

Summary of the Bar Council Online Pupillage Q&A Event

Thursday 21 May 2020

Centralised BPTC Assessments

- The results of the online centralised assessments will be made available in early November 2020. The exact dates of release are dependent on the Bar Professional Training Course (“BPTC”) and Bar Transfer Test (“BTT”) providers and, as such, the Bar Standards Board (“BSB”) is encouraging them to publish the relevant dates as quickly as possible.
- The BSB has also scheduled a new BPTC and BTT exam sitting in December 2020 to enable students, where necessary, to re-sit any of the centralised assessments. They expect the results of these assessments to be made available in January or February 2021.
- The BSB has waived the usual requirement that only those who have been confirmed as having successfully passed a BPTC or BTT may start the non-practising period of pupillage.
- Where an Authorised Education and Training Organisation (“AETO”) decides to take advantage of this waiver, it must be included in the [written agreement for pupillage](#) and be set out in a written declaration to the BSB.
- Prior to making a written declaration, AETOs are required to assess the risks of allowing individual pupils to commence pupillage under these circumstances. The types of risks that AETOs must consider are set out in the BSB’s [Guidance for Authorised Education and Training Organisations \(AETOs\) and their pupils who wish to start pupillage in 2020](#).

Extending current pupillages and deferring or delaying future pupillages

- Whilst the BSB recognises the challenging times that AETOs are facing, it is encouraging AETOs to do all that they can to ensure that both current and future pupillages continue as both planned.
- Before an AETO takes a decision to defer a pupillage they are expected to consider what other forms of training opportunities they can offer to help pupils to meet the competences in the Professional Statement and/or any relevant financial support that might be available to them. To assist with the former, the Bar Council has published some [Guidance for Pupil Supervisors](#) and, with the latter, some [Financial Support Measures for Self-Employed Barristers and Chambers](#).

- Where deferring a future pupillage is completely unavoidable, AETOs must [contact the BSB](#), explain why they have made the decision to defer and include any considerations that have been made in relation to other forms of training opportunities and/or financial support.
- The BSB are asking AETOs who are considering deferring the practising period for their current pupils to first consider taking a more flexible approach and review the ways in which their pupils might be able to gain the experience required in order to meet the competencies set out in the [Professional Statement](#). It is possible for an AETO to be satisfied that a pupil can undertake their own advocacy even if during their second six they have not had the chance to do so. Examples of how pupils might gain alternative experience include allowing them to dial in to hearings and running virtual advocacy workshops and seminars for them.
- If at the end of the second six the AETO is not satisfied its pupil barrister(s) have met the Professional Statement Competencies to at least the Threshold Standard and feel the need to extend the pupillage, then they can at that stage contact the BSB. Where pupillage is extended, the pupil supervisor must set clear and measurable objectives as to what is expected of the pupil during the extended period. The AETO must notify the BSB of the new date that the pupil will be completing pupillage by completing the [Notification of Material Change in Pupillage](#) form.
- Where extension or suspension is unavoidable, AETOs are obliged, under mandatory criterion 45.2 of the Authorisation Framework and rules C113-118 of the BSB Handbook to ensure that the pupil receives the minimum level of pupillage funding.
- The Bar Council's Pupillage Helpline is receiving a lot of calls from anxious pupils, both current and prospective, and it is therefore important for AETOs to take as transparent an approach as possible and to ensure that those affected are communicated with regularly.

Effective supervision of pupil barristers

- Following the Government's recent announcement regarding the new lockdown rules, HMCTS has begun to consider how "in person" court hearings can be best managed going forward and, as such, it is likely that we will start to see an increase in the numbers of pupil barristers in attendance.
- Whilst the sending of pupils to court is a decision for individual AETOs, the Bar Council suggests that they ought to exercise caution and be aware of the concerns that might be raised by their current cohort. AETOs do have a responsibility to ensure the health and wellbeing of their pupils and it is therefore important that they are reasonably satisfied of their safety when conducting hearings.

- In the meantime, some AETOs report experiencing problems with pupils being allowed to dial in to hearings. It is important that they can as, for some, it is currently one of the only ways in which they are able to meet Professional Statement Competencies. It is suggested that, where pupil supervisors receive push-back on having them in attendance and it is appropriate to do so, they instead seek the authority of the presiding judge.
- It is recommended that AETOs spend some time implementing virtual advocacy exercises for their pupils and, indeed, many have done so already. Running online workshops can be useful both to the AETO, as a test of its pupils' skills, and to the pupil, as development tool. It is also suggested that AETOs ought not to be afraid of asking that their pupils undertake an exercise more than once, with a view to providing them with an opportunity to respond to feedback and, in doing so, demonstrate improvement.
- It has been suggested that AETOs might wish to share advocacy exercises with one another and, as such, the Bar Council's Education and Training Committee is now acting as a hub for the sharing of any such offers.
- Pupil supervisors must not be afraid of furnishing their pupils with feedback and must remember that, whilst difficult, constructively communicating with them the ways in which they might be able to improve is going to be more helpful than not. Whilst it is not possible for pupils to see their supervisors on a regular basis it is suggested that regular virtual meetings be established between the two and that some of the time is used to discuss their performance against the Professional Statement Competencies.

Pupillage funding

- Unfortunately, there is no central pot currently set aside for assisting pupil barristers. The Bar Council is currently in discussion with the Criminal and Family Law Bar Associations about recommending that the Government ought to pay for publicly funded pupillages in 2021. However, this stance will likely only be adopted should the Bar Council's current financial recommendations (which focus on self-employed barristers and chambers) fail.

Pupillage recruitment and tenancy decisions

- The Bar Council has recently reported that, when the Pupillage Gateway closed at 11:00 on Friday 7 February 2020, the site had processed 15,719 applications from 2,142 applicants, and there were 206 opportunities for pupillage available between 103 providers. In previous years, roughly 50% of pupillage providers have used the Pupillage Gateway to recruit, so it's important to note that a significant number of sets

will have run successful recruitment processes off-Gateway between October 2019 and April 2020.

- Since entering lockdown on Monday 23 March 2020, nine of those 103 pupillage providers (offering 19 pupillages) have contacted the Bar Council to cancel their recruitment process, and a further seven (offering 16 pupillages) have deferred their decision until later in the year. This means that no more than 171 offers were made by the 87 remaining providers on Thursday 7 May 2020. However, the Bar Council is yet to determine the actual number of offers that have been accepted.
- Where an AETO has made an offer of pupillage it can, if it is facing financial challenges arising from COVID-19, reduce the award that it had previously advertised. The award must not fall below the minimum pupillage funding level and AETOs should make the decision known to those that will be impacted by it as soon as it is possible for them to do so.
- AETOs are reminded that the completion of pupillage need not run concurrently with tenancy decisions. The fact that AETOs are not currently considering recruiting tenants should not, in and of itself, prevent them from signing-off a pupillage or pupillages.

Carolyn Entwistle
Head of Services

Friday 22 May 2020