

**Sent by email only to:**  
futurebartraining@barstandardsboard.org.uk

Dear Sir/Madam

## **Consultation on the Future of Training for the Bar: Academic, Vocational and Professional Stages of Training**

The Legal Services Consumer Panel welcomes the opportunity to respond to the Bar Standards Board's (BSB's) consultation document on Barristers training.

The Panel broadly supports the three-stage training approach; academic, vocational; and professional. This approach, with the potential for alternative pathways, and a focus on outcomes should facilitate effective training. Training that delivers good outcomes for consumers and promotes access and diversity to the profession.

The Panel has outlined its views under the main headings of the consultation document.

### **The Academic Stage**

The current requirement for completion of the academic stage is a lower second-class degree UK Honours degree (2:2); or its equivalent. This applies to law and non-law degrees alike. The consultation document proposes to change this requirement to an upper second-class degree (2:1), whether in law or another subject. The Panel believes that this could unduly restrict access to the profession.

We consider it disproportionate to exclude all students who have obtained a 2:2 degree from the profession as a way of mitigating against the risk that individuals who do not possess the relevant intellectual abilities might become barristers, especially at a time when the profession is advancing its thinking on the qualities expected of a barrister<sup>1</sup>. Qualities which now include a mixture of legal knowledge, ability to work with others, management of practice and so on.

There is little or no evidence presented to support the notion that those who achieve 2:2 classifications would deliver poor outcome for consumers, or that those who qualified and are practicing with 2:2 degrees offer

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<sup>1</sup> The Panel supports the BSB's recent publication of the Professional Statement which describes the knowledge, skills and attributes that all barristers should have on 'day one' of practice.

inferior services. While we accept that universities classification process might have passed its sell by date, may distort students' achievements, or result in inflated grades. The flaws of the system cannot be used to justify a blanket ban, because such a prohibition may prevent many meritorious students from entering into the profession.

In 2007, after an extensive review of universities classification process, Bob Burgess said

*"The persistence of a system that concentrates on a single summative judgement results in a fixation on achieving a number that is considered 'good'. This drives the behavior of academic staff and students and works to the detriment of the currency of other information. When they leave university, graduates deserve more than a single number to sum up their achievements. We have concluded that this wider information could be conveyed through the European Diploma Supplement and an expanded academic transcript"<sup>2</sup>.*

The report stopped short of recommending the abolition of degree classifications, but signalled the need for 'other information'. This other information is now commonly available and issued to students in the form of a Higher Education Achievement Report (HEAR). HEAR is designed to encourage a more sophisticated approach of recording student's achievements, detailing a broader range of information. The BSB can address the risk it identified by recommending that BCTP providers take students HEAR report into account before offering a place on the vocational course. Candidates with a 2:2 degree could be asked to sit a further assessment before a place is offered.

Finally the consultation document refers to unidentified evidence which *"shows that graduates with upper-second class degrees are much more likely to be successfully to qualify for practice as barristers than those with lower-second class degrees"*. Logically, the statement also recognises that there will be students with 2:2 degrees who go on to qualify successfully. We strongly urge the BSB to consider the impact such a decision would have on its wider efforts to improve access to the profession.

## **Vocational Training**

The Panel agrees with the BSB's motives for wanting to improve the vocational training stage. In our view, doing nothing is not an option in a changing market that needs responsive and suitably qualified barristers.

We agree that the present approach lacks flexibility for creative teaching, learning pace, affordability and the adoption of technology.

The BSB outlined three approaches for change. The first is tantamount to doing nothing. It does not address the substantive flaws identified above although it tinkers around the edges of the current position. The second approach represents a great deal of change, perhaps too much. This approach would see the BSB step back almost completely. The BSB would not specify any standards requirements, instead, it would develop and prescribe outcomes which vocational training providers must demonstrate, with evidence that it would meet. This approach represents a

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<sup>2</sup> Beyond the Honours Degree Classification: The Burges Group Final Report October 2007

seismic shift that may have negative and unintended consequences for standards. Such a shift, without a concerted effort at some standardisation risks too many candidates achieving varying standards.

The Panel's preferred approach for further consideration and development is described in 'Approach 3'. This approach describes how the BSB would control only the final stages of the vocational training course with a clear focus on outcomes, with inbuilt testable standards at the point of qualifications. As well as incorporating inbuilt and testable standards, it addresses some of the Panel's concerns around affordability. For instance, knowledge may be acquired via home study and other cost effective means of training offered.

In developing the vocational stage, the Panel would like to suggest that the BSB considers the wider role and duties of a barrister. We appreciate that barristers serve a range of consumers with different needs. Nevertheless, it is important to note that some barristers would serve consumers who purchase legal services at times of stress. Therefore, no matter how experienced a consumer may be, their individual characteristics can make them vulnerable. A range of individual factors, including physical and mental ability, language skills, financial constraints, or other personal situations, can directly contribute to a consumer being at risk of disadvantage. Added to that, the particular features of the legal services market, such as barriers to access and difficulty judging quality, can put people at risk. It is important that regulators, and consequently legal service providers, understand and respond appropriately to the needs of consumers. The Panel has developed a guide which trainers can adapt, develop further and use to address vulnerability. This guide is based on the British Standard BS18477 on Inclusive Service Provision, which we have translated into a legal services setting. It forms a companion piece to the Panel's toolkit on the Consumer Principles, particularly expanding on the principles of access and fairness. We would like the BSB to explore how such a toolkit can be embedded in the vocational training of barristers.

### **The professional stage: Pupillage**

The Panel would like to reiterate its previous calls for the BSB to create a culture where individuals lead their own development and focus on what they need to do to stay up to date and improve their performance. We believe that this responsibility needs to start at the Pupillage stage. At this stage, some onus should also be placed on the barrister to identify personal objectives and to provide hard evidence to demonstrate delivery against these. As such, 'Approach 3' appears to be more in line with our previous calls for improvement. This approach proposes to authorise candidates on the basis of their own evidence of having met the requirements of the Professional Statement; with the possibility of a final independent assessment.

We also note and agree that under this approach there is a real possibility that the number of people converting a vocational stage qualification to full authorisation might increase. As many forms of advocacy, and legal advice could count towards authorisation e.g. representation of clients before tribunals, casework advice in law centres, paralegal training and so on.

We hope you find this helpful, and we look forward to further engagement on this important topic. If you have any queries please contact Lola Bello, Consumer Panel Manager.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Elisabeth Davies', with a horizontal line extending to the right.

Elisabeth Davies  
Chair