If not, please state why not.

92. Yes. Again, we stress that those cost implications arise only in relation to Option C; they do not arise in relation to the COIC/Bar Council proposal. Under this proposal, students would be examined first on their evidence and procedure modules, and secondly on their advocacy, drafting (etc.) and ethics modules. This would not impose any greater burden upon the system than examinations in relation to the modular approach favoured by the BSB under Option B(iv). Further, there would be no change to the examinations and central assessments currently conducted: all that would happen under the COIC/Bar Council proposal is that the two distinct parts of the vocational course would be examined at different times. The cost implications associated with that separation are already intrinsic to the BSB's proposed Option B(iv), and are surely minimal.

Q24: Do you agree with our analysis of Option C's impact on the higher education training market for the Bar? If not, please state why not.

93. Yes. Again, however, we stress that the concern at the possible consequences that is expressed in paragraphs 190 to 193 is generated by the structure of Option C, but not by the Bar Council's favoured option. Under the COIC/Bar Council proposal, the existing elements of the vocational training would remain in place, and there is no reason to suppose that the existing providers would not be willing to bid to run a split course. We do not seek to be prescriptive about this: providers wishing to bid for training courses employing other options would be free to do so.

94. In particular, although we recognise that the compulsory implementation of Option C might well lead to a significant decline in the overseas market, the same cannot be said of the COIC/Bar Council proposal, for the reason that students will be free to pursue their education and training with other providers who choose to offer a combined course.

95. Students who recognise the advantages of flexibility and cost associated with the COIC/Bar Council proposal, on the other hand, will we believe be gratified, having passed their assessment in the evidence and procedure modules, to attend the specialist course in advocacy, drafting and ethics, which we note that the BSB expects in paragraph 190 of the Paper will be offered in the market.

Q25: Do you agree with the equality and diversity implications we have set out above for Option C? If not, please state why not.

96. Yes – although again we stress that this perceived disadvantage is one that arises from a characteristic of Option C – the BEE – that is no part of the COIC/Bar Council proposal.

Q26: After having given consideration to the three options above, please tell us which option is most appropriate and why you think this is the case.

97. We do not favour Option A - the maintenance of the status quo. The drawbacks of the current regulatory arrangements for the BPTC are notorious: the course is inflexible and expensive, and acts as a barrier to diversity. We recognise, however, that there is likely to be a demand for this model for some time to come while the market adjusts to a different model, and we do not therefore suggest that the BSB should prohibit the current model.

98. We do not favour Option C – the so-called “Bar Specialist” Option, for the reasons set out above. In summary, (a) there is no demonstrable need for an initial Bar Entrance Exam; (b) it is unnecessary for this option to be compulsory – and many of its perceived defects flow from the compulsion associated with its selection; and (c) the way in which it is described suggests a degree of rigidity which would be unpopular.

99. We do not favour the multiplicity of managed pathways approach underpinning Option B, essentially because of the confusion and cost factors we have identified. Quite apart from those considerations, for the reasons given below, we would urge considerable caution upon the BSB before allowing more providers to offer model B(ii), or sanctioning either of the new models described (B(iii) and B(iv)).

100. Our reasons in brief summary for being sceptical about the various Option B variants are as follows:

- Option B(i): this appears to be no more than Option A, which we have criticised above – although we do not go so far as to say that it should not exist as an option for the time being.
- Option B(ii): this is an option already under the current system, although it does not seem to have gained widespread support during its years of operation. We see no harm in it continuing to be an option towards qualification although we repeat our concerns above about the potential interaction of this option with other options.
- Option B(iii): we have reservations about the practicability of this option, and question what research was carried out to establish to what extent it would prove popular with

Chambers. We add the obvious remark that its original supporter, the Chancery Bar Association, has decided upon further consideration not to continue to support it – entirely rightly in our view. We understand that the Chancery Bar Association supports the COIC/Bar Council Proposal.

- Option B(iv): we can see that this might prove attractive to parts of the Employed Bar, but it would be difficult for the self-employed Bar to administer. We are also concerned about the quality of learning on the vocational and work-based modules where the student has not undertaken much or any academic study. Legal cases do not come neatly packaged into academic study areas – “contract”, “tort” and so on, and so a student who has studied only “contract” will be less able to access learning from a real-life case than one who has studied a wide range of academic legal subjects.

101. The COIC/Bar Council proposal, by contrast, shares the following hallmarks which the BSB considered attractive when it came to weigh up its own Option B illustrations:

- a. It is modular – but with two modules, and not the profusion that arise under Option B(iv), and which we consider would be apt to lead to difficulties of control and assessment.
- b. It is a genuine enabling option: it offers another alternative to students for whom the cost of the full course is off-putting. As such, it is likely to have a beneficial effect upon diversity and social mobility.
- c. It is flexible, allowing students to acquire knowledge in the knowledge-based parts of the course at their own pace, at minimal cost.
- d. It concentrates the classroom-based aspects of the course upon those elements of the training that require experiential learning, thus enabling the focus to be on skills.
- e. It will appeal to those providers who wish to concentrate upon the teaching of advocacy and drafting excellence, leaving other providers to continue to offer the whole course. Some providers will be able to run two courses each academic year, which may well be financially attractive to them.

102. In addition to these points, we have tested the COIC/Bar Council proposal against the BSB criteria of flexibility, accessibility, affordability and sustaining high standards, and find it satisfies them all. Our observations in this regard are set out in full in the Addendum, and we would ask that the BSB treats the Addendum as an intrinsic part of this consultation response. In summary:

- a. It is flexible: students who wish to take Part I of the course may enrol in any part of this country, or indeed any other country; they need not attend one of the urban centres where the providers currently hold their courses. It would be possible to study for Part I in a variety of ways including, but not limited to, private home-study and ‘traditional’ class-room based learning both part-time and full-time. It also enables students to move in and out of professional training; allowing students to reassess their position after Part I, before deciding to embark on Part II.
- b. It is accessible: students who wish to train for the Bar who currently are put off by the sheer cost of the BPTC will not be daunted by the cost of Part I,

particularly given that, since students will be able to study at home and not travel, the ancillary costs of study (such as accommodation or train fares) can be minimised.

- c. It is more affordable: the current requirement for students to attend the providers in order to acquire knowledge is necessarily more expensive than allowing them to learn in their own time, by whatever means suits them (online; books; crammers), in their own accommodation. Further, the cost of not carrying on is reduced, because students who may fail will be likely to do so at the end of Part I, instead of having to sit the more expensive Part II.
- d. It is likely to increase standards: there is no reason to believe that the splitting of the BPTC into its two constituent parts will lower standards. To the contrary, the removal from Part II of those who will not have passed Part I will drive up the pedagogical quality of the course and encourage BPTC providers to innovate and create high-quality skills only courses. Part II would allow for a greater focus on skills, encouraging the promotion of excellence in advocacy and the unique skills of the Bar.

103. The Bar Council/COIC proposal also has the following additional benefits:

- a. Individuals could use their Part I results when applying for pupillage, thus allowing them to secure work-based training before undertaking Part II. This would enable students to have more confidence in their future prospects before spending money on the course.
- b. The ability to self-teach or study online would mean that some individuals who might be put off by the current focusing of BPTC courses in urban centres, might take Part I; allowing them to connect with the profession, and realise that the Bar is not London-centric but includes many individuals with flourishing practices on Circuit.

104. In response to the oral feedback that has been given by the BSB to date, we would make the following further observations.

105. Deliverability. The concerns that the BSB has expressed in the past are (1) that there is no evidence that the relaxation of the rules to allow the COIC/Bar Council proposal to be put into effect will have the result that a suitable course will emerge; and (2) that if that is wrong and a suitable course does emerge, that may lead to the closure of courses which are dependent upon fees from existing students.

106. As to (1), the simple point to make is that neither COIC nor any provider is willing to commit funds to the development of a course for which there is no current regulatory sanction. All that the Bar Council and COIC seek is that the BSB enable their proposal. If it does so, both institutions are confident that they will encourage sufficient support from providers to allow their proposal to gain traction.

107. We find the thinking behind point (2) extraordinary. It is tantamount to saying that students (and the Inns, with their scholarship funding) should continue to waste their money in order to protect the current providers against a better future for their students.

108. Geography. As set out above, it is the Bar Council's view that the ability to study Part I anywhere in the world would increase accessibility and affordability of the vocational stage of learning. In relation to Part II, we have seen no evidence to suggest that there would not continue to be demand for skills-based courses in locations outside of London. Indeed, if a higher number of individuals were studying outside London for Part I, this may lead to a higher than current demand for quality training from providers outside of London in relation to Part II, as individuals would not come to London or other urban centres as a 'matter of course'. But in any event, we do not consider that the current geographical spread of BPTC courses is precarious: if anything, there is an oversupply of courses on many circuits, with three in the North East, two in the North West, three in the Midlands, three in the South East, one in the South West, and one in Wales.

109. Pedagogy. We understand that it has been asserted that knowledge-based study should take place at the same time as skill-based learning in order to imbed knowledge. Responding on behalf of the profession and practising barristers, we would emphasise that the skills to become a barrister are best learnt with a full understanding of each level of training before embedding that knowledge or those skills in the next stage of training. A full appreciation and knowledge of the procedural and evidential framework of the criminal and civil justice systems, prior to undertaking skills-based training, would allow individuals to focus on the skills-based training to a much higher level.

110. For the reasons we have given, together with the reasons for it addressed by the Addendum, we commend the COIC/Bar Council proposal to the BSB. In relation to the question posed in paragraph 22 of the Addendum, we recognise that it will take time for this proposal to be rolled out across the country, and we do not therefore propose that the BSB prescribe this proposal as the exclusive route for the Bar, although that is no doubt something to which the BSB will wish to return in due course.

111. We end by encouraging the BSB not to delay implementing the changes necessary to enable the COIC/Bar Council proposal because it sees the need to examine Option B in greater depth: the scandal associated with the high cost of the BPTC is such that it would not be right to subject further generations of students to it for any longer than is strictly necessary.

Bar Council
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