

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

Future Bar Training

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

Summary of Responses

March 2017

Executive Summary

Background to the consultation

In summer 2013, the Bar Standards Board (BSB), the Solicitors Regulation Authority (SRA) and ILEX Professional Standards (IPS, now called CILEX Regulation) published the Legal Education and Training Review (LETR). This was a large independent review of the system of training legal professionals in England and Wales.

The Future Bar Training (FBT) programme was launched in 2014 in response to the LETR. In parallel with the FBT consultation, the Solicitors Regulatory Authority (SRA) are also conducting a consultation about their own proposals for the future training of solicitors.

Amongst other findings, the LETR encouraged the respective regulators to take **a more outcomes-focused, flexible and innovative approach to education and training**. These have been guiding principles throughout our FBT programme to date.

In responding to the LETR recommendations, the LSB published its own statutory guidance on legal education and training for relevant regulators. The guidance highlights several key requirements, including:

- education and training requirements focusing on what an individual must know,
- understand and be able to do at the point of authorisation;
- providers of education and training having the flexibility to determine how to
- deliver training, education and experience that meets the outcomes required;
- standards being set that find the right balance between what is required at the
- point of authorisation and what can be fulfilled through ongoing competency
- requirements;
- regulators successfully balancing obligations for education and training between
- the individual and the entity both at the point of entry and ongoing; and
- regulators placing no inappropriate direct or indirect restrictions on the numbers
- entering the profession.

The Future Bar Training Programme

Informed by the Legal Education and Training Review and the LSB's statutory guidance above, the BSB began work to address the issues raised in the review by initiating a wide range of policy activities under one programme, Future Bar Training (FBT). The FBT programme was launched in 2014 to focus on:

- how training should be regulated to best meet the needs of professional practice;
- ensuring that regulatory requirements do not restrict access to the Bar;
- ensuring that the requirements for education and training are targeted on the desired outcomes and are proportionate; and
- maintaining the standards which must be met at the point where someone is authorised to practise.

Our FBT consultations

In February 2015, we published our vision for the future of training for the Bar. In that paper, we set out our proposal for standards on entry to the profession to be set by reference to a Professional Statement, which was first published in October 2015. This

has now been supported by the development of the Threshold Standard and Competences, which outline the standards and competences that must be achieved for authorisation.

Last summer we launched our first Future Bar Training consultation. This consultation explored many of the issues raised by LETR and what changes might be made to improve the current system. It examined in detail the relative strengths and weaknesses of the current three-stage system as well as any possible approaches to reform and any regulatory requirements. This consultation received responses from members of the profession (individuals and representative bodies) and other stakeholders, such as those involved with legal education and training, voluntary sector organisations and members of the public. A full summary of the responses to the consultation was published in February 2016.

Future routes to authorisation

Building on the 2015 FBT consultation, the *Future Routes to Authorisation* consultation explores the cross-cutting policy issues which might apply to any regulatory framework. It also considered three Options, assessing the relative strengths and weaknesses of each in pursuit of our stated principles and policy objectives.

Methodology

The Bar Standards Board ran a consultation on the Future Bar Training programme between October 2016 and 31 January 2017. The consultation was open to anyone with a view on the way in which barristers should be educated and trained. This followed an earlier consultation in July 2015, which examined the strengths and weaknesses of the current system, and sought to gather views on the changes that may be made to improve it. A [full summary](#) of these responses was published in January 2016. This consultation hoped to build on the findings of the former, and further explore future authorised routes to training.

There were 1,109 responses to the consultation.

- 529 barristers signed an open letter, in support of the COIC/Bar Council model
- 206 barristers sent emails in support of responses from the Commercial (COMBAR) and Chancery Bar Associations which also supported the COIC/Bar Council model.
- 374 individuals and organisations also offered individual substantive responses which were received from the following:
 - 250 Barristers;
 - Ten Academics;
 - Two academics who also practised as barristers;
 - Sixteen special interest groups
 - Eleven Specialist Bar Associations;
 - Twenty-one students;
 - Nine pupils;
 - Nine Academic Institutions (not offering the BPTC);
 - Eight (all) institutions offering the BPTC;
 - Ten Judges;
 - Eleven Chambers; and
 - Seventeen “other” respondents.

In October and November 2016, the BSB hosted a number of roadshows open to all interested parties, including barristers, students, academics and providers in London, Manchester, Newcastle; Leeds, Birmingham, Nottingham, Cardiff and Bristol. A total of 148 delegates attended these events and the evidence gathered from these has been summarised and included in our analysis. Chatham House rules were applied to these meetings, thus respondents are not identified.

Respondents to the consultation were asked a set of twenty-six questions, based on the three proposed options for future bar training. They were also invited to propose alternative routes to authorisation, and provide a preliminary evaluation of the proposal. Respondents were not required to answer every question: the number of responses to each question therefore differs and this is indicated throughout. Some responses also did not respond in line with the set questions, instead providing a more general response to the consultation proposals and offering opinion on related issues, for example: the role of the Inns of Court, the three-stage system and the role of the BSB as an outcomes-focused regulator. To ensure that respondents' views on all issues are accurately captured, we have summarised the responses to each set question, but have also set out more generally themed responses at the beginning of the analysis.

A significant amount of narrative content was generated and this was analysed thematically, allowing key findings to emerge from the responses. Quotes have been included throughout the analysis to illustrate and highlight these findings. We have endeavoured to present this in a balanced way, without assumption; whilst giving due weight to organisations representing a large number of individuals, such as specialist Bar Associations and the representative body. We have, however, closely analysed and accounted for the views of the range of respondents by identifying emerging themes and apportioning weight to each based on the number of responses they received.

The alternative proposal submitted by the Bar Council and COIC has been analysed separately at the end of the report to ensure that it was given equal consideration within similar themes to the other proposals.

Whilst there are inevitably limitations to the findings, the BSB is confident that this analysis provides a comprehensive and useful summary of the range of opinions from a variety of stakeholders on the future of bar training.

The three proposed FBT approaches

Below we describe the **three possible approaches** for the future of Bar training which we are considering. Here is an overview of the three options:

Option A is an “Evolutionary” approach

- This approach would retain the three sequential stages in the current system: the academic legal education (law degree or Graduate Diploma in Law), the vocational training (currently the Bar Professional Training Course) and work-based learning.
- The changes already being undertaken to improve the current system would continue. These are explained fully in this consultation paper.

Option B is a “managed Pathways approach

- This approach would establish a number of different training pathways alongside each other.
- This would allow providers to offer courses that are more flexible and fit with the requirements of students.
- Option B provides for several routes which the BSB might authorise, including:
 - Option B(i): Academic legal education followed by the vocational training, followed by work-based learning (as in Option A above);
 - Option B(ii): Combined academic and vocational learning followed by work-based learning;
 - Option B(iii): Academic legal education followed by combined vocational and work-based learning requirements; and
 - Option B(iv): Modular format, in which components of qualification can be acquired separately over time (may also include an apprenticeship pathway).

Option C is the “Bar Specialist” approach

- A degree or equivalent would still be required before taking the Bar Course Aptitude Test (BCAT) to test intellectual ability.
- Students would then be required to pass a new qualifying examination – the Bar Entrance Exam (BEE). This examination would cover knowledge and understanding of academic and vocational learning. Students may prepare for this exam in any way they choose.
- A three month approved skills course would need to be taken which would be followed by a period of work-based learning. We would hope to be able to make this more flexible and believe that the short skills course could be integrated in the work-based learning.

Under all of these options students would need to meet the requirements of the Professional Statement to be authorised. Training providers would need to demonstrate that their courses provide training which would enable students to do so.

Summary of key findings

Part 1 – Summary of responses to the consultation

Some respondents submitted responses outside of the questions posed within the consultation. We have summarised these responses here.

Question 1: Do you agree with the BSB’s proposal not to see changes to s207(1) of the LSA (2007)

The vast majority of respondents supported the proposal not to alter section 207(1) of the Legal Services Act 2007, regarding the definition of ‘barrister’ as a person who has been called to the Bar by an Inn of Court. The majority of respondents highlighted the high ethical

standards and the important role of the Inns in promoting professional principles. However, some of the academic respondents argued that, if the Inns were to enter the training market, then the BSB would need to reconsider this issue. *Question 2: Do you agree with the BSB's proposal to maintain the principle the Bar remain a graduate profession? If not please state why.*

The vast majority of respondents agreed with the proposal that the Bar remain a graduate profession. Respondents in favour mostly cited the necessity of skills demonstrated by completing a degree to practice as a barrister and the confidence that the QLD currently commands amongst the public and the international community. Some respondents also encouraged the BSB to retain the core modules and not to replace their requirement with a general requirement.

Question 3: 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.

The clear majority of respondents supported the proposal to maintain the normal expectation of a minimum degree classification of 2:2. This represented the majority opinion of barristers and academic respondents. The majority of respondents argued that the 2:2 requirement should be maintained because it is normal for most commercial organisations to have this as the minimum requirement. However, it was also argued that raising the degree requirement would negatively affect diversity and would overvalue academic success as measured by examinations.

Option A

Question 4: 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.

There was a mixed response to this question but the majority of respondents agreed with the analysis of Option A. A number agreed that, as Option A was essentially already operating, it was capable of meeting the Professional Statement. A number of respondents agreed only in part with our analysis. There were concerns raised around the current model regarding a lack of flexibility and high costs. A minority of respondents felt that there was insufficient analysis to enable them to unequivocally agree or to understand how training providers may interpret the training syllabus more creatively than at present, which could result in more cost-effective programmes of study.

Question 5: 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.

A number of respondents agreed with our analysis of Option A'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. A number of respondents commented that Option A could restrict access to the Bar. Concerns were raised with Option A's lack of flexibility and high cost of training.

Question 6: Do you agree with our analysis of this option's capability to meet the LSB's statutory guidance? If not, please state why not.

The overwhelming majority of respondents agreed with our analysis of Option A's capability to meet the LSB's statutory guidance, including a number of barristers, academic institutions and Bar Associations. A number of respondents agreed in part with the analysis but wanted to be able to see the Authorisation Framework before fully agreeing. In their view there is a

lack of clarity as to when various outcomes/ competencies are to be tested or met. Some respondents felt that more flexibility is required to meet the LSB statutory guidance, which could improve the number of employed pupillages. Some respondents did not agree that Option A could meet the LSB's statutory guidance particularly in regards to providers having the flexibility to determine how to deliver training, education and experience that meets the outcomes required.

Question 7: Do you agree with how ethics is taught and assessed under Option A? If not, please state why not.

The majority of respondents did not agree with how ethics is taught and assessed under Option A. In general respondents reflect that ethics should be explicitly taught and should be incorporated into both the vocational and work-based learning assessments. It was felt that ethics should be integrated into all topics and there should be a separate exam on the principles and rules of ethics. A number of students argued that ethics should be integrated with other modules, including more practical exercises in advocacy and conferencing. A number of respondents agreed that the current assessment was too focused on the rules and did not apply effectively.

Question 8: Do you agree with the cost analysis we have set out above for Option A? If not, please state why not.

The number of respondents agreed with our cost analysis for Option A and many felt that enabling flexibility could lead to cost reductions. Some respondents highlighted the argument that the high cost can reduce accessibility to the Bar for some of those from lower socio-economic backgrounds but that a strong international market stabilises the cost, as without this the market would be very small and unaffordable. A number of chambers and barristers agreed in part with our cost analysis but did not consider that any meaningful savings could be achieved under Option A. Some respondents felt that the changes within Option A do not address the issue of costs to student and may make them worse.

Question 9: Do you agree with the higher education implications we have set out for Option A? If not, please state why not.

The overwhelming majority of respondents agreed with the higher education implications we had set out for Option A. It was felt the academic status of the BPTC should be communicated both to the students and to those outside the legal profession so it could be recognised. A number of respondents agreed the BPTC could be incorporated into the postgraduate diploma or MLaw but it depended on whether the changes to the vocational stage impacted sufficiently on the viability of the existing providers. A minority of respondents did not necessarily agree with the higher education implications we set out as they doubted the value of the LLM obtained via the BPTC and dissertation route.

Question 10: Do you agree with the equality and diversity implication we have set out above for Option A? If not, please state why not.

A number of respondents agreed with the equality and implications we set out regarding Option A, with a number stating that they believe cost to be a major barrier to accessibility when there is such a competitive market for pupillage. A number of respondents agreed that improving accessibility could mitigate the equality and diversity implications, the importance of maintaining high standards was also emphasised. A number of respondents agreed that Option A would do little to improve access to the profession from under-represented groups. Some respondents argued that chambers selection needed to be dealt with alongside any other reform, to ensure equality and diversity.

Option B

Question 11: 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.

The majority of respondents agreed that some of the proposed pathways under Option B could meet the requirements of the professional Statement, however, it was felt that some of the routes presented a risk that students would not meet the requirements of the Professional Statement. Many respondents argued that an increase in the number of pathways would lead to an increase in regulatory costs. The majority of barristers did not agree that the Professional Statement could be met by all the pathways under Option B.

Question 12: 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 no, please state why not.

The majority of respondents disagreed that this Option would meet the regulatory objectives. The BSB were advised to conduct extensive research. The majority of barristers and Specialist Bar Associations felt that option B could not meet the regulatory objectives because of the confusion that this route would be likely to cause due to the number of potential pathways and the market was too small to sustain a number of routes. Generally academic institutions argued that this Option could meet the regulatory objectives.

Question 13: Do you agree with our analysis of Option B's ability to meet the LSB's statutory guidance? If not, please state why not.

The majority of respondents agreed that Option B would be able to meet the statutory guidance. Some respondents felt that their view could change depending on the pathways adopted under this option. It was also felt that this is a small market and it is important to hold in mind that only a small number of routes can be sustained. The majority of barristers who answered this question disagreed that Option B could meet the statutory guidance. This was generally because of duplicity of routes and too many hurdles being in place for students to qualify.

Question 14: 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.

The majority of respondents agreed with the BSB's views as to how professional ethics is taught and assessed, and how ethical behaviour and professional integrity are fostered under Option B. It was generally agreed that there are significant problems with the current system as there is a lack of pervasive teaching and testing of professional ethics. There were a lot of concerns raised about the lack of integration of ethics with other subjects.

Question 15: Do you agree with the cost implications we have set out above for Option B? If not, please state why not.

The vast majority of respondents disagreed with the BSB's cost analysis. The most common concerns raised by respondents were the diversification of the market which could lead to increased regulatory costs. It was argued that Oxbridge and Russell Group universities would not offer B(ii) and this will disadvantage students. Concerns were also raised about the uncertainty of the number and types of routes and that an increase or continuation of centralised assessments will not reduce costs.

Question 16: Do you agree with the higher education implications we have set out above for Option B? If not, please state why not.

The majority of respondents broadly agreed with the Higher Education implications set out for the BSB for Option B. Some respondents felt there was a lot of merit for B(ii) as it already fits within the higher education framework in Northumbria. A number of respondents also broadly agreed that the increased flexibility under Option B would allow pathways to adapt to changes to the higher education framework over time. A number of respondents felt that there would be potential for apprenticeship style training to be developed.

Question 17: Do you agree with the market risk analysis we have set out above for Option B? If not, please state why not.

The majority of respondents agreed that the BSB had identified the correct market risks for Option B. Some respondents felt that flexibility could lead to more innovation but other respondents felt that flexibility could lead to lower standards. A majority of respondents felt that there would be significant market risks, particularly due to the size of the profession and training market. Many respondents held strong doubts that the market would be able to sustain numerous routes and were concerned about the detrimental effect that this may have on geographic diversity. Many respondents also agreed with the BSB analysis that a two tiered system could develop. Serious concerns were also raised by academic institutions that if the Inns were to enter the market this would cause serious problems.

Question 18: Do you agree with the equality and diversity implications we have set out above for Option B? If not, please state why not.

The majority of respondents disagreed with the equality and diversity implications set out for Option B. The majority argued that greater flexibility would not improve diversity. This was because students from less advantaged backgrounds are more likely to access to less popular or acceptable routes. Concerns were raised that those from Oxbridge and the First class degrees will be prioritised. A number of respondents raised concerns that unless Chambers changed their recruitment policies the introduction of numerous routes will not assist those from disadvantaged backgrounds.

Option C

Question 19: 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.

The majority of respondents agreed with our analysis of Option C's ability to meet the requirements of the professional statement. The majority of those in agreement were keen to stress that whilst Option C may be capable of meeting the professional statement, it is not a desirable option. Some respondents felt that the segregation of the knowledge elements of the course from the skills would be undesirable and cause a false divide. The respondents who disagreed with our analysis did not believe Option C was at all viable or desirable.

Question 20: 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 and consumers in particular? If not, please state why not.

The majority of respondents disagreed or neither agreed or disagreed with our analysis of Option C's capability to meet our regulatory objectives. A number of respondents felt that although this Option could reduce the cost of the course it would not deal with the other issues relating to access and diversity. Several respondents felt that there are already flexible learning arrangements and this proposal would not increase accessibility or diversity.

Many respondents questioned the ability of a three month vocational course to adequately cover what is required to equip students with the necessary skills and knowledge. Concerns were raised that this would impact on consumers.

Question 21: Do you agree with our analysis of Option C's ability to meet the LSB's statutory guidance? If not, please state why not.

A small majority of respondents disagreed with our analysis of Option C's ability to meet the LSB's statutory guidance. Amongst those who agreed with our analysis the reasoning included the fact that Option C would increase innovation in training, it would reduce excessive regulation and a shorter course would increase access. Some respondents agreed with our analysis but emphasised that Option C only met the guidance in a minimal sense. The minority of respondents who opposed our analysis of Option C's ability to meet the guidance did so for a variety of reasons including the fact that a shortened course will have a big impact on the validity of qualification and training.

Question 22: 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.

Half the respondents agreed with our analysis as to how Option C promoted the professional principles, ethical behaviour and integrity, including a majority of barristers and educational institutions. A number of those who agreed with our analysis highlighted an additional concern that a short skills course would not have enough time to cover the relevant rules and duties in sufficient detail. A sizeable minority of respondents disagreed with our analysis, citing reasons such as the difficulty of students learning pervasively on a short course and concerns about how little exposure students will have prior to pupillage.

Question 23: Do you agree with the cost implications we have set out above for Option C? If not, please state why.

A slim majority of respondents to this question agreed with our analysis of the cost implications for Option C, including a majority of barristers. A number of respondents who agreed with the analysis felt that the lack of a QLD or GDL will make students less attractive to potential employers or training providers. Several respondents also highlighted that any costs students save may be off-set by costs for preparatory courses. A large minority of respondents disagreed with the cost implications outlined in the consultation document arguing that it will become London-centric, those who progress no further than Part 1 will have no tangible degree, the cost of regulation would be prohibitive and the costs proposed are unconvincing.

Question 24: 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.

The majority of respondents agreed with our analysis of Option C's impact on the higher education training market for the Bar. Respondents generally felt that Option C would mean that the higher education training market would dwindle leading to a concentration in London and students with law degrees would be preferred by Chambers. Some respondents raised converse concerns that the market would become too diverse and the BSB would struggle to regulate it. A minority of respondents, mostly barristers disagreed with our analysis. In their view Option C would lead to a larger number of students having qualifications with little or no value, the small market would deter providers and it would duplicate the knowledge on the degree.

Question 25: Do you agree with the equality and diversity implications we have set out above for Option C? If not, please state why not.

There was no clear consensus between respondents on this questions. A significant number of respondents were unclear whether they agreed with the implications outlined or not. The respondents who broadly agreed with the implications did so on the basis of reduced costs allowing for greater diversity, the potential for students with more money being able to get an advantage through paying for training and the idea that centralised assessments could be a leveller. A number of respondents felt that to allow multiple retakes would assist with equality and diversity. A large minority of respondents disagreed with the implications arguing that because international students would not be attracted, it would lead to crammer courses and the BEE would be an additional cost for students.

Question 26: After having given thought to the three options above, please tell which options is most appropriate and why you think this is the case.

The great majority of respondents wrote in favour of the COIC and Bar Council proposal. Of those many respondents argued that if the COIC and Bar Council proposal could not be adopted then Option A should be adopted as it retains the status quo. The respondents in favour of Option A felt that it was fit for purpose and could be improved by 'deregulation'. Option C was supported by the majority of respondents who did not agree with the COIC and Bar Council proposal. Option B was described as the worst option by many respondents on the grounds that it would lead to too many pathways to qualification which would create confusions and real disadvantage for those choosing less effective pathways. Respondents also argued that Chambers would find it hard to manage pupils who were following different pathways and that this would lead to a reduction in the number of pupillages being offered. Other respondents agreed with some but not all of the proposed pathways under Option B , however, and in particular pathway B(i) and B(ii) were generally agreed to be practical.. A small minority of respondents supported Option C due to the potential reduction in costs but the majority of respondents rejected this Option.

Question 27: If you have any proposals for another route(s) to authorisation, please use this question number to give us a preliminary evaluation of the proposed model against the criteria used above in order for us to be able to give the proposal serious consideration.

The majority of respondents who answer this question did so to outline their support for the COIC and Bar Council proposal. Some respondents offered alternative options or strategies to deal with the issues with the current system. Including: alternative qualification routes to ensure it is not just the rich who succeed, merger between the solicitors and barristers training and more focus on research and analysis skills. A significant number of respondents stated that they lacked confidence in the proposals but did not offer any alternate pathways.

COIC and Bar Council Addendum

The greatest number of responses were in support of the COIC and Bar Council proposal including the Open Letter and the members of COMBAR and the Chancery Bar Association who wrote in support. Concerns were raised about the high cost of training and the low chance of success for many candidates, leading to large amounts of money being wasted. Some respondents wrote in favour of this becoming the only route to qualification whilst others felt that it should exist as one route alongside other courses including a course which might be similar to the current BPTC.

Advantages

The great majority of respondents who wrote to the BSB concerning the COIC proposal did so in support. A large number of advantages were outlined by respondents with a particular focus on reducing the cost to students which would consequentially increase accessibility to the profession, maintaining high standards by reducing the number of 'weaker students' able to take the Part 2 course and increasing flexibility. It was agreed by most respondents that the current centralised assessments should be retained and administered by the BSB as the Part 1 exam. Positive support was also raised for online training and exams. Many respondents felt that private providers should be removed from the training market.

Disadvantages

A minority of respondents expressed concerns about this proposal. Those that did stated concerns that: combined skills and knowledge teaching is beneficial to students, the short skills course will not be sufficient for learning, international students will find it difficult to get visa's, students will find it difficult to self-teach and any tutoring they need for Part 1 will increase costs. Respondents also raised concerns about the equality and diversity issues surrounding this proposal.

Meeting the Professional Statement

Respondents felt that this could meet the Professional Statement because it was based on the current syllabus which met those requirements. It was also argued that the flexibility would mean that courses could be focused on what students really need to learn and to meet the Professional Statement. It was argued that combined teaching of knowledge and skills was not necessary to meet the competences set out by the BSB.

Meeting the regulatory objectives

The majority of respondents, including barristers and SBA's agreed that this could meet the BSB's regulatory objectives. This was because it would lead to highly skilled and knowledgeable barristers at all stages of development and would ensure they were able to represent the best interests of consumers and commercial organisations. A small minority of respondents disagreed and felt that this would lead to a lack of robust teaching and a fall in standards.

LSB's statutory guidance

The majority of respondents felt that this proposal would meet the LSB's statutory guidance. A particular note was raised that the restriction on students taking Part 2 until they have completed Part 1 would not be an indirect restriction so would be allowable by the LSB. One respondent went further and stated that even if this were seen as an indirect restriction it should be allowable because it is reasonable and necessary.

Ethics

Few comments were raised on ethics but it was argued that it should be incorporated at every stage of training. One respondent felt that it could be adequately taught and assessed at stage 2 under this proposal. One respondent raised concerns that separating the acquisition of the knowledge of the rules of conduct and their application would have a negative impact on a student's understanding of ethical principles and their application.

Cost

Cost was an area in which a number of respondents commented. The majority of respondents agreed that the current system was too expensive and this restricted access for students. There was wide agreement that the Bar Council/COIC proposal would reduce the

cost of training and allow students to self-teach, work full or part time and fulfil caring responsibilities, whilst preparing for Part 1. It was felt that any cost of the BSB of regulating the Part 1 exam would be minimal in comparison to any more radical change. The respondents who wrote against the COIC proposal argued that most students would need to pay for tuition for Part 1 which would reduce the cost benefit of this model. Some respondents also felt that there would be a shrinkage in the geographic spread of training which would mean students would need to pay more for accommodation in London during Part 2 of the course.

Higher Education Implications

It was felt by some respondents that the HE implications of this proposal would be minimal. Others argued that the issues of credit rating these courses for providers would mean that there may not be a qualification achieved by some students at the end of their course. One respondent argued that there could be two cycles of the course per year but this could lead to its own problems including one course being seen as more prestigious due to the time of the year it is offered.

Market risks

The majority of academic institutions and BPTC providers raised the issue that this proposal would lead to a London centric market with provincial providers unable to support small sizes of the Part 2 course. In the view of the COIC and Bar Council this would not be an issue because students could take the Part 1 exam anywhere and prepare in any way they choose. Many respondents raised concerns with the reduction in the market. However, some respondents felt this was a good thing and the BSB should be assisting COIC in reducing the number of private providers. A number of other concerns were raised with the accessibility for international students and the consequential destabilisation of the international market under this proposal.

Equality & Diversity

The majority of respondents agreed with COIC and the Bar Council that this proposal would have a positive impact on equality and diversity. It was felt that because the cost and possibly the length of vocational training would reduce this would increase accessibility as more students could afford to study and would be able to study in a flexible way. The majority of barristers and SBAs agreed with this analysis and felt that the increased flexibility would attract those from disadvantaged backgrounds. A number of respondents felt that equality and diversity would be negatively affected due to undue weight on passing procedural exams, which are not a good test of ability, reduction in face to face learning and wealthier students being able to pay for more tutoring and assistance. The majority of BPTC providers felt that this proposal would have a negative impact on equality and diversity, in particular for those from under-represented backgrounds.

Summary of responses to the consultation

LSB Statutory guidance

- 1.1 Two respondents remarked on the compatibility of our proposals with LSB statutory guidance for education and training.
- 1.2 The Government Legal Service noted the principle that regulatory requirements should be consistent with one another insofar as possible as a matter of key concern for their

work, as the GLS currently offers the same training to all its legal trainees whether pupils or trainee solicitors.

- 1.3 The Government Legal Service felt that the BSB should ensure consistency with the SRA in the development of its proposals, otherwise the cost of running a training scheme that caters for both trainee solicitors and barristers would increase.

Legal Education and Training Review

- 2.1 Two respondents made comments relating to the Legal Education and Training Review (LETR) undertaken by the SRA, BSB and IPS.
- 2.2 The Family Law Bar Association stated that the BSB should reveal whether options other than those outlined in the consultation document were considered at pre-consultation stage and, if so, why they were rejected.
- 2.3 One academic respondent noted that the number of required modules on the QLD has expanded significantly in past decades and emphasised that increasing coverage of knowledge has reduced emphasis on understanding, context and intellectual skills, as reflected in the LETR.

Our Objectives

- 3.1 Thirty respondents made comments related to the objectives of the consultation, which were stated as being “flexibility, accessibility, affordability and sustaining high standards”.
- 3.2 Regarding flexibility, respondents remarked that:
 - Increasing flexibility could increase the diversity of the Bar, the quality of training and decrease the cost of the vocational stage;
 - Conversely, that flexibility could damage equality if existing support structures are absent from any new system, or if there are multiple pathways and disadvantaged students lack knowledge as to which is more prestigious;
 - Pursuit of flexibility should not be allowed to compromise high standards of training.
- 3.3 Regarding accessibility, respondents remarked that:
 - The high risk of students failing to obtain pupillage and the debts involved in legal training contribute to poor accessibility; and
 - There is a need to address the disparity in numbers between BPTC students and available pupillages;
 - There needs to be regional provision of training;
 - Further opportunities for funding would be useful;
 - Costs are a key barrier to accessibility; and
 - The Inns of Court are better placed than the BPTC to improve accessibility.
- 3.4 Comments on affordability were linked with their impact on accessibility, as noted above.
- 3.5 Regarding sustaining high standards, respondents remarked that it is important that this principle is not viewed as subordinate to the other three – indeed, a number of respondents highlighted this as the most important principle.

- 3.6 Additional to these comments, the Government Legal Service emphasised that whatever stages of qualification are required, they should be regulated or approved by the BSB to ensure quality assurance.
- 3.7 One barrister respondent felt that the BSB should be less interested in the issues of equality, diversity and fairness as it is not the BSB's role to be an agent of redistributive justice. In their view it was unavoidable that people from certain socio-economic backgrounds will pursue this career.
- 3.8 Within the open letter it was stated that the consultation paper:

"It is not guided by a proper understanding of the BSB's statutory objectives of promoting and protecting the public interest. There are just 430 pupillages available every year, but over 1,500 people commencing the BPTC. The BSB's focus should be on ensuring that those with a realistic prospect of obtaining pupillage receive high quality training, at the most efficient cost, in order to equip them to serve the public."

BSB as an outcomes focused regulator of education

- 4.1 Fourteen respondents lodged comments related to the BSB's role as an outcomes-focused regulator of education. These remarks included commentary that:
- The 5-year rule on applying for pupillage should be lifted, being particularly discriminatory to women who may have children or caring responsibilities;
 - The BSB should exercise minimal regulation over the academic part of the qualification process;
 - The BSB should engage more with the profession, as they are uniquely placed to judge what training is required for entrants;
 - The Bar Council/COIC proposal will not necessarily impact on the BSB's obligation not to limit the numbers of entrants to the profession, either directly or indirectly;
 - The BSB should ensure that it does not exclude QLDs elsewhere in the UK by referring to the mechanisms in England and Wales alone;
 - There must be clear rules on the recognition of overseas degrees as fulfilling the academic portion of training;
 - There is too much learning of evidence and procedure 'by rote'; and
 - The cost of training is excessive.
- 4.2 Additional to these points, one anonymous respondent queried whether the options proposed under the consultation aligned with the recommendations of the Competition and Markets Authority report on legal services.
- 4.3 One barrister suggested that in order to meet its regulatory objectives, the BSB ought to focus its attention on revising the work-based learning stage of training to provide more options for pupillage.
- 4.4 The Winston Centre for Risk & Evidence Communication expressed concern that current training lacks content on forensic and probabilistic evidence in court and suggested that this should be included in future education. Another respondent suggested that students should be compulsorily trained in electronic evidence.
- 4.5 In the Open letter from the profession it was stated that the consultation paper fails to deal with essential issues, in particular:

“It fails to identify the underlying cause of the current problems, namely the fact that BPTC provision has become a self-serving industry that has vastly outgrown its raison d’être of training people in preparation for their becoming one of the people who commence providing legal services every year as members of the Bar of England and Wales. As a result of that fundamental mismatch between purpose and reality, a small profession is faced with an impossible challenge of trying to secure the provision of high quality, financially supported training for people with a realistic prospect of entering the profession, in order to both (i) protect and promote the public interest, and (ii) ensure that the Bar remains open to people without wealthy parents.”

Role of the Inns of Court

- 5.1 Twelve respondents made comments related to the role of the Inns of Court.
- 5.2 Respondents raised the issue of qualifying sessions, with one barrister noting the considerable time and money they expended to return to attend sessions in Wales and stating that this did not improve their skills or knowledge.
- 5.3 A student respondent felt that dinners are an antiquated practice, which exclude female and Muslim students. Young Legal Aid Lawyers also argued that required attendance at dinners ran counter to the principles of accessibility and affordability.

Three components of training

- 6.1 Seventy-nine respondents, mostly barristers, submitted comments related to the three components of training. Concerning the academic legal education, respondents commented that:
 - Students needs to be supported at the undergraduate stage to ensure that those from less affluent backgrounds have access to the best teachers and thus are better able to access postgraduate opportunities;
 - A QLD/GDL is necessary to ensure students have a solid foundation in the law;
 - There should be collaboration between the regulatory bodies to ensure there is one academic route to qualification; and
 - The academic stage is overloaded with required subjects for its length.

6.2 Concerning vocational learning respondents commented that:

- There are too many students taking the BPTC who are unlikely to gain pupillage;
- The course admits a number of students with insufficient English language skills, which impacts negatively on other students' ability to learn;
- The course is excessively expensive and burdens students with significant debt;
- The course is not necessarily a 'waste' if pupillage is not obtained, as it gives experience that may be useful in other careers;
- Course content is basic or leaves gaps in procedural knowledge;
- Teaching quality is variable;
- Teaching of ethics is focused on criminal trial advocacy;
- Providers are incentivised to recruit people who have little or no chance of success;
- Online learning would support people from a disadvantaged background;
- The course ought to be shorter;
- The course content is excessively academic with limited practical application;
- There is inadequate access to research materials needed for the course;
- There is a lack of ICT administration assistance;
- The mandatory attendance requirement is excessive;
- Marking of examinations is excessively narrow; and
- Knowledge components of the course need not be classroom-based.

6.3 A number of barrister respondents argued that the only component of training that needs to be changed is the vocational stage and the BSB should not change anything within the academic or professional stage of training.

6.4 The Bar Council raised a particular concern that the BPTC does not prepare students for pupillage as there are gaps in knowledge and the standard of teaching is low.

6.5 One academic and barrister respondent raised a serious concern with the view promoted by some members of the Bar that the BPTC harms the profession and that the BSB only listens to the providers and not barristers. This respondent argued that this is not the case and most evidence used to support these views is anecdotal.

6.6 One student respondent suggested that recruitment for pupillage should be moved to before the application for the BPTC.

6.7 Nottingham Law School emphasised that reducing the length of the course would not in and of itself reduce cost and could have adverse consequences for students in terms of funding opportunities, accommodation and exposure to practice.

6.8 Concerning Pupillage, respondents commented that:

- Pupillage income is low and training can be variable in quality;
- The difficulty in obtaining pupillage could be mitigated by offering alternative routes to qualifying;
- There ought to be greater flexibility in delivering pupillage (including a greater role for commercial organisations in training barristers and an increased availability of employed pupillages);
- Students should be required to obtain a pupillage before being permitted to study the BPTC;
- Pupillage is successful because it allows the pupil to share the working life of their supervisor and the role of pupil supervisor is a voluntary one;
- An excessive proportion of pupils come from Oxbridge or Russell Group universities;
- Pupillage awards need to be of sufficient size to allow international students to meet the threshold for a visa;
- Pupils ought not to be paid, as their work is often amended by their supervisor. Compulsory payment of pupils has also resulted in the number of available pupillages falling;
- Any system needs to recognise that most students will have pupillage in Chambers;
- A looser system whereby supervisors supervising more than one pupil at a time becomes the norm would be useful; and
- Students should not do their pupillage at academic institutions, because students may have to pay for it.

6.9 One barrister respondent suggested that a qualification could be offered subsequent to the BPTC that would allow students to become legal executives, thus preventing their education from being 'wasted'.

Degree core subjects

7.1 Eleven respondents made comments related to the degree core subjects; mostly barristers and educational institutions.

7.2 Almost all of these respondents supported retaining the core subjects, with their reasons for doing so including that:

- The core subjects are the most effective way of teaching lawyers to think critically and analytically, as well as how to understand the historic and policy context of the law;
- The core subjects represent the foundational aspects of law that barristers must have knowledge of to enable competent practice; and
- Without the core subjects, barristers may not have rights of audience in all courts.

- 7.3 The Professional Negligence Bar Association suggested that the BSB consult specifically on this aspect of educational reform before changing the existing requirement.
- 7.4 One academic respondent supported the proposal in paragraph 39 of the consultation document to replace the core subject modules with a general requirement. This respondent highlighted the increasing number of required subjects over the past number of decades and the consequential reduction in focus on understanding, context and intellectual skills as reasons for change.

Bar Course Aptitude Test (BCAT)

- 8.1 Thirteen respondents, mostly barristers, made comments on the BCAT. These varied in content and included the points that:
- The BCAT is not a good predictor of success;
 - People's performance on the BCAT may be affected by their cultural background;
 - That the BCAT is a fair screening of candidates regardless of their background; and
 - The BCAT ought to have a higher pass mark to restrict the number of students passing the course.
- 8.2 One student respondent queried whether the BCAT could be integrated into the undergraduate course as an optional test in final year, as a means of preventing students from 'floundering between the degree course and the external obstacles' to accessing the profession.

Summary of responses to the questions

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

- 9.1 There were eighty five responses to this question, of which the vast majority supported the proposal not to alter Section 207(1) of the Legal Services Act 2007, regarding the definition of 'barrister' as a person who has been called to the Bar by an Inn of Court. This includes the majority of barristers, students and academic institutions responding to this question.
- 9.2 The reasoning behind this varied:
- Support for the reasoning under paragraph 34 of the consultation document, which highlighted the important role of Inns in promoting the professional principles;
 - The Inns foster a culture of high ethical standards and give members exposure to senior practitioners and members of the judiciary;
 - The Inns perform a lot of pro bono training activity.

9.3 The Inner Temple Bar Liaison Committee explained:

“From personal experience, we believe that the Inns play a crucial role in fostering and ensuring a culture of high ethical standards and integrity in the profession. Students, pupils and members of the Bar are exposed to senior practitioners and members of the judiciary through the Inn. This contact takes place both during mentoring, formal teaching in qualifying sessions and advocacy training and during less formal events that the Inn hosts.”

9.4 However, a significant proportion of respondent academic institutions, alongside the Committee of Heads of University Law Schools, raised concerns about whether Inns should be able to enter into the market as providers of education. These respondents foresaw how a potential conflict of interest could arise between the Inns’ role in validating barristers’ education through call to the Bar, and their role as providers of education were they to enter the market as part of a split BPTC model. BPP suggested that the Inns’ role in calling people to the Bar would need to be reviewed and this function potentially removed from the Inns were this situation to arise.

9.5 A small number of respondents – mostly barristers – did not support the proposal, advocating that the definition under Section 207(1) needs to be changed. The arguments presented by these respondents included:

- Consumers may not understand the difference between a barrister who has been called to the Bar and a barrister who has completed pupillage and is authorised to practice;
- The role of Inns in calling barristers to the Bar is antiquated;
- The system of call to the Bar is dated and risks deterring ‘non-traditional’ students, with mandatory attendance at dinners providing no function and running counter to principles of accessibility and affordability.

9.6 The last point was somewhat supported by other respondents who, while not expressly supporting the idea that Section 207(1) should be changed, felt that the requirements for attendance and qualifying sessions could be disadvantageous for students outside London.

9.7 One Chambers suggested that if the Inns’ role is to focus on ensuring the integrity of those called to the Bar, then Inns should be required to provide a Code of Practice to proposers, which would include checking at least two references for each candidate.

Question 2: Do you agree with the BSB’s proposal to maintain the principle the Bar remain a graduate profession? If not, please state why.

10.1 One hundred respondents answered question two; of which the vast majority supported the proposal that the Bar remain a graduate profession. This included the majority of barristers, as well as all responding students and academic institutions.

10.2 Respondents in favour of the proposal mainly cited the necessity of skills demonstrated by completing a degree to practise as a barrister, and the confidence that the QLD currently commands amongst the public and the international community. The University of Exeter suggested that abolition of the QLD would cause confusion for prospective international students, and damage the international status of law schools in England and Wales. In addition, the Bar Association for Local Government

and the Public Service noted that most commercial organisations recruiting for in-house legal roles require applicants to be educated to degree level or higher.

- 10.3 The need for barristers to be able to both critically analyse and effectively communicate, orally and in writing, was highlighted in a number of responses – in which it was suggested that a QLD ensures students acquire these skills.
- 10.4 The Bar Council, Chancery Bar Association, the Commercial Bar Association and the University of Exeter Law School – alongside a small number of individual barristers – were of the opinion that the core modules should be retained and not replaced with a general requirement, as outlined in the consultation document. The Bar Council suggested that the general requirement proposed within the consultation document is too vague and the removal of the core modules could result in degree subject-matter not being covered as rigorously as is currently the case.
- 10.5 The Chancery Bar Association, whilst agreeing, nonetheless expressed concern around proposals to ‘*water down*’ the mandatory content requirements of a QLD, indicating that this would entail ‘*hazards*’ for equality and diversity. They said:
- “If content is largely deregulated, then the reality is that at least someone (probably Oxbridge and others primarily in the Russell Group) will continue to offer academically rigorous training in the law... The candidates who have the best academic credentials and presentational polish immediately post-sixth form will be best equipped to get onto such courses... The rigorous training will become the gold standard.”*
- 10.6 Dundee Law School urged that it would be important for the BSB to manage any frictions between the paths to qualification for barristers and for solicitors in the event that the Solicitors’ Regulation Authority abolishes the QLD and the BSB does not.
- 10.7 One respondent agreeing with the proposals did so with the caveat that further consideration should be given to the apprenticeship route currently being considered by the Solicitors’ Regulation Authority, which would offer equivalence to a 2:2 degree.
- 10.8 Young Legal Aid Lawyers suggested that the retention of the principle that the Bar is a graduate profession could be achieved by recognising the graduate attributes individuals obtain through various routes, such as through taking a combined academic-vocational course or through prior work experience.
- 10.9 A small number of respondents (all barristers) disagreed with the proposal that the Bar remain a graduate profession. The arguments offered by these respondents included that the graduate requirement restricts the diversity of intake into the Bar, hinders the core objective of flexibility and would be unnecessary if entrance examinations are sufficiently robust.

Question 3: 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.

- 11.1 One hundred and six respondents answered this question, including the respondents who wrote in support of COMBAR and adopted their response. The clear majority supporting the proposal to maintain the normal expectation of a minimum degree classification of 2:2. This represented the majority opinion of barristers and academic respondents. Supporting arguments for this position included:

- Most commercial organisations employing barristers require a 2:2 or higher;
 - Changing the classification could negatively affect diversity within the Bar;
 - Different institutions award certain classifications more regularly rendering it meaningless to differentiate between a student with a 2:2 from a very good provider and a student with a 2:1 from another provider;
 - Raising the degree classification requirement would be overvaluing academic success as measured by examinations; and
 - Raising the requirement could prevent international students who intend to obtain pupillage in their home country from training, despite a 2:2 being satisfactory for that purpose.
- 11.2 A number of responses qualified their agreement with the proposal by suggesting that the BSB ensure that students entering the BPTC with a 2:2 degree classification are made aware of the unlikelihood of their obtaining pupillage.
- 11.3 The Dundee Law School highlighted that accommodation should be made for Scottish students, who have the choice of finishing university education after three years rather than four for the equivalent of a second class honours degree. The school emphasised that the decision whether to finish after three years or four was often on the basis of personal circumstance rather than ability, suggesting that the rule on degree classification should be adapted to accept students who attained a distinction or merit on the three-year degree.
- 11.4 Some responses that agreed with the proposal did so with the proviso that waivers to the minimum for extenuating circumstances were available, particularly for those with disabilities.
- 11.5 One barrister commented that they agreed with the proposal, but only if the BCAT is made more difficult to pass, as they believe the BCAT to be the reason why so many students are entering the BPTC with little chance of becoming a barrister.
- 11.6 Further comment on the BCAT was provided by the Nottingham Law School, who suggested that – as the BCAT was initially intended to filter students entering training - there was little point in retaining the BCAT in circumstances where students have already embarked upon an integrated programme of training, other than to add to their costs.
- 11.8 A notable minority of responses – including barristers, some chambers and the majority of student respondents – disagreed with the proposal to maintain the requirement for a 2:2 degree classification.
- 11.9 These responses were divided between those who felt that the degree classification requirement should be raised to a 2:1 classification and those who felt that the degree classification requirement should be abolished altogether.
- 11.10 The Bar Council argued in favour of a 2:2 but expressing the view that students should be meeting higher levels of attainment by the end of training. Noting that:
- “...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.”*

11.11 Amongst those who felt that the degree classification requirement should be raised to a 2:1, the view was expressed that:

- Maintaining a 2:2 requirement leads to many students taking on debt with little chance of obtaining pupillage; and
- A higher threshold better reflects the level of performance expected from the profession.

11.12 Amongst those who felt that the degree classification requirement should be abolished, a variety of reasoning was provided, including that:

- A degree classification is not a good indicator of suitability for the profession;
- Requiring a degree inhibits flexibility within the profession;
- A 'good' degree does not necessarily reflect one's abilities as a barrister; and
- The boundary is arbitrary, particularly for those who fall just shy of the threshold

Part III

Option A: The Evolutionary Approach

Question 4: 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.

12.1 A total of seventy two people responded to this question.

12.2 Although responses to this question were mixed, the majority agreed with our analysis of Option A, including the Bar Council and the Society of Legal Scholars. A number felt that as this is already working under the current route that there was no reason to disagree that it is capable of meeting the Professional Statement.

12.3 One respondent broadly agreed with our analysis but argued that if the SRA implements the SQE regime, thereby withdrawing from any regulation in the content of law degrees and GDL programmes, then the BSB may find it challenging to provide minimum regulation in this area.

12.4 A number of respondents agreed only in part with our analysis. There were concerns raised around the current model regarding a lack of flexibility and high costs, and some respondents felt that the Bar Council/COIC proposal is better designed to meet the requirements of the Professional Statement, although detail was not provided as to the reasons why.

- 12.5 Only a small minority did not agree that Option A has the capability to meet the requirements of the Professional Statement. They felt the vocational stage does not effectively prepare students for day to day practice at the Bar, including the nature of some assessments that were considered to place emphasis was on learning to pass the exam rather than preparing for practice.
- 12.6 A minority of respondents felt that there was insufficient analysis to enable them to unequivocally agree or to understand how training providers may interpret the training syllabus more creatively than at present, which could result in more cost-effective programmes of study. One respondent stated they did not understand the question and another felt that the question was not relevant.
- 12.7 A number of respondents provided additional comments, outside the scope of the question, regarding their concerns with the current system of training. This included that it is expensive - which can impact on accessibility - that it is inflexible, requiring students to take a large risk by investing in the BPTC when they may not pass or get pupillage, and that chambers recruit from a narrow range of universities.
- 12.8 Some respondents felt that pupillage is an important stage for providing pupils with the competencies within the Professional Statement, as they can practically apply their learning.

Question 5: 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.

- 13.1 A total of seventy people responded to this question.
- 13.2 A number of respondents agreed with our analysis of Option A'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.
- 13.3 Numerous respondents commented that Option A could restrict access to the Bar, and a summary of these responses have been listed below:
- One respondent noted that the lack of flexibility, in that pupillage is usually untaken following the academic and vocational stages, ignores the prohibitive costs of these stages, and the impact this has on accessibility and
 - Monckton Chambers and One Essex Court felt that the design of the BPTC, in that the modules are detached from daily practice, coupled with the high cost, inhibits entry to the profession from individuals from lower socio-economic backgrounds. This, it was felt, has made the Bar dependent on income rather than ability.
 - A number of respondents felt that Option A does not enhance access to the profession, with cost being a considerable risk without the guarantee of pupillage.
 - Some respondents agreed that the current system constrains flexibility, but does provide good geographical spread of training among the regions.
 - The Bar Council felt that the high cost of training acts as a barrier to access to the profession, but that this is not due to the sequential nature of the current system, but rather the upfront investment that it requires.

- One respondent felt that changes under Option A will increase the need for regulation which in turn will increase costs.
- One respondent noted that by retaining a single route, those with less social capital will not be disadvantaged as they have taken the same pathway as other applicants.
- The Inner Temple Bar Liaison Committee felt that the costs associated with the academic stage are not specific to the Bar and that many graduates will not be seeking to qualify as barristers. Therefore, associating high costs with the academic stage, and attributing this to lack of access, is not necessarily fair.

13.4 One Essex Court Chambers stated, as regards the potential of Option A to restrict access to the Bar, that:

“It is not in the interests of the profession, consumers or the public generally to make access to the Bar dependent on income rather than ability.”

13.5 Additionally, some barristers felt that Option A does not provide an effective filter for those students who would not be able to pass the course or meet the Professional Statement, thus threatening the quality of service to consumers.

13.6 Several respondents stated that they did not have a view.

Question 6: Do you agree with our analysis of this option’s capability to meet the LSB’s statutory guidance? If not, please state why not.

14.1 A total of sixty eight people responded to this question.

14.2 The overwhelming majority agreed with our analysis of Option A’s capability to meet the LSB’s statutory guidance, including a number of barristers, academic institutions and the Commercial Bar Association.

14.3 A number of respondents agreed in part with our analysis, but provided additional comments that they would like to have more information without which they are unable to fully agree. This included comments stating that without viewing the Authorisation Framework there remains a lack of clarity as to when various outcomes/competencies are to be tested/met, that the opportunities for increasing flexibility are insufficiently developed and that it is unclear what value is gained from allowing providers to innovate with taught modules and syllabus requirements.

14.4 There were respondents who felt that more flexibility is required to meet the LSB statutory guidance, which could improve the availability of employed pupillages and enable trainee barristers to gain experience within a commercial organisation during training.

14.5 A number of respondents, including COIC, did not agree that Option A is capable of meeting the LSB’s statutory guidance, particularly in regards to providers having the flexibility to determine how to deliver training, education and experience that meets the outcomes required.

14.6 In their response, the Bar Council noted that too many candidates are admitted onto the BPTC when they either fail or have little chance of getting pupillage, which can reduce the standard of students and prevent the attainment of the required outcomes. They stated that:

“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.”

- 14.7 One respondent felt that providers do not have an incentive to make courses more rigorous and that by enabling more flexibility, it is likely that providers will lower standards to increase the pass rates.
- 14.8 Some chambers felt that to retain Option A would not enable us to meet the LSB statutory guidance because this approach does not enable access to the profession due to high costs and thus contravene the guidance’s prohibition on placing inappropriate restrictions on the numbers entering the profession.
- 14.9 One chambers highlighted that the high debt that students acquire is causing some junior practitioners to abandon areas of practice, including crime and family, which could also constitute a restriction on the numbers entering the profession.
- 14.10 Some respondents commented that they did not have a view and another did not consider that this question was relevant.

Question 7: Do you agree with how ethics is taught and assessed under Option A? If not, please state why not.

- 15.1 A total of seventy-five people responded to this question.
- 15.2 The number of respondents agreed with how ethics is taught and assessed under Option A and that teaching and assessing ethics as a centralised assessment should be retained.
- 15.3 However, the majority of respondents did not agree and these responses have been summarised as follows:
- 15.4 A number of barristers argued that ethics should be explicitly taught and should be incorporated into both the vocational and work-based learning assessments. In several respondent barristers’ view ethical issues should be integrated into all topics and there should be a separate exam on the principles and rules of ethics. It was argued that:
- Centralised assessments are not sufficient in isolation;
 - A more philosophical approach could be beneficial, in which students are assisted to use different forms of moral reasoning in different circumstances.
- 15.5 The Bar Council argued that the current ethics training on the BPTC is insufficient. They stated that:
- “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.”*
- 15.6 BACFI suggested that an exploration of the ethical issues affecting both the self-employed and employed Bar can be beneficial and noted that:
- “...that working in-house (whether in a law firm or a commercial organisation) presents a set of ethical challenges different from those that might be experienced by a self-*

employed barrister practising from chambers. BACFI believes that commercial organisations and law firms themselves are in the best position to provide training and experience in relation to these matters and any approach to training should therefore be flexible enough to enable barristers to spend at least part of their training in-house.”

- 15.7 The Family Law Bar Association believe that ethics should not form part of the undergraduate syllabus.
- 15.8 A number of students argued that ethics should be integrated with other modules, including more practical exercises in advocacy and conferencing. In their view the current assessment may be too focused on the rules. One student respondent argued that there should be an ethics refresher course before starting pupillage.
- 15.9 BPP and Nottingham Law School felt that a closed book assessment of ethics is not realistic or relevant to practice because if barristers are faced with an ethical issue, they are able to access resources for guidance. Northumbria Law School agreed with this and felt that the teaching and assessment of ethics should be a blend of classroom based analysis of the Code together with exploration of the application of the Code in skills-based sessions. A number of academic institutions felt it would be beneficial to utilise a more pervasive teaching style, so students are not necessarily warned that there is an ethical issue due to its not being explicitly tested through short answer questions
- 15.10 Some respondents, including the University of Law, felt that a teaching of ethics on the LLB/GDL would embed learning to improve the students' approach to ethics.
- 15.11 One respondent felt that the existing centralised assessment in ethics might also widen to consider jurisprudential issues and so take a deeper investigation of this part of training.
- 15.12 Other respondents argued that:
- The teaching of ethics must be aligned with the wider philosophical and moral underpinning of ethics. The assessment should be incorporated into exercises in which the student is required to identify ethical issues as they arise;
 - Ethics should be taught in a similar way to the approach taken by the staff on the Bar Council Ethical Enquiries line;
 - More information about the proposed changes to the exams from 2017 would enhance analysis; and
 - There was concern expressed by one respondent that if ethics is reduced to a component of other modules or a learning outcome, then the importance of ethics may not be realised by some students. This, it was suggested, creates a risk that if the teaching of ethics is not implemented properly, then public confidence in the profession may decrease.

Question 8: Do you agree with the cost analysis we have set out above for Option A? If not, please state why not.

- 16.1 A total of seventy five people responded to this question.
- 16.2 A number of respondents agreed with our cost analysis for Option A and some believed that by enabling flexibility, then this may lead to cost reductions. Some respondents highlighted that the high costs can reduce accessibility to the Bar for

those from lower socio-economic backgrounds and that a strong international market stabilises the cost, as without this the market would otherwise be very small and more unaffordable.

- 16.3 The Committee of Heads of University Law Schools raised that value for money must also be a consideration and we should compare the cost of training to other professions, as well as internationally.
- 16.4 City Law School felt that the current course does provide value for money as it not only prepares students for pupillage but also equips them with transferrable skills if they are unsuccessful in pupillage applications.
- 16.5 A number of barristers and chambers agreed in part with our cost analysis but did not consider that any meaningful savings could be achieved under Option A.
- 16.6 The Wales and Chester Circuit suggested that our focus should be on the cost implications to UK-based students, rather than a on those for international students.
- 16.7 Additionally, one respondent did not consider that the availability of further public funding is a material consideration in choosing the best option and another identified the potential of combining the existing content of the BPTC with other modules to create a bespoke LLM that could benefit from public funding.
- 16.8 Some respondents generally agreed with the removal of prescription regarding the elective modules, as a student may not know where their pupillage will be and therefore specialising may result in inconsistencies with the areas of practice during pupillage. Others, however, disagreed and felt these modules develop a student's understanding of the areas they wish to practise and also provides pro bono opportunities, which should be encouraged.
- 16.9 A number of respondents did not agree fully with our cost analysis.
- 16.10 A number of respondents, including the Bar Council, Chancery Bar Association and the Family Law Bar Association, noted that a reduction in prescription is unlikely to lead to a reduction in costs. Nottingham Law School argued that certain costs for delivering the course are fixed and therefore a removal of prescription will not necessarily mean a reduction in the costs.
- 16.11 Some felt that the institutions want to make a profit and rather than passing savings onto students, these savings will be absorbed and the problems are likely to persist.
- 16.12 Others felt that the removal of prescription regarding class size will not result in savings, because there may be educational value in having the size of classes that currently exist. Alternatively, it was suggested that a two-tier system may develop whereby some providers continue with the current, expensive model, whilst others may increase class sizes, resulting in lower fees but also a reduced standard – or perceived reduced standard - of learning. This will, some suggested, have an adverse impact on equality of opportunity and the diversity of the profession.
- 16.13 Some respondents, therefore, felt that the changes within Option A do not address the issue of costs to students and may make them worse. One barrister respondent stated that increasing the minimum award for pupillage as a means of reducing the student debt would reward the BPTC providers who have benefitted from increasing the student's debt burden in the first place.

- 16.14 Nottingham Law School did not agree that Option A will be the least likely to draw on public funding developments, as the LLM BPTC that is implemented at Nottingham means students are eligible for Government loans.
- 16.15 The Chancery Bar Association highlighted the unstable nature of public funding and that this is liable to change, as too are the costs of undergraduate degrees. The Inner Temple Bar Liaison Committee highlighted that the costs associated with the academic stage are not specific to the Bar and are a feature of any graduate profession.
- 16.16 One respondent felt that the majority of funding is within control of the Inns of Court and that there is no rule preventing the Inns from funding those with their own wealth.
- 16.17 Monckton Chambers did not consider that the charitable funds from the Inns of Court should be used to support the vocational stage when the content of such is not consistent with the needs of practice.
- 16.18 The Association of Graduate Careers Advisors did agree that it would be beneficial to have greater transparency regarding the award of Inn scholarships.
- 16.19 A minority of respondents did not express a view, could not agree or disagree with our analysis or commented that the BPTC is too expensive.
- 16.20 Other respondents felt that there was insufficient information to enable them to provide commentary. Some would welcome further information about the areas against which the additional costs of centralised assessments will be offset, examples of the public funding considerations mentioned and whether consideration was given, in regards to pupillage awards, of the cost of living in areas other than London.

Question 9: Do you agree with the higher education implications we have set out above for Option A? If not, please state why not.

- 17.1 A total of seventy three people responded to this question.
- 17.2 The overwhelming majority agreed with the higher education implications we have set out for Option A.
- 17.3 Specifically, the Inner Temple Bar Liaison Committee felt that the academic status of the BPTC should be communicated both to prospective students and outside the legal profession so that it is recognised by employers as a valuable qualification.
- 17.4 A number of respondents agreed that the BPTC could be incorporated into a postgraduate diploma, or an integrated MLaw, but the impact on the market would be dependent on whether the changes to the vocational stage impacted sufficiently on the viability of the existing providers who compete for a finite pool of students.
- 17.5 One respondent felt that the priority should not be the alignment with other higher education qualifications, but on ensuring that barristers are ready to practise when qualified. Similarly, a number of respondents felt that the alignment with higher education qualifications would not be of such importance in a reformed system of Bar training wherein only an appropriate number of people would be qualifying and at a proportionate cost; they considered the recognition of the qualification outside the Bar only matters when many training will never practise as a barrister.
- 17.6 A minority of respondents did not necessarily agree with the higher education implications we set out as they doubted the value of an LLM obtained via the BPTC

and dissertation route, as this could be poorly regarded compared with the traditional LLM.

17.7 A minority of respondents stated that they either had no view on the higher education implications we set out or that they had no comment.

Question 10: Do you agree with the equality and diversity implications we have set out above for Option A? If not, please state why not.

18.1 A total of seventy three people responded to this question.

18.2 A number of respondents agreed with the equality and diversity implications we set out regarding Option A, with a number stating that they believe cost to be a major barrier to accessibility when there is such a competitive market for pupillage. Whilst respondents generally agreed that improving accessibility could mitigate the equality and diversity implications, the importance of maintaining high standards was also emphasised.

18.3 One respondent highlighted that improving the information available to under-represented groups could be beneficial in developing career options and opportunities for work experience.

18.4 A number of respondents agreed that Option A would do little to improve access to the profession from under-represented groups. Some suggested that for a significant improvement in accessibility, more radical change would be required than is proposed.

18.5 One barrister felt that it is not the structure of training that significantly impacts BAME students, but rather the content of the course. Northumbria Law School disagreed, stating that they were not convinced that the difficulties faced by BAME students can be accounted for by the structure and content of the BPTC.

18.7 A number of respondents felt that the participation of women and BAME students is more concerning at pupillage and that this should be an area of focus when considering accessibility from an equality and diversity perspective.

18.8 Nottingham Law School highlighted that Option A provides the best opportunity for achieving high standards, reducing costs (by accessing public funding) and greater accessibility from a geographical perspective.

18.9 Respondents highlighted the complicated nature of under-represented groups entering the profession, which are not limited to the model of vocational training. Some respondents felt that without details as to why we think some groups are under-represented, it is difficult to conclude whether they agree with the implications we outlined.

18.10 A minority of respondents did not agree with the equality and diversity implications we set out and argued that chambers selection needed to be dealt with alongside any other reform, to ensure equality and diversity.

18.11 One barrister took an alternative view and noted that they consider that it is regulation that can hamper equality of access and diversity in the profession, rather than the recruitment policies of providers. This respondent highlighted the fact that their chambers has structured a timetable to reduce care and travel costs, increasing access to those from under-represented groups. Similarly, another barrister considered the attendance requirement on the BPTC to hamper equality and diversity.

18.12 A minority of respondents stated that they either had no view on the equality and diversity implications we set out or that they had no comment. One barrister felt that the main concern should be the improvement of standards, rather than equality and diversity issues. Outer Temple Chambers highlighted that the proposals to increase flexibility in the BPTC under Option A are insufficiently developed to know whether they will lead to increased access.

Option B: Managed Pathways

Question 11: 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.

- 19.1 Seventy-five people responded to this question.
- 19.2 The majority of respondents agreed that *some* of the proposed pathways under Option B could meet the requirements of the Professional Statement, however, it was felt that some of the routes presented a risk that students could not meet the requirements of the Professional Statement
- 19.3 The majority of respondents agreed that B(i) could meet the requirements of the Professional Statement as it is similar to the present training pathway.
- 19.4 It was generally agreed that B(ii) could meet the requirements of the Professional Statement.
- 19.5 The majority of academic institutions felt that this Option was suitable to meet the requirements of the Professional Statement. The School of Law at Reading University raised concerns about the low number of pupillages available and how few students are able to qualify. Northumbria Law School and the School of Law at Reading University also expressed concern about the market, including issues of sustainability and how certain pathways may be regulated.
- 19.6 Many respondents argued that if a large number of routes were developed, this would lead to an increase in regulatory costs. Respondents felt it would be necessary for the BSB to introduce greater regulatory oversight to ensure that the requirements of the Professional Statement were met. Dundee Law School agreed that with careful oversight, a number of the pathways suggested under Option B could satisfy the Professional Statement. However, they suggested the BSB would need to introduce clear outcomes for each element and information for students to be able to identify, in advance, how the various pathways would fulfil the requirements.
- 19.7 The majority of barristers who responded did not agree that the Professional Statement could be met by the pathways under Option B. The biggest concern was that a number of routes would arise and this would lead to an expansion in the market beyond what was sustainable. As the profession is so small and there are only a small number of pupillages, it is felt that this would exacerbate the perceived problem of the number of students qualifying. It was also argued that there is a risk that standards will be lowered as more routes develop, which would prevent students from meeting the Professional Statement.
- 19.8 The Family Law Bar Association felt strongly that Option B is overly complex and confusing and would lead to less accessibility and a proliferation of less than optimum,

or cheaper providers. They felt that those students with less access to funds would gravitate towards the less reputable providers, damaging their chances of success.

Question 12: Do you agree with our analysis of Option B's ability to meet our regulatory objective in general, and access to the profession, supporting the rule of law and promoting the interests of consumers in particular? If no, please state why not.

- 20.1 Sixty-nine people responded to this question.
- 20.2 The majority of respondents disagreed that this Option would meet the regulatory objectives. COIC argued that none of the pathways under B, except for B(i), could meet the regulatory objectives. Before the introduction of either B(iii) or B(iv), COIC advises the BSB to conduct extensive market research.
- 20.3 The majority of barristers felt that Option B would be unable to meet the regulatory objectives. This was generally on the grounds of the confusion that this route would be likely to cause due to the number of potential pathways and that the market was too small to sustain a number of routes. A significant concern was also raised that chambers would be unlikely to recruit students from different routes as essential knowledge, such as ethics, may not have been taught.
- 20.4 The majority of the Specialist Bar Associations felt that Option B could not meet the regulatory objectives, for the same reasons put forward by members of the Bar. BACFI supported the idea of a more flexible approach to work-based learning, which could allow more commercial organisations to offer pupillage.
- 20.5 The majority of academic institutions and BPTC providers agreed that Option B could meet the requirements of the Professional Statement. In particular, there was agreement that Option B(i) and B(ii) could meet the regulatory objectives as they currently exist.
- 20.6 Some issues were raised by academic institutions and BPTC providers. City Law School and BPP raised concerns about the continued use of centralised assessments and how this may work against meeting the regulatory objectives. This was because centralised assessments are inflexible and inhibit innovation as the providers teach students so they can pass the test. Concerns were also raised by academic institutions about the effect the reforms may have on international students.
- 20.7 The academics that responded to this question generally agreed that this Option could meet the regulatory requirements. However, they raised concerns about B(iv), and any pathway which could allow students to complete pupillage prior to their vocational or academic training, as it was considered unworkable. One academic suggested, that if B(iv) were to be introduced then introductory modules on ethics, court visits and legal systems, similar to the first term of an undergraduate degree, should be introduced.

Question 13: Do you agree with our analysis of Option B's ability to meet the LSB's statutory guidance? If not, please state why not.

- 21.1 Sixty-eight people answered this question.
- 21.2 Some respondents agreed that Option B would be able to meet the statutory guidance.

21.3 The University of Law agreed that the option would greatly improve flexibility for students by allowing them to train in a number of different ways to meet the requirements of the Professional Statement. All of the academic institutions and BPTC providers who answered this question agreed that it could meet the statutory guidance.

21.4 The following comments were raised by a number of respondents:

- Despite agreeing in principle, this view could change depending on the pathways adopted under this option;
- This is a small market and it is important to remember that only a small number of pathways could be sustained under this Option; and
- That one pathway would become known as the superior route and this could lead to a tiered system of training, which favours students with social capital.

21.5 The majority of barristers who answered this question disagreed that Option B could meet the statutory guidance. This was generally for the same concerns outlined above. One Chambers raised a concern that Option B would place inappropriate hurdles for many students relating to cost and risk. Many barristers agreed with the principles outlined by the Bar Council that this Option does not find the right balance between regulatory controls and over-prescription.

21.6 The Bar Council pointed to the fact that Option B is in substance little more than a policy decision that the BSB will, in the future, consider the authorisation of unspecified routes. They raise concerns about the likelihood that providers would be able to introduce new pathways within a short timeframe.

Question 14: 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.

22.1 Sixty-five people responded to this question.

22.2 The majority of respondents agreed with the BSB views on how professional ethics is taught and assessed, and how ethical behaviour and professional integrity are fostered under Option B. It was generally agreed that there are significant problems with the current system as there is a lack of pervasive teaching and testing of professional ethics.

22.3 The Inner Temple Bar Liaison Committee agreed that attention needed to be paid to the good teaching of ethics and that ethical considerations may be brought into a number of subjects. They agreed that there ought to be an ethics module with a central exam, as at present. However, they raised concerns that under B(iii) and (iv) ethics teaching could fall between the cracks and this concern would need to be met by an exam. This concern was also raised by a number of other respondents who also felt that the ethical requirements of the Professional Statement may not be met if B(iii) or (iv) were introduced. One Chambers queried how a student on B(iv) would be equipped to deal with ethical issues if they had no vocational training prior to their work-based learning. They noted that for Chambers and other training organisations, this would cause significant issues relating to client confidentiality.

22.4 The European Circuit argued that the potential flexibility under Option B would not necessarily tackle the problems raised by the BSB in the consultation. The main issue

they identified was a quality issue in the formulation of the vocational courses and delivery of training. Anecdotal evidence had indicated to them that little or no thought is put into integrating ethical issues into skills subjects and the subject was often taught with little or no enthusiasm by tutors, who have never had to face such problems themselves. Their concern was that Option B would lead to long term negative implications for consumers.

- 22.5 Concerns about the lack of integration of ethics within other subjects was raised by a number of other respondents. Many agreed that any change to the structure of training should remove the requirement for an assessment in the current format. Instead ethics should be tested pervasively throughout skills and other assessments. Many supported the assessment structure that had been used during the Bar Vocational Course.
- 22.6 The University of Law supported the BSB's view on this. They noted that the active and practical involvement in the course by members of the Bar and judiciary can add considerable value to a student's learning experience. They welcomed opportunities for new interactions for their students with the wider profession.
- 22.7 Despite many respondents agreeing with the BSB's analysis regarding this issue, many still felt that there were better ways to address the inadequacies in the teaching and assessment of ethics but did not say how this could be achieved.

Question 15: Do you agree with the cost implications we have set out above for Option B? If not, please state why not.

- 23.1 Seventy people responded to this question.
- 23.2 The vast majority of respondents disagreed with the BSB's cost analysis. The most common concerns raised by respondents were:
- The diversification of the market would increase the regulatory cost for the BSB and this in turn would also increase costs for students;
 - Russell Group and Oxbridge universities will not offer B(ii) and this will mean that a large number of students will be unable to access any costs savings;
 - Due to the uncertainty about the number and types of routes that may occur under Option B, no opinion can be given on the cost implications; and
 - Any increase or continuation of centralised assessments will not reduce costs.
- 23.3 Both COIC and COMBAR agree that the consultation analysis is inadequate to anticipate the potential implications of introducing Option B. COMBAR raised concerns echoed by a number of other respondents that an independent analysis will need to be undertaken prior to any authorisation for pathways B(iii) and (iv).
- 23.4 A number of respondents felt that although B(ii) could reduce costs for some students this would be unlikely to have a significant impact on the training market. This was because no Russell Group or Oxbridge university would offer this pathway and the chance of students from other universities getting pupillage is very low. One student respondent felt the undergraduate background of a student is their prime detriment to getting pupillage. This was also supported by Outer Temple Chambers who have

concerns that the MLaw may provide lower costs but this may come in at an unacceptable cost in terms of academic quality or other benefits. QEB Hollis Whiteman Chambers also discussed the possibility of the financial viability of the MLaw being removed by a future government's policy decisions.

- 23.5 The Faculty of Law at the University of Oxford argued that a Law degree was the best way to qualify for the Bar and students who study law should receive credit for this, rather than be on the same track as GDL students. Oxford could not offer vocational training so their students would not be able to take advantage of this pathway. In their view, a law degree is to provide students with skills for other careers, not just the Bar. The BSB should be focusing on reducing the cost of the BPTC.
- 23.6 Manchester Law School cautioned the BSB from the idea that any pathway could offer the rigorous amount of training currently offered, but for a lower cost, arguing that vocational training is expensive and it will be difficult to introduce any significant costs savings. They argue that a bigger risk factor for students is that they are unable to get work-based learning and any widening of the availability of this would be welcomed. This view is supported by a number of academics who also note the high quality of vocational training.
- 23.7 Nottingham Law School raised concerns that Option B would increase the regulatory cost if we continue with our policy of full economic cost recovery. This was also raised by the School of Law and Politics at Cardiff University who could not see a way in which this would not increase the costs of regulation. Although the MLaw was a good example of a route which could offer students cost reduction, they did not consider the analysis to have evidence strong enough that costs would be reduced overall. They also felt it was important to take into account the potential cost increase to students for travel and accommodation if the number of regional providers were reduced.
- 23.8 The Western Circuit also noted that multiplicity in pathways would potentially reduce the number of providers in provincial centres and cause the market to become London centric. This would be detrimental to diversity and equality of opportunity to those wishing to train for to the Bar. Regional providers may close if the multiplication of routes led them to believe that the courses were no longer cost effective.
- 23.9 The Wales and Chester circuit disagreed with the analysis in so far as it applied to B(i), but felt there was some merit in considering this if the COIC/Bar Council model were adopted.

Question 16: Do you agree with the higher education implications we have set out above for Option B? If not, please state why not.

- 24.1 Fifty three people responded to this question.
- 24.2 The majority of respondents broadly agreed with the higher education implications set out for the BSB for Option B. Many respondents felt that there is merit for B(ii) as it already fits within the higher education framework at Northumbria. A number of respondents also felt that the increased flexibility evident within Option B would allow for pathways to adapt to changes in the provision of higher education. The University of Law agreed that the implications were correct and noted that from 2017 they were offering a combined BPTC and Masters Route, which in addition to providing students with clinical experience also allows them to access Government postgraduate funding.

One respondent was sceptical as to the level of government interest in such a small profession.

- 24.3 BPP agreed that some routes would lend themselves to combining with a master's level award, although they noted that the BPTC currently lends itself to this. Dundee Law School argued that in a more modular system, providers should still be encouraged to align their courses with the broader qualifications framework. City Law School emphasised that only courses that contain structured academic or vocational education would fit within the higher education structure for credit-rating, thus leaving the risk that students would not have a recognised qualification in the way that the BPTC currently provides. The Committee of the Heads of University Law Schools agreed and noted that flexibility will be limited by the higher education structure for credit-rating and that providers will be guided by the impact on international students.
- 24.4 A number of non-barrister respondents expressed interest in the potential opportunity for apprenticeship style training as outlined under B(iv). The University of Law explained that they are currently involved in similar training with paralegals and solicitors and this could be developed for barristers. The Association of Law Teachers also agreed that larger organisations such as the Government Legal Service and the Crown Prosecution Service could have an interest in exploring apprenticeships. However, they warned that self-employed barristers would be unlikely to have any interest in B(iv), preferring instead to recruit pupils who have undergone a conventional legal education. The respondents who considered B(iv) agreed that only larger organisations that employed barristers could realistically offer apprenticeships. The Inner Temple Bar Liaison Committee expressed concerns that students who undertook training under B(iv) may not be considered to be at the same academic standard as those who have taken other routes.
- 24.5 It was noted by the Inner Temple Bar liaison Committee that most academic institutions, particularly the best-rated universities, would be unlikely to adapt their training to encompass any of the pathways outlined under Option B. Many universities would continue to offer the traditional academic orientated law degree and would not be open to different options.
- 24.6 COIC argued that higher education implications are not an appropriate basis for determining Bar training. This is also set out by COMBAR who note that the ability for students to engage in government funding is not a reason for selecting an inappropriate training structure; instead the BSB should be focusing on reducing the cost of training. The European circuit also argued that the cost of training should be reduced to ensure that the Bar and the Inns of Court can direct sponsorship and scholarships more appropriately, specifically to students with adequate competency for the Bar.
- 24.7 The School of Politics and Law, Cardiff University highlighted that the consultation focuses upon a rather limited scope specifically focusing on funding issues. They identified two further problems that should be considered, namely; any approved model under Option B would need to take into account the SRA's changes and the uncertain consequences for MLaw students who fail to obtain access to the BPTC pathway.

Question 17: Do you agree with the market risk analysis we have set out above for Option B? If not, please state why not.

- 25.1 Fifty nine people responded to this question.
- 25.2 The majority of respondents agreed that the BSB had identified the correct market risks for Option B. A number of respondents agreed that flexibility and relaxation of the rules could encourage greater innovation and improve Bar training. Some respondents argued that this flexibility would inevitably lead to lower standard providers entering the market and this would have a negative impact on students. The University of Law argued that the standards set by the BSB would mitigate the risk of variable or lower standards in the market; although, they urged continual assessment of this risk.
- 25.3 The majority of respondents agreed that there were significant market risks, particularly due to the size of the profession and training market. A number of respondents urged the BSB to consider how the risks can be mitigated by adequate planning and management, and not to implement Option B without consulting on how to reduce these risks. Dundee Law School urged the BSB to consider:
- “The long period from making the choice of higher education (or equivalent) to final qualification...transitional arrangements should cater for those who for external reasons are not able to proceed on the standard timescale (e.g. having to take a ‘year out’ because of illness).”*
- 25.4 The Inner Temple Bar Liaison Committee note that there will be significant problems if B(iii) is implemented as Chambers are small and will not be able to accommodate combined vocational and work-based training. The Committee emphasised that Chambers are not “training centres” and self-employed practice will not be able to accommodate new routes without significant assistance and management. BPP agreed with this position although they noted that they would be open to offering training provision in partnership with interested Chambers. One Essex Court warned that placing more responsibility for training on Chambers could reduce the number of available pupillages. One respondent disagreed and argued that B(iii) would be the best option as it would remove any market for the BPTC providers and ensure that training was adequate and fair.
- 25.5 Many respondents held strong doubts that the market would be able to sustain numerous routes and expressed the detrimental effect this may have on the geographic diversity of providers. Manchester Law School strongly felt that it was important for diversity that courses be available throughout the country and the Bar does not return to the pre-1998 position of London-centric training. Cardiff University requested substantial further evidence to show how the risk of smaller regional providers being unable to compete would be handled and mitigated. This is also discussed by the Western Circuit, who did not agree that the BSB had explained how this risk would be mitigated. The Society of Legal Scholars also noted concerns about the risk of new routes failing early and affecting the students on them. The Bar Council argued that if online learning were introduced then a loss of regional providers would have a limited impact on students. They urged the BSB to introduce their route as soon as possible.
- 25.6 The Association of Law Teachers noted that the size of the market is significant but that the flexibility and range of options could allow for more innovative provisions to develop, which could encourage new providers into the market. The Association explained that we needed to consider the fact that the market trains both those destined for the English Bar, as well as international students whose qualification entitles them to practise in their home jurisdiction. One respondent explained that the

needs of international students must be considered and the international recognition of training must be maintained. Provision could become more expensive without international students and there is enormous value in exporting skills, values and traditions of the English Bar to the development of other jurisdictions and the maintenance of the rule of law.

- 25.7 Many respondents also agreed with the BSB analysis that a two-tiered system could develop. The Association of Graduate Careers Advisors warned that even if all routes are identical in standard, students or employers may regard one route as the “gold standard” and favour this over others. They gave the example of the employed Bar as sometimes perceived by students as second best to the self-employed Bar. Outer Temple Chambers explained that most academically strong universities would not want to offer B(ii) or (iii) and this would mean that B(i) would develop as the gold standard. The University of the West of England argued that the upper half of any two-tier system would most likely charge higher fees than at present.
- 25.8 The University of Law agreed with the risks as stated, but asserted that most universities and providers would continue to offer the same course as at present except with more innovations - such as masters’ degrees - added to the course over time. The University of Exeter also supported the relaxation of rules to recognise supervised pro bono activities in law school clinics as being equivalent to pupillage.
- 25.9 BPP expressed serious concern that the Inns may enter the market. If this were the case then they felt the BSB would need to ensure students were protected against unfair competitive practices and monopolies in the same way that would apply to any other business sector. They argued that benefit is derived from the current clear delimitation between the two functions.
- 25.10 Some respondents, including COIC, argued that the risk analysis was too tentative and speculative. The following comments were raised by these respondents:
- We cannot speculate what Chambers will do when extra burdens are put upon them;
 - The analysis shows a lack of understanding about how Chambers work;
 - The primary objective of providers is to make money and it is naïve to imagine they will willingly reduce their fees;
 - The BSB analysis underestimates the potential for a stark reduction in pupillages offered and this could disproportionately affect regional providers; and
 - The BSB does not quantify the risks they identify.

Question 18: Do you agree with the equality and diversity implications we have set out above for Option B? If not, please state why not.

- 26.1 Sixty four people responded to this question.
- 26.2 The majority of respondents disagreed with the equality and diversity implications set out for Option B. The majority argued that greater flexibility would not improve diversity. This was for a number of reasons:
- Students from less advantaged backgrounds are more likely to access the less popular or acceptable routes and consequently less likely to gain pupillage;

- Increasing numbers of students will train for the Bar and those from Oxbridge and with First class degrees will be prioritised;
- The true root of lack of diversification is the lack of transparency with chambers recruitment of pupils;
- Option B will have a materially negative impact on access because of the high cost of qualifying and the creation of a two-tier system. COMBAR stated that no Chambers within their Association would hire a student who has completed any route that does not involve completing all aspects of education prior to pupillage;
- A two-tier system could develop, whereby some routes are considered to be materially better or worse than others;
- Reducing the cost of training will not bring down the socio-economic barriers within chambers; and
- Whilst agreeing that the Northumbria model does provide an opportunity to draw on public funding and increase access for those from lower socio-economic backgrounds, some barristers raised concerns that students are required to opt for the BPTC too early.

26.3 One academic argued that the BSB needs to give careful consideration to the research conducted by the Sutton Trust, which concluded that complex qualification routes worked against students from disadvantaged backgrounds. Students with more privileged backgrounds would be better able to navigate complex systems and may be better placed to use provisions intended for those from disadvantaged backgrounds. This is echoed by the response from the Chancery Bar Association who cite anecdotal evidence that the current system is already considered highly complicated and further complication could discourage those from non-traditional backgrounds.

26.4 The South Eastern Circuit suggested that the BSB would need to look further into the disproportionate effect Option B would have on those outside of London. It was suggested that the provinces should be offered incentives to ensure that they continue to provide quality education and routes into the profession. This view was also set out by the University of Law, which suggested that the BSB try and mitigate the risk of some non-London providers dying out and ensure pathways are not all London-centric. They also stated that pathways that would allow students to attend training whilst living at home would potentially increase access to the profession.

26.5 One respondent argued that the BSB should not introduce any pathway that relies too heavily on examinations, as this will have a negative impact on equality and diversity. They stated that those with more resources will pay for tutoring and be more likely to pass. Furthermore, they stated that such systems favour those who are better at exams, a skill that does not necessarily make them a good barrister.

26.6 BACFI supported greater flexibility within pupillage. They argued that making it easier for commercial organisations to apply for and provide pupillage would increase access to the profession.

26.7 Dundee Law School noted that this model could offer “wider opportunity”, but only if Chambers were persuaded that the pathways were equal. The University of the West of England noted that the BPTC can already be studied as a full-time or part-time course, which enables flexibility of learning based on applicants’ needs. They felt that

the profession itself should be trying to attract students from more diverse backgrounds and that this will not be achieved through training. They further expressed their view that there are greater influences on diversity than Bar Training - such as economic/social factors, and primary/secondary/degree education- and that these have a greater material consequence than the BPTC.

Option C: "The Bar Specialist" approach

Question 19: 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.

27.1 Sixty nine responses to this question were received. Of these the majority agreed with our analysis of Option C's ability to meet the requirements of the professional statement, fourteen did not and seventeen neither agreed nor disagreed.

27.2 The majority of those in agreement (or broadly so) with our analysis were keen to stress that, whilst Option C may be capable of meeting the professional statement, it is not a desirable option. Many highlighted the challenges that Option C presents, including for the BSB in formulating an examination which would sufficiently cover the knowledge requirements of a QLD. Others asserted that the segregation of the knowledge and skills components of the current programme would be undesirable and would create a 'false' divide.

"... we share what appear to be the BSB's concerns about this aspect of Option C, in particular the extent to which it is necessary or desirable to invent from scratch a new and comprehensive qualifying exam. We are also worried in particular by the proposal to "loosen" the knowledge requirements... which we do not regard as being consistent with the maintenance of the bar as an intellectually rigorous profession." (ComBar)

"A complete segregation of knowledge and skills takes away the very real benefits of dual learning... The parallel learning that we have at present underlines the fact that this is not simply a knowledge-based course like any other examination but requires proper application of the law to the evidence. Knowledge and skills have a symbiotic relationship which is clearly demonstrated when students use, in the same week, the knowledge they have gained in their skills session." (Manchester Law School)

27.3 Several respondents agreed with our analysis that it would be complex and costly to formulate and deliver a qualifying examination, and many were concerned that the rigour of the current system would be compromised or 'diluted.' As one set of Chambers stated:

"We doubt that such an exam could be developed to test all the knowledge and contextual knowledge that students typically learn in a law degree and/or GDL, as well as vocational knowledge from the BPTC. We are also rather worried by the proposal to "loosen" the knowledge requirements...which may jeopardise the high intellectual standards required to be a barrister." (Outer Temple Chambers)

27.4 Of those respondents who disagreed with our analysis, it was clear that they did not feel Option C was viable or desirable. Some did not consider it appropriate to remove the requirement for a QLD (or the GDL), arguing that this would place students without a QLD (or GDL) at a disadvantage compared to those who had. Several responses also

indicated that this option would be likely to have a disproportionate impact on those from ‘*underrepresented backgrounds.*’

“Our pupils are expected to have a wide spectrum of legal knowledge in their early years. The removal of the requirement of a law degree (or conversion equivalent) would leave them ill equipped for practice with us. Such students would struggle to compete with those students who had competed law degrees both in terms of their prospects of securing pupillage and in practice thereafter.” (9 Park Place Chambers)

27.5 Cardiff University, amongst other universities, did not feel that a three-month course would be sufficiently robust to equip students with the required advocacy and skills training, nor did they agree with a separation of skills and knowledge learning. However, they also raised the issue of the impact such an arrangement could have on international students:

“It is also our understanding that reducing the duration of the BPTC to 3 months will prohibit international students from obtaining Tier 4 student visas necessary to study on such courses (if it is suggested that a Tier 4 visa could be obtained for a course of such a short duration, it is respectfully suggested that how that course would have to be offered and whether that is achievable has not been adequately considered). To enact a change that effectively extinguishes such a valued export would, in our view, be a retrograde step.” (Cardiff University)

Question 20: 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.

28.1 There were sixty six responses to this question: the minority of respondents broadly agreed with our analysis of Option C’s capability to meet our regulatory objectives and the majority disagreed.

28.2 In the Consultation document, we described how Option C could increase access to the profession, particularly from those who currently find costs prohibitive, due to the flexibility allowed in how students could prepare for the Bar Entrance Exam (BEE). The reduced duration could also increase access, since those who currently struggle to attend structured, lengthy courses could better engage with a short skills course. The majority of respondents, however, did not feel this was a realistic assessment. Some respondents felt that this underestimated the difficulties that students such as those with caring responsibilities may have in attending even a three-month course, and others said that whilst Option C may improve access in relation to cost, it would not address the broader issues around access to the profession. The Inner Temple Liaison Committee stated:

“We agree that the advantages of such a course would be a decreased cost and therefore decreased barriers to the profession, however we do not consider that the diversity implications would be sufficient to outweigh the potential harm that such an approach could cause the standing of the profession.”

28.3 Several respondents, including universities, also pointed out that flexible study arrangements are already available to students and, therefore, they did not feel that the proposal would increase accessibility or diversity within the profession.

“The argument that certain students would find this more accessible largely ignores the fact that there are already many options for study at degree level by part-time, blended or distance learning, and also the potential for greater flexibility in delivery of the vocational stage under Option B. Option C adds relatively little in this context, and creates significant dangers in relation to inadequate knowledge.” (Association of Law Teachers)

28.4 The University of Exeter, among others, expressed concern that the option would lead to a ‘two tier system,’ whereby students who are financially better off would likely attend ‘premium’ preparation courses, while those with less financial resources would prepare on a ‘DIY basis.’ The University of the West of England were equally sceptical:

“Those that can afford to pay for Part 1 tuition will do so. Mature students, students with caring responsibilities and those with disabilities will need to find a way of learning the Part 1 syllabus before engaging with the skills element. We do not believe that a 2 step entry requirement will reduce actual time spent in study or indeed the cost of study for those that can afford to pay or for those who may not be able to afford to pay but nonetheless are keen to succeed.” (UWE)

28.5 Many respondents questioned the ability of a three-month vocational course to adequately cover what is required to equip students with the necessary skills and knowledge, and the potential impact of this on consumers when they commence practice. On the other hand, some respondents felt that the year of work-based learning would help mitigate against this, and ensure consumer protection. One respondent recognised that whilst the year of work-based learning might mitigate against the risk that students are not fully equipped, they felt this would impose a significant burden on chambers to ensure pupils are adequately prepared when, six months into the year, they are able to exercise rights of audience.

“BACFI is concerned that a shorter period of vocational training will mean students are ill-equipped for the pupillage stage and that the quality of newly qualified barristers will be reduced overall.” (BACFI)

28.6 BPP were similarly sceptical that the course could adequately prepare students for pupillage, and did not feel that any gaps in knowledge or skill would be addressed during pupillage; indicating that the quality of supervision is highly variable. The majority of universities disagreed with our analysis for this reason: they did not feel a three-month course was sufficient. Nottingham Law School stated that the approach encouraged a superficial study of ethics, and that students would have a reduced opportunity to observe the ethical behaviour of others. Concerns around unregulated providers were also apparent from responses.

Question 21: Do you agree with our analysis of Option C’s ability to meet the LSB’s statutory guidance? If not, please state why not.

29.1 A total of sixty four respondents answered this question. Just under half of respondents agreed with our analysis of Option C’s ability to meet the LSB’s statutory guidance, a significant minority disagreed with our analysis and a smaller number were unclear as to whether they agreed or disagreed with our analysis.

29.2 Amongst those who agreed with our analysis, the reasoning for doing so included:

- Option C would promote innovation through training provision;
- Option C would reduce the excessive regulation of providers;
- Not requiring students to take a year to study the BPTC full time would likely increase access for those who cannot currently afford to take this risk.

29.3 Some respondents, although agreeing with our analysis, emphasised that Option C only met the LSB's statutory guidance in a minimal sense. Several other respondents who agreed with our analysis did so with reservations, concerning whether Option C would adequately:

- Protect and promote the interests of consumers, particularly if a student has had insufficient training or has gaps in their knowledge or skills that are missed by the assessment process;
- Increase access to the profession or achieve the diversity required by the profession.

"It is a proposal that favours the rich and discriminates against the less well off. These qualifying exams (BPTC at present) are extremely hard. They are difficult to pass even with dedicated, well-qualified, educationally trained and astute tutors. The idea that they will be simple to pass on a self-taught basis is flawed. A lack of direction and focus based teaching will simply result in those that are self-taught lacking discipline and being under prepared. This will become apparent within the first twelve months and will result in students then reaching out to any one of the unregulated and expensive providers that will spring up. Inevitably, only the well-off will be able to afford such courses. It would not take very long before the Bar fell back into a class driven stereotype." (Manchester Law School)

29.4 One respondent, in agreeing with our analysis, suggested that there could be a system with multiple pathways, with a two-stage BPTC programme for those able to take an entire year for study and another for students who choose to study for the Bar Entrance Exam and join the course afterwards.

29.5 A sizeable minority of individuals opposed our analysis of Option C's ability to meet the LSB's statutory guidance, for a variety of reasons. These included:

- Individuals who have only taken the Bar Entrance Exam may be inadequately trained;
- Individuals that qualify through this pathway may not be regarded as fully qualified lawyers in an international context, thus risking reputational damage to the profession;
- The option could result in a reduction in the number of institutions providing training for the Bar, thus limiting access to the profession;
- Educational innovation may be stifled due to the knowledge aspects of training focusing on ensuring students pass a centralised exam.

Question 22: 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.

30.1 Sixty three respondents answered this question. Half of respondents agreed with our analysis under of how Option C promotes the professional principles, ethical behaviour and integrity, including a majority of barristers and educational institutions. Of those who supported our analysis, a significant proportion highlighted agreement with the arguments under paragraph 182 of the consultation document, concerning the reduced potential for exposure to other practitioners as role models.

“We agree that there would be a significant reduction in the potential for exposure to practitioner as role models and for experiential learning which would reduce the opportunity for the development of an understanding of the importance of integrity and an understanding of the ethical considerations as a barrister.” (BPP)

30.2 A number of those who agreed with our analysis highlighted the additional concern that a short skills course would not have enough time to cover the relevant rules and duties in sufficient depth. One respondent suggested that increasing the length of work-based learning could address any concerns about the adequate assessment of ethics under Option C, whilst a pupil respondent suggested that top-up ethics training could be possible as part of the option.

30.3 A sizeable minority of respondents disagreed with our analysis under this question, for a number of reasons. A tutor, amongst others, felt that the assessment of ethics through the Bar Entrance Examination risks being schematic, and BACFI (as reported by the Bar Association for Local Government and the Public Service) believed it instead should be incorporated into every stage of training and Continuing Professional Development. Others noted that the assessment of ethics would come at a time when students have had little exposure to how professional ethics operates and that splitting the knowledge and skill aspects of learning around ethics would fail to give students a meaningful understanding of ethical dilemmas in practice. COIC were not confident that the BEE and shortened skill course would serve the regulatory objectives but, rather, would compromise them. Monckton Chambers, in agreeing with our analysis, expressed the view that it would be incompatible with the professional principles and ethical standards for an individual to practice as a barrister without having acquired grounding in the seven core areas of law. Northumbria Law School summarised the view of a significant number of respondents:

“We agree that this option has the real potential for significantly undermining professional principles, professional ethics, ethical behaviour and integrity because of the significantly reduced exposure to practitioners as role models along with the tandem reduction of the development of understanding in these central areas to practice. Assessing knowledge of the code of conduct simply by way of an exam is significantly less effective as a measure of ensuring standards, ethical behaviour and integrity than the hybrid which exists under current models which provide the opportunity to guide, re-inforce and monitor ethical behaviour.”

Question 23: Do you agree with the cost implications we have set out above for Option C? If not, please state why.

31.1 There were sixty six respondents to question 23. Of these, a slim majority agreed with our analysis of the cost implications for Option C, including a majority of barristers. In agreeing with this analysis, respondents emphasised:

- The significant upfront cost that Option C could present to the regulator;

- That some of this cost could be off-set by cooperation with the Solicitors' Regulation Authority;
- That the scale down to a three-month skills course would likely lead to a reduction in costs for training providers;
- That the reduction in costs for students may not be as drastic as some might assume;
- That the greater commitment to data scrutiny associated with a more widely available examination could raise regulatory costs.

31.2 A number of respondents who agreed with the cost implications made the additional argument that candidates who lacked a QLD or GDL would be less attractive to potential employers or training providers.

31.3 Several respondents also highlighted that any costs students save via Option C may be off-set by the costs incurred by emergent preparatory courses. Further concerning this issue, the Association of Graduate Careers Advisors suggested that the cost of preparatory courses in the USA could be informative in determining what costs students may incur here, with one US provider charging fees of \$2795 (around £2229). One barrister respondent suggested that the costs associated with centralised examination could be off-set by issuing a training levy across all chambers.

31.4 As regards the potential for Option C to reduce costs for students, the Commercial Bar Association remarked that:

"...we welcome any reform that results in a material reduction in the cost of the vocational stage, which Option C...is likely to provide."

31.5 A sizeable minority of respondents disagreed with the cost implications outlined in the consultation document. The broad reasoning offered for this disagreement was that:

- A premium, London-centric market for exam preparation will emerge, with a detrimental impact on equal access for international students, students from less wealthy socioeconomic backgrounds and students outside of London;
- Those who progress no further than the skills course under Option C will not have a recognised qualification to show for their expenditure;
- The cost of regulating the entrance examination is likely to be prohibitive;
- The potential costs for students proposed by the BSB are unconvincing.

31.6 Some barrister respondents felt that the upfront costs of establishing this system would not be as high as the BSB predicts, with one respondent suggesting that the exam could draw upon existing standards in relation to the law conversion course and the knowledge-based aspects of the BPTC. Furthermore, this respondent suggested that the ability of providers to run three shorter courses per year, rather than one longer one, would reduce costs even further.

Question 24: 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.

32.1 Sixty eight respondents answered this question, with the majority agreeing with our analysis of Option C's impact on the higher education training market for the Bar. This includes a majority of barristers, educational institutions and students.

32.2 The reasons given for supporting the analysis included that:

- The provider market would dwindle, resulting in a concentration of providers in London to the detriment of regional and economically disadvantaged students;
- The market for the law degree would likely persist, with students who have obtained such a qualification being preferred by Chambers.

32.3 Some respondents, in agreeing with our analysis, expressed the additional concern that the market of providers would become so diverse that the BSB would have difficulty regulating it. A number of respondents who agreed with our analysis also raised the concern that a premium market would emerge surrounding preparation for the exam, which would be damaging for economically disadvantaged students.

32.4 City Law School highlighted that regard would need to be paid to the credit-rating system for the award of certificates, diplomas and degrees to determine whether the Bar course could be recognised. The School of Law and Politics at Cardiff University noted the particular detrimental impact that a market shrinkage could have on Welsh students:

“Those studying the BPTC at Cardiff are provided the opportunity to study Welsh Advocacy (through the medium of Welsh). Connections to and knowledge of the local profession assist those home students wishing to practise law in the South Wales area.”

32.5 This was viewed as particularly important in light of the fact that *‘one is permitted to request that a trial proceeds in Welsh and in view of the increasing differences that may arise within the devolved areas of law.’*

32.6 A minority of respondents, largely barristers, disagreed with our analysis. This was most prominently on that basis that:

- Option C could lead to a proliferation of training providers and a fall in quality of training. This could expose students to a poor standard of training, particularly in an unregulated marketplace;
- Universities may actually find it attractive to offer Bar Entrance Examination subjects as final options or as an LLM;
- Option C would result in a surfeit of students receiving an unrecognised qualification;
- There would not be a large take-up from Bar specialist providers and private organisations;
- The small student market and the Bar Entrance Exam’s academic status will deter providers from building their degree courses around the Bar Entrance Exam;
- Option C would duplicate the assessment of legal knowledge that is already assessed.

32.7 One respondent, in disagreeing with our analysis, suggested that Option C ought to be implemented to provide a single route, rather than a ‘prestige’ route and ‘non-prestige’ route in the form of those who follow the traditional degree route and those who do not.

Question 25: Do you agree with the equality and diversity implications we have set out above for Option C? If not, please state why not.

33.1 Sixty five individuals responded to this question, with no strict majority agreeing or disagreeing with the equality and diversity implications set out in Option C. A significant number were unclear whether they agreed with the implications outlined or not.

33.2 However, the largest number of respondents broadly agreed with the implications, including a significant number of barristers and academic institutions. Amongst those who agreed, the key reasons for supporting the implications set out in the consultation document included:

- Reduced costs could potentially provide for greater diversity;
- There is potential for students from a socioeconomically advantaged background to gain an advantage by paying for better training for the entrance examination;
- The impact of this on socioeconomically disadvantaged students could be mitigated by allowing re-takes of the exam, as long as costs for students are kept to a minimum;
- A centralised examination could constitute a 'leveller' for candidates from all backgrounds.

33.3 The Association of Graduate Careers Advisors also commented that the intensive nature of a three-month course could, in fact, act as a barrier for those with caring responsibilities and some disabilities, rather than facilitating access. Some respondents, although agreeing with the implications outlined in the consultation document, questioned the BSB's conclusion that Black and Minority Ethnic candidates are less likely to pass centralised examinations and wished to see more evidence to support the assumption.

33.4 Several responses addressed the possibility of allowing multiple re-takes of the BEE: The Inner Temple Bar Liaison Committee stated that allowing multiple re-takes could have the negative consequence of reducing the efficacy of the examination as a filter against those who do not meet the standards of the Professional Statement. However, the University of Oxford, Faculty of Law noted that the reality of Chambers selecting pupils from particular universities would render the efforts of students retaking the Bar Entrance Examination multiple times redundant.

33.5 A large minority of respondents disagreed with the equality and diversity implications set out regarding Option C; amongst those who disagreed, the key reasons included that:

- International students would not be attracted by this option, as the short length of the skills course would prevent them from obtaining a Tier 4 visa;
- Option C would likely lead to the development of examination preparation courses to the detriment of access for socioeconomically disadvantaged students;
- The Bar Entrance Examination could constitute an additional cost on top of a degree, thus negatively impacting diversity.

33.6 Manchester Law School submitted that there would be no '*enhanced opportunity for cheaper loan funding*' under this option. Northumbria Law School added, in disagreeing with the implications outlined, that Option C could damage the established links between the Bar and judiciaries overseas.

Question 26: After having given to the three options above, please tell us which options is most appropriate and why you think this is the case.

34.1 Eighty two people responded specifically to this question.

34.2 The majority of these respondents expressed support for the COIC proposal and rejected all Options proposed by the BSB. Further analysis of the COIC proposal is set out below. A greater number of respondents expressed views on the best option but

did not specifically answer this question. Due to the high number of respondents in favour of the COIC and Bar Council response this has been set out separately below to ensure it can be analysed effectively.

Option A

- 34.3 Some respondents favoured the current system and did not feel a radical change is necessary. BPP and others contended that the current approach is fit for purpose, and could be improved by ‘*deregulation.*’ Outer Temple Chambers focused on the cost implications of the three options:

“Option A is preferable to options B and C, both of which are not desirable. Although the status quo is imperfect, Options B and C would result in significant cost to the BSB (then passed on to students or barristers) with scant benefits.”

- 34.4 A number of respondents suggested that if the BSB were not to adopt the COIC proposal, then Option A should be adopted in lieu of the other Options, including the Chancery Bar Association, COMBAR and a number of barrister respondents.

- 34.5 The University of the West of England supported this Option for a number of reasons:

“...it allows for access to the profession for a diverse range of students both home and internationally [sic]... It enables students to access the BPTC route either with a law degree or without and it offers students a holistic approach to their studies, enabling those with aptitude to flourish... The part time route offers flexibility for those that may be carers or are mature or have disability related concerns.

As stated in paragraph 193 of the consultation, it is likely that employers will continue to prefer high achieving graduates and therefore route A is likely to be the most favoured for high performing students.

The concern in relation to Option A is the cost of the provision. We do not believe however that options B or C will significantly reduce cost or accessibility... It is accepted that Option A can be accommodated within Option B and that Option B is the most flexible.”

Option B

- 34.6 Of the three proposed BSB options, the majority of respondents supported the adoption of Option B. However, the vast majority of respondents did not support any of the BSB’s proposed options and they generally rejected the adoption of Option B. COMBAR called Option B “*by far the worst of all the options*”. The comments on the COIC and Bar Council proposal are set out below in full.

- 34.7 The Association of Law Teachers and others encouraged the BSB to introduce an authorisation framework to set out certain expected characteristics, such as the degree to which learning should be integrated (e.g. of knowledge and skills), and elements of education and training should be sequential. However, they also recognised that there are a number of risks associated with creating several different pathways, including that it may be confusing for applicants, and certain routes are likely to attract small cohorts.

- 34.8 The Committee of Heads of University Law Schools preferred Option B; advocating outcomes focused regulation, greater freedom for providers to be able to innovate and increased access to the profession, recognising the duty to promote equality and

diversity. In addition, they felt that centralised assessments are disproportionate to the BSB's regulatory objectives.

34.9 City Law School supported an approach *'in the spirit of Option B,'* but argued that it would be better to preserve sequential training, subject to the possibility of combining the academic and vocational stages. Instead, they asserted that providers should be afforded the flexibility to design their own courses to meet the objectives set by the BSB, and:

"...providers would prefer to make incremental changes to their existing models, taking advantage of the removal of restrictions which inhibit innovation... Put another way, the most effective approach seems to be to allow the existing training to evolve with greater scope for innovation than is envisaged by Option A..."

34.10 Northumbria Law School similarly favoured Option B due to the potential for flexibility, but urged the BSB to consider the needs of each pathway to meet the regulatory objectives. They raised concerns about the problems that could arise if the COIC proposal were to be adopted as a managed pathway under Option B. Further views put forward in support of Option B included:

- A relaxation of the rules will mean that in time other models could emerge in response to changing needs and newer access requirements;
- New routes and different pricing of courses will increase competition, which will create a need to contain costs in order to remain competitive and viable; and
- It promotes wider access to the profession.

34.11 BPP did not object to this option but felt that, in reality, the majority of students would pursue a traditional route to qualification.

34.12 A minority of respondents supported the adoption of only one of the pathways under Option B. A BPTC student preferred Option B(ii) for financial reasons: she said that combined academic and vocational training would amount to a substantial cost saving for students. Three respondents argued that B(iii) alone should be the sole training option; one of whom, a pupil, argued that the BPTC is *'often of little value, devoid of practical context,'* and supported the proposal for *'on the job learning.'* One respondent proposed that the BPTC and pupillage be replaced with a two year pupillage, paid for by Chambers and the Inns, with assessment after 18 months. Concerns were raised by many that B(iii) and B(iv) were particularly problematic, especially for the self-employed Bar – and the Inner Temple Bar Liaison Committee felt that the Consultation Paper underestimated the likely regulatory costs associated with these routes.

34.13 Some respondents were also seriously concerned about the potential of Option B to create hierarchies, and that Chambers would not hire effectively should students be completing different routes. Others, including the University of Exeter, suggested that the Option could be successfully combined with the COIC proposal.

Option C

34.14 A small minority of respondents supported Option C; most of whom cited a reduction in costs – and therefore increased access – as the basis for preferring this option. One barrister commented:

“A simple first stage at a much lower cost, but to a proper standard, will increase access to the profession, reducing the off-putting costs to people who may not know how they will fare, whilst simultaneously... reducing the number of people wasting huge amounts of money on the [BPTC].”

34.15 A student felt that it is a desirable route, being the most similar to the US Bar examinations, which he felt is a model we should be following; and subject to further evidence on cost and diversity, one barrister considered Option C could work well as a parallel route alongside something similar to Option A.

34.16 BPP strongly objected to this option on grounds that they did not feel it would cut costs or adequately prepare students for practice, would have negative consequences on diversity within the profession and were concerned that this would prevent international students from acquiring the necessary visa. Some also felt this would result in a London-centric model. In respect of Option C, Outer Temple Chambers stated:

“...we consider the BEE to be unnecessary and complex, and in no way advantageous over the COIC option.”

If you have any proposals for another route(s) to authorisation, please use this question number to give us a preliminary evaluation of the proposed model against the criteria used above in order for us to be able to give the proposal serious consideration.

- 35.1 The great majority of respondents to this question supported the COIC proposal and; this is dealt with separately below. This section sets out the small number of additional proposals or suggestions regarding routes to authorisation made by respondents.
- 35.2 A barrister respondent strongly considered that more focus should be given to legal research and analysis skills (and less to knowledge) in training. Aspiring barristers, she insisted, must have adequate research skills to ensure they are up-to-date, and analysis skills to ensure understanding. To this end, she believed that the vocational course can and should be shortened and offered on full-time, part-time and modular bases, to increase access and reduce costs. This should then be combined with a longer period of work based training, with further short courses during this training.
- 35.3 A respondent who had completed the BPTC and was attempting to now secure pupillage expressed frustration with the current pupillage system, *‘especially when you see that the individuals who do make it come from a privileged background (despite the rhetoric that the Bar is changing).’* This, he asserted, highlights the need for alternative qualification routes than those currently available. He did not, however, provide further comment on what those routes should be.
- 35.4 The School of Law, Reading University considered that a merger between the two legal professions would be both in the public’s interest, and would allow for a more *‘flexible, transparent and satisfactory solution.’*
- 35.5 A significant number of respondents lacked confidence in all the proposals, but did not offer a comprehensive suggestion for alternatives.

COIC Proposal – Addendum

- 36.1 Two hundred and ninety four responses (of which the Open Letter and the COMBAR and Chancery BAR Association responses were collectively signed by 735 respondents) supported the introduction of the COIC proposal.
- 36.2 A large amount of argument was offered by respondents regarding the advantages of this proposal over the current system. Many respondents expressed concern over the high cost of training for students and the high risk that they will not secure pupillage or tenancy. In COIC’s response it was put forward that their main objection to the current BPTC is that:
- “too many students are recruited on the course; that there is an unacceptably high failure rate; that the prospects of obtaining pupillage among many of those who pass is remote and the cost of the course is unacceptably high.”*
- 36.3 In their response, COIC set out that this leads to many students deciding not to pursue a career at the Bar due to the economic stress it will place upon them, particularly combined with the low chance of success. They also raise concerns about those who will be unable to achieve pupillage but take the course anyway, racking up large debts along the way. This view is echoed by the Bar Council who note that:
- “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. These statistics should surely compel the conclusion that reform, but not major disruption, is vital.”

- 36.4 The views of the Bar Council and COIC are supported by many respondents and the specialist bar associations. COMBAR agrees that the main problems with the current system are the high cost of the BPTC and the excessive number of students studying for the course who have little or no prospect of success. These views are echoed by the majority of respondents who gave detailed and substantive answers to the consultation.
- 36.5 A number of respondents who wrote in support of the COIC proposal also expressed support for vocational training to continue in a similar way as at present alongside this course. The argument for this was that it would allow students who prefer traditional training and international students to continue learning in a familiar way. This view was not supported by other respondents including COMBAR and the Chancery Bar Association. Many argued that they would prefer the COIC proposal to become the sole route to qualification. The argument in support of this view was that to have more than one route would disadvantage some students and would allow private BPTC providers to continue to make money from students with extortionate fees.
- 36.6 A number of different views were expressed with regards to this proposal. A number of barrister respondents felt that it would be more appropriate if only students who already held a pupillage should be allowed to take the Part 1 exam.
- 36.7 A significant minority of respondents to the COIC proposal expressed serious concerns that the BSB did not include the addendum in the original consultation. One respondent argued that it demonstrated that the regulator was closed to the views of the profession and incompetent in determining the best education for the Bar.

Advantages

- 37.1 The advantages put forward in support of this option are:
- Fees will be reduced as students can prepare for the Part One exam in any way they choose and the shorter skills course (Part Two) will be much cheaper to run;
 - It is flexible as students can decide how to prepare for the Part One exam;
 - The flexibility would ensure that students could work or study other courses at the same time as preparing for Part One;
 - It has an academic advantage as the litigation process is mapped out before the Part Two course is taken;
 - Retaining the QLD will ensure that the GDL can be maintained, allowing non—law students to continue to be able to train;
 - It would increase the accessibility of the course as students could prepare for Part One from any place and in any way;
 - It does not change the academic or pupillage stages of training, which are both fine in their current format;
 - This proposal does not attempt to change too much about the system all at once;

- Part One will “weed out” those students who will not be able to secure pupillage or tenancy;
- If fewer poor quality students are on the Part Two course then the quality of training will improve as currently, it was suggested, the low quality students bring down the quality of training for all students;
- This will reduce the number of students taking the vocational training;
- Fewer students passing vocational training will have an advantage to Chambers as there are too many applications for pupillage and this causes a very high administrative burden;
- The “pinch-point” for training would come earlier and before students have committed too much time or money to a course;
- Reduced cost of training would mean that practitioners have less debt in their early years of practice;
- Students who have an undergraduate degree should be able to self-study for the Part One exam;
- The Part Two course could be offered by the Inns or developed by the Bar which would mean it was of better quality; and
- It is not uncommon for students to learn knowledge subjects before skills on vocational training.

37.2 The Specialist Bar Associations unanimously supported the COIC and Bar Council proposal as did a large number of individual barristers and very distinguished judges.

37.3 The respondents generally supported the premise that the current centralised assessments should continue to be administered by the BSB and should form the Part One exam. It was argued that this would ensure that there was no further cost to the BSB because they already administer the centralised assessments. Particular difference was drawn between this and Option C, where it was argued that the BEE would be a high cost to the regulator, which would in turn be passed onto the profession or students.

37.3 A lot of support was expressed for the Part One exam to be offered online. It was argued that this would allow freedom and flexibility to students from disadvantaged backgrounds and those less able to travel.

37.4 Many respondents argued that online learning would have no significant disadvantages for any students and instead argued that it would improve diversity. One respondent went as far as to argue that online learning could improve blended learning and this would allow students to progress through material at their own rate rather than at the rate of the rest of the class, as at present.

37.5 Many respondents expressed serious concern about the private providers of vocational training and believed that the COIC proposal would remove them from the market for training. It was also raised by a significant minority of respondents that the BSB should not be lobbied by the private providers and should ignore their pleas to reject this option as their views are purely self-interested. One respondent noted that

the private providers offer an expensive course and allow too many students to take the course when they have a very low chance of success. They felt that the COIC proposal would encourage them to reduce costs and drive students away from their courses.

37.6 Middle Temple Young Barristers Association encouraged the BSB to give a warning to students with a 2:2 that they would have a very low chance of success and the relevant statistics about chances of pupillage.

Disadvantages

38.1 A minority of respondents expressed concerns about the COIC proposal. The disadvantages outlined by a number of respondents included:

- Removal of combined teaching of skills and knowledge subjects will mean that there is no base level of training for all students for the knowledge training;
- The proposal could destabilise training as students will be split into a number of streams;
- Students will need to access some training to pass Part One and this will mean that there will not be a significant cost reduction;
- It would not be substantially cheaper because the vast majority of students will pay to pass Part One;
- If the short skills course is too short then international students will find it difficult or impossible to get a visa to attend the course;
- The proposal artificially separates the knowledge and the skills when they are better taught as a blended topic;
- Some students struggle with the skills portion of the course and this is why they fail the BPTC, these students will pass the knowledge Part One and then fail the Part Two, leading to no reduction in training costs for them;
- This proposal is unfair to students who are not good at exams or may fail the procedural exams. Many students who later get pupillage fail the procedural exams;
- It has significant equality and diversity problems;
- Self-teaching of Part One could undermine the quality assurance which currently exists in relation to the clearly defined training pathways to the Bar;
- COIC have falsely identified the high failure rate as showing that the quality of students is too low when in fact it is the high standards maintained by the providers;
- It will be very isolating to learn the knowledge subjects alone;
- It is unclear what will happen to the specialist knowledge modules which are currently offered as options on the BPTC;
- This proposal is intended to fail as many students as possible in Part One so that Part Two is only for those who have already or are highly likely to get pupillage, which is contrary to the LSB approach and places too much importance on Part One;
- Concern was raised about how the test would be regulated;

- Students will be unable to self-teach as they are increasingly spoon fed at undergraduate level;
- The course is likely to become London centric because providers cannot sustain such a small course;
- Introducing the COIC proposal is simple but is missing the opportunity for deeper and more effective reform;
- As the subject matter of Part One is not engaging, students will be less likely to have a passion for the Bar and this will reduce the number of students who are attracted to this career;
- Students will have less opportunity to mix with other students; and
- Students will waste money if they fail Part One.

38.2 The University of Law argued that:

“A later option presented by COIC has been added to the consultation. It is not clear whether this is indeed a standalone option or just an additional option within B. Although the “qualifying exam” in this case merely replicates the current centralised assessments (rather than being similar in format to Option C and the SRA’s current plans) many of the same issues apply. Even if it were to be considered as an alternative pathway within Option B, there are many reasons why it should be approached with great caution. These include

- *a multiplicity of providers who prepare students for the test that some students can afford better than others,*
- *the separation of knowledge and skills,*
- *the shorter skills course which omits much of the value added of practitioner involvement and other key extra-curricular activities given the timescale,*
- *the potential difficulties in getting visas for overseas students,*
- *the difficulties for students with caring responsibilities and mature students in taking longer than 3 months out of their usual lives with no part time option,*
- *the issues with certain groups of students (eg BAME and overseas students) in passing the centralised assessments when taught now as part of a cohesive course,*
- *the risk of many Chambers continuing to use university attended as the basis for recruitment,*
- *students from less advantaged backgrounds spending longer trying to train themselves to pass the qualifying exam with the associated higher risks of failure and the cost and stress of resitting as opposed to those from more advantaged backgrounds being able to afford some assistance from the beginning,*
- *very small cohorts for the skills courses may mean that it is not viable for some of the smaller, out of London providers to continue to offer the course, leading to a London-centric and less diverse student body,*
- *failure to allow students to access government funding available for undergraduate and postgraduate degrees.*

For all these reasons Option D is not best placed to meet the Professional Statement or the BSB’s regulatory obligations and Option B remains the most appropriate option.”

- 38.3 Despite their support for the COIC proposal, the Family Law Bar Association raised a concern that some students may be able to access different quality training to pass Part One and this could maintain a two tier system. This was supported by Northumbria Law School who emphasised that those with greater social capital will have the best advantage and could pay for better training.
- 38.4 Great concern was expressed by a number of respondents that the advocacy and skills course will be too short to fully teach students. This was emphasised by Northumbria Law School. One respondent raised concerns that the Inns have little experience of teaching students advocacy from scratch and this is completely different from teaching students with prior advocacy skills.
- 38.5 A number of respondents strongly disagreed with the COIC proposal being the only route and supported a system where the current BPTC could continue and the Northumbria model could also be offered.

Meeting the Professional Statement

- 39.1 The Chancery Bar Association set out that this training proposal could meet the Professional Statement because it is based on the current syllabus of the BPTC, which meets the competencies. This view was also taken by COMBAR. BACFI also agreed that this proposal could meet the Professional Statement because training providers would be permitted to develop training that focused on the knowledge and skills which students require. BACFI noted that:

“Dividing the vocational stage into two parts would allow students to focus on each part and gain important skills and knowledge before progressing to the next stage. This would maximise the benefit students obtained from the next stage of training.”

- 39.2 BACFI also expressed interest in greater flexibility in pupillage to enable more commercial organisations to offer professional training.
- 39.3 City Law School disagreed that this proposal could meet the Professional Statement. They explained that when the BVC was first being devised, detailed consideration was given to the knowledge subjects being separated from the skills. This approach was rejected in favour of integrated learning because divorcing the knowledge from the skills means that the knowledge lacks context which inhibits understanding.
- 39.4 In their response, COIC disagreed that combined teaching of skills and knowledge subjects was necessary and set out that it had drawbacks. They argued that learning subjects piecemeal would mean that students are unable to look at the landscape of the subject as a whole before applying it in practice. In their view their proposal will allow students to acquire overall knowledge and then apply it to practical exercises.

Meeting the Regulatory Objectives

40.1 One barrister respondent argued that the COIC proposal does not meet the regulatory objective set out by the BSB of maintaining high standards. This was because:

- Criminal and civil litigation are not subjects that can be properly learnt from a book;
- Benefits of face to face and discourse learning will be lost; and
- It is unclear how materials for students will be regulated and moderated.

40.2 Another barrister and academic argued that the proposal did not reflect the learning style of most lawyers and this could disadvantage students. In particular, it was noted that skills based learning takes time and learning too quickly does not give students enough time for reflection. He argued that this would undermine the regulatory objective of encouraging a strong, diverse and effective legal profession.

40.3 City Law School explained that they fundamentally disagreed with COIC regarding the centralised assessments being used to reduce the number of students on the course. They raised a particular concern that the shorter intensive skills-based course may not be enough for students to develop their skills. If students are not robustly taught at the vocational stage they cannot derive the most benefit from pupillage, which will put a greater burden on Chambers.

40.4 The great majority of barrister respondents and Specialist Bar Associations agreed that the COIC proposal would meet the regulatory objectives. BACFI noted that it would ensure a high standard of training for barristers at all stages of development. It would also lead to highly skilled and knowledgeable barristers who would be able to represent the best interests of consumers and commercial organisations. Outer Temple Chambers also felt that the COIC proposal could meet the regulatory objectives as the main change from the current position would be the splitting of the BPTC into two parts. They felt that flexibility and likely reduced cost, would aid access to the profession, promoting the interests of consumers in giving them access to barristers drawn from a more diverse pool of individuals.

40.5 Lord Neuberger wrote as follows:

“Of the various options proposed, in my considered judgment only the COIC Response constitutes a sensible and feasible way of attaining the stated objectives of the reform of Bar training in a way that will meet the necessary public interest involved. I wholeheartedly support its conclusions.”

40.6 One Essex Court set out that the COIC proposal would allow:

“candidates from less traditional backgrounds, such as those who have caring responsibilities or may need to support themselves by working full or part time, will have greater opportunities to work towards Part I, choosing a time and location which suits them.”

LSB's statutory guidance

41.1 COMBAR argued that the COIC proposal could meet the LSB's statutory guidance. They noted that:

"...one such requirement is "regulators placing no inappropriate direct or indirect restrictions on the numbers entering the profession". The imposition of a requirement to pass the Part 1 exam before proceeding to Part 2 would not be an indirect restriction, alternatively it would not be inappropriate in the circumstances."

41.2 Outer Temple Chambers also felt that this proposal would meet the statutory guidance. They referenced outcome 5b of the LSB guidance but like COMBAR, did not agree that the imposition of the requirement of Part One before Part Two would be an indirect restriction. They argued that even if it were to be seen like this, it was entirely appropriate.

41.3 City Law School raised concerns that this proposal may restrict, rather than increase, access to the profession by reducing the number of people eligible to complete the skills based part of training.

Ethics

42.1 BACFI supported the idea of Ethics being incorporated into every stage of training. COMBAR stated that ethics could continue to be taught and assessed in Part Two of the BPTC under the COIC proposal and this is not problematic.

42.2 City Law School expressed concern that separating the acquisition of knowledge of the rules of professional conduct and the application of those rules to common ethical dilemmas is not the best way of producing students with a deep understanding of the ethical principles applicable to barristers.

Cost

43.1 The majority of respondents pointed to cost as one of the main drawbacks of the current system and advantage of the proposal put forward by COIC and the Bar Council. BACFI agreed with the analysis and added that it would allow students to work full time and study in the evening and at weekends. They also felt that there was a great advantage to students not being committed to the cost of the full course if they are unsuccessful at Part One. They also argued that:

"If, in addition, greater flexibility was introduced to the pupillage stage of training, so that it was easier for commercial organisations to offer pupillage, trainees would be able to earn a salary during training that would be benchmarked against other professional trainees across the organisation and therefore likely to be in excess of the minimum remuneration requirements for pupil barristers."

43.2 COMBAR recognised that there could be a regulatory cost to the Part One exam but in their view this would be minimal in comparison with more radical change. One Essex Court agreed that this would be much cheaper to regulate than the BSB's Option B or C. The Chancery Bar Association also agreed with this, noting that this proposal would reduce the upfront cost. The Family Law Bar Association explained that they would only support this proposal if the total combined cost for Part One and Part Two were less than the present cost. One respondent felt that the cost for this proposal should not exceed £10,000.

- 43.3 One respondent disagreed with the COIC analysis that splitting the course would assist students with cost. They argued that it could diminish assistance with cost, because students will be unable to access student loans as it will no longer be able to be a full post-graduate LLM course. Another respondent agreed with this position and additionally added that many students will find they are unable to prepare for the Part One exam without a preparatory course, which will reduce any cost savings. Any providers offering a course for Part One would need to invest in substantial development, which will bring additional cost.
- 43.4 City Law School also felt that most students would need tuition and support to complete the exam. As this would be unregulated, those with the most amount of money would be able to pay for the best tuition. They felt that there was no guarantee that the cost of the tuition for Part One, and the cost for the skills course, would be less than the BPTC. This, it was argued, could leave students in a worse position than at present because they will not come out with a recognisable qualification. This view was supported by Northumbria Law School who felt that it would be a very small minority of students who could pass the centralised assessments with no or minimal educational support. In their view, the wealthiest students would pay for the best tutoring and would consequently be more likely to pass. They disagreed that this proposal would be more cost effective.
- 43.5 Cardiff University felt that the shrinkage of the market that this proposal would inevitably cause would have a significant impact on the international market. This would make the course less viable for providers and may mean that fees for the short skills course are inflated to deal with the shortfall in students.
- 43.6 Nottingham Law School raised the point that the lower the cost of training the more students that may complete training. If there is no consecutive increase in professional training then the problem of a large number of students completing vocational training and not securing pupillage will get worse rather than better.
- 43.7 Manchester Law School stated that:
- “It is reasonable to assume that students even if able to pay for tuition for the CEB assessments would attempt to study themselves for at least one attempt. Given that the BSB are not proposing to have more than 2 sittings each year, a failed attempt at the CEB subjects would prevent students progressing to the skills course that academic year. Losing a year at this point, potentially represents not the loss of the first year of earnings at the Bar, but the loss of a year at the end of the entrant’s career – this loss will be significant – far in excess of the saving the COIC suggests may be possible.”*

HE Implications

- 44.1 The Chancery Bar Association did not think that there would be any significant impact on the Higher Education position as Part One and Part Two of this proposal would equate to a BPTC.
- 44.2 City Law School noted that care needs to be given to the credit rating of courses for the award of certificates, diplomas or degrees if students are able to obtain a recognised higher education qualification. They also felt that the needs of international students’ needs to be taken into account. Cardiff University raised that success or failure of a course should not rely on the amount of students who get pupillage, as so many international students return home.

- 44.3 The Family Law Bar Association felt that completing Part One should count as a qualification so students could use it to further career options if they are unable to complete Part Two or secure pupillage.
- 44.4 Nottingham Law School identified that there could be two cycles of the short skills course per year, with candidates favouring one of those two courses. They anticipate that if there was enough of a market for the training, then the latter course every year could be more heavily populated by students who have only passed Part One at their second attempt. This could lead to unfavourable conclusions being made about each cohort. They also raised the issue that shorter courses are more difficult to accredit for Masters and providers would need to add extra teaching, at a cost to students, to reach the threshold for an LLM. They argued that this could lead to the undesirable situation where richer students could pay for the shorter course and poorer students would have to do the LLM to access funding available for a Masters.

Market Risks

- 45.1 The majority of academic institutions and BPTC providers raised the issue that the introduction of this proposal would lead to a London centric training market with numerous providers in the provincial areas being unable to support small sizes of the Part Two skills course. The Bar Council and COIC's consultation responses point to the fact that the Part One exam can be completed anywhere and this should mitigate any damage that the loss of provincial providers would have to students. Manchester Law School said:

"The COIC model would return entry to the profession to the situation that existed up until 1996, when the only option for students wanting to enter the profession was to study in London."

- 45.2 A number of respondents raised concerns that there would be a great reduction in the number of providers offering the course due to the destabilisation of the market. Monckton Chambers outlined that they did not see the reduction in the number of providers, or a reduction in geographical spread, as an issue. In their view, the BSB should support the COIC proposal as it focuses on the reduction in the number of students, rather than providers. This, it was suggested, is fairer as the focus is reducing the students on the skills course who are unlikely to pass. In their view, it is better for students to have to spend three months in London than commute to a provider for a year.
- 45.3 One aspect raised by a number of respondents was the destabilisation of the international market for Bar training. Although Part One could potentially be completed anywhere, the Part Two course would require attendance by students and a number of issues were raised by respondents regarding the visa requirements for a short course. Cardiff University noted that they:
- "...continue to have significant concerns regarding the potential impact of any changes to the current training system on the availability of student loans (in respect of the academic stage of training) and on the eligibility criteria for the granting of Tier 4 (General) Student visas."*
- 45.4 Manchester Law School noted that even if the visa requirements were not an issue then renting accommodation for less than 6 months would be difficult for all students and would substantially raise the costs of studying.

Equality & Diversity

46.1 The majority of respondents agreed with the COIC and Bar Council analysis that their proposal would have a positive impact on equality and diversity. In their response, COIC explained that their proposal would reduce the cost of vocational training by allowing students to study in any way for Part I and reducing the length of time that students needed to attend a course for Part II. In their view, this would increase accessibility as more students would be able to afford to study and could flexibly fit the studying for Part I around their other commitments. Those students who at present are not likely to pass the BPTC or would fail to get pupillage or tenancy would, in their view, be unlikely to pass the Part I test. This would then save them time and money by not allowing them to take the Part II course.

46.2 The great majority of barristers and the Specialist Bar Associations supported the view of COIC and the Bar Council. BACFI noted that the increased flexibility would be more attractive to those from disadvantaged backgrounds, those in full or part-time work and candidates with limitations on their time. The Chancery Bar Association felt that a particular benefit of the COIC/Bar Council proposal would be that students would not need to take the significant risk of funding the BPTC before knowing if they could pass the central assessments. COMBAR also agreed and noted that the proposed system would be accessible to students with caring or other commitments.

46.3 Outer Temple Chambers supported the idea that the increased flexibility in how students could prepare for the Part I exam would promote equality and diversity. They particularly pointed to the fact that students could be based anywhere geographically and would not need to move to rented accommodation while studying. This, they suggested, would make it more affordable for students from disadvantaged backgrounds as well as those with caring responsibilities.

46.4 Lord Carlile stated that the COIC proposal would address issues of accessibility because:

“It is vital and above all just that we should provide an opportunity for people from non-elite backgrounds to join the profession. This means that the process and progress of study should be flexible, accessible and affordable. At the same time, it should provide academic quality proportionate to the demands of the profession as a whole.

I have witnessed how difficult it can be for even 1st Class Honours Law graduates to obtain entry into the profession if they have graduated from a university with lower entry standards.

The COIC proposal seems to me to be the only one that addresses these issues. There would be a flexible route to qualification, which would make the Bar accessible to those working full or part time in order to make ends meet. The overall costs of qualification would be reduced by the lower cost of the first part of study. I have no doubt that the diversity of those entering the profession would be enhanced only by the COIC model. The least challenging part of the issue is that of academic standards, which always can be addressed by the providers.

The argument contained in the COIC paper is wholly convincing.”

46.4 The London Common Law and Commercial Bar Association disagreed with the analysis that this proposal would have a negative impact on social mobility and

diversity due to online and non-classroom learning. In their view, the benefit of a lower cost course would outweigh any negative impact that could be caused by online learning and a reduction in cost would inherently increase social mobility. They also felt that the reduction in regional providers, as these providers are largely supported by students for whom training to become a barrister is a “waste of money”. One Essex Court also supported the idea that the Part I exam could act as a filter to prevent students “wasting their money” on Part II.

- 46.5 Monkton Chambers strongly asserted that they disagreed with the BSB provisional view that online learning disadvantaged ethnic minority candidates. In particular they said:

“We have seen no evidence to support this view, which seems to us to be intrinsically objectionable as being either (i) a form of negative stereotyping of ethnic minority people, or (ii) based on unwarranted assumptions that knowledge-based subjects are better learnt through ‘face-to-face’ tuition than by ‘distance learning’.”

- 46.9 They argued that this proposal would allow for face-to-face learning if students needed it, as providers could teach the Part I course in any way and some providers would allow students to self-teach.

- 46.10 One barrister respondent strongly disagreed with the assertion that the COIC/Bar Council proposal would increase equality and diversity, suggesting that evidence is required as to what the costs would be to students, the Bar and the BSB. He felt that the proposal would encourage discrimination and places undue weight on passing the procedural exams as a good test as to whether someone will get pupillage. He set out that if this were in place when he qualified he would not have been able to secure pupillage. Further, he asserted that this instead seeks to promote students from Oxbridge and Russell Group Universities.

- 46.11 One respondent felt that particular care needed to be taken when considering the impact the COIC/Bar Council proposal could have on social mobility, noting that wealthier students would have the luxury of being able to sit at home and learn, whereas those who are working would need to fit learning alongside other commitments. In their view, a unified course has the benefit of giving all students a base level of learning. They also queried how those with learning difficulties such as dyslexia and dyspraxia would be catered for. Blackstone Chambers also raised concerns about the variability of training available for Part I and the impact this could have on those who must self-study technical subjects due to limited access to support or teaching structures.

- 46.12 The majority of BPTC providers and universities felt that this proposal would have a negative impact on equality and diversity and accessibility for those from non-traditional backgrounds. The University of Law set out the negative impact the COIC proposal could have on social mobility. They asserted that those from less advantaged backgrounds would spend more time training themselves for the Part 1 exam and would be affected by the associated high risk of failure and stress of resitting. Despite their support for the COIC proposal, the Family Law Bar Association raised a concern that some students may be able to access different quality training to pass Part 1 and this could create a two-tier system. This was supported by Northumbria Law School, who emphasised that those with greater social capital will have the best advantage and could pay for better training. A number of other respondents echoed this and felt

that this proposal would disproportionately affect students from non-traditional backgrounds.

46.13 City Law School felt that this route would be detrimental to the widening of access to the Bar. In their view, it would lead to crammer courses that would only teach students to pass the centralised assessments and would not produce the depth of understanding required. In their view and that of the Manchester Law School, a full equality impact assessment needs to be done before any progress is made towards developing this option.

46.14 Cardiff University raised serious concerns that not enough regard has been given to the viability of regional training providers, particularly with regard to the COIC/Bar Council proposal and Option C. As a small provider, Cardiff University relies on their ability to attract a strong international cohort of students to make viable its provision of the BPTC. Cardiff University outlined that this system is made possible by the prestige and recognition afforded for the BPTC in Malaysia and the sub-continent. Under the COIC/Bar Council proposal, this market would become far less accessible.

46.15 One barrister respondent disagreed that there would be a lack of geographic spread, as providers could just reduce staff numbers.

Annex 1

Summary of Consultation events

The Future Bar Training Debate

James Welsh

The evolutionary option retains the three stages but it is clear that it is not synonymous with the status quo. The degree of regulation is already changing and the evolutionary option will not be business as usual. Lord Neuberger implied consent to this approach in his Upjohn Lecture. First, he said that there were undoubtedly good qualities in the current system and second, he said that you must be very careful before you unpick what you have. It is important for change to be incremental targeted and focused. There is an argument that the overall cost of this pathway is too high. Providers are ready to bring costs down when regulation allows them to do so, for instance if the student staff ratio were to be abolished this could have an impact on fees. Providers already make it possible to upgrade the BPTC to an LLM, or offer free courses to those who do not attain pupillage. The current BPTC is a block of time of nine months in which to make a barrister. In pedagogic theory it is about progressing through levels of learning: from learning facts to understanding, analysing, criticising and assessing and finally to expressing analysis through the medium of a legal skill such as opinion writing. Fragmented training would break this down and destroy the essence of teaching. This option ensures that students combine all three levels of learning in a structured programme, spending as much time as possible at the highest level.

Derek Wood QC

The three-part structure is retained and the syllabus is retained but the current structure is changed to promote diversity. There are concerns about high cost, high failure rate and poor pupillage prospects.

The great majority are doomed to disappointment at great expense and this is little short of scandalous. The course will be split into two. For part one - knowledge - students will be free to prepare in whatever way they choose: studying alone, through blended learning or with

private tuition. Part one will be examined by the BSB. Those who pass would be eligible to continue to Part two which will be attendance at a provider for skills training. This enables those without funds to embark for less expense. A requirement to pass part one will replace the BCAT. Will enable Inns to allocate scholarship funds to part two of the course only. The pedagogic argument for combining skills and knowledge learning is not accepted nor the argument that the current system promotes equality for all.

Emma Piasecki

The integrated MLaw offers the best experience for students with open access for those from more disadvantaged backgrounds. It should not and cannot be the only route but it must feature. It sits easily with the evolutionary option it also sits with other managed pathways but not with option C. The emphasis is on experiential learning. Students get a Masters level qualification as well as an undergraduate degree and BPTC. They can also elect to do an LLM. At Northumbria 15 to 25 students each year do this option. Admission to the programme is restricted in order to maintain high standards.

The MLaw integrates the academic and vocational stages in four years: graduates have an undergraduate degree, the BPTC or LPC, and a postgraduate degree. There is experiential and integrated learning, without the presumption that all students will want to practice. Substantive law and Ethics are taught from the first year. The clinical legal education involves students in real cases at all levels, reflective of practice. Students are also given access to various legal research groups, giving them a rich foundation. The course produces the high calibre individuals required by the profession.

The MLaw was not reported on separately in the BSB's key statistics report due to the small cohort number. Of the 16 students in graduating in 2014, 15 achieved Very Competent, and one student achieved Outstanding as their overall grades; 14 students passed all their exams on their first attempt; 15 students achieved First Class degrees; and 25% have got pupillage so far.

The fees for the MLaw are the same as for an undergraduate degree: £9,000 per year. Student loans are available. There have been instances of second year students electing to take the LPC, rather than the BPTC, due to expenses imposed by the BSB (such as the BCAT fee) and the Inns.

Penelope Reed QC

The Chancery Bar Association had set up a working party to respond to the consultation, focusing on its young members. The difficulty they had seen was that the BPTC does not prepare students for pupillage, although it is clear that the BPTC teaches important subjects, such as criminal and civil procedure, true learning takes place during pupillage. It is clear that many new pupils are ill-prepared. The CBA is of the view that the training undertaken during the BPTC should not take a year, nor cost upwards of £15K. The CBA supports the Inns in wanting an improved BCAT, but that alone is not enough.

The proposal is to combine pupillage and the BPTC so one can learn on the job (as in the training for the accountancy profession). Pupillage would be expanded to up to two years, with mandatory study leave; exams would be taken after nine months (to achieve practising status), and at 18 months. Pupils would be able to see their supervisors in court, before trying their hand at advocacy themselves. 'Soft skills' such as client handling would be learned by experience, rather than taught. Skills would be acquired through real experience before being examined.

The ChBA is troubled by the oversupply of students who complete the current course but have no chance of successfully completing pupillage. This option would 'de-risk' the course for students, especially those who are dissuaded from a career at the Bar due to the cost and difficulty of obtaining pupillage. Costs would be lower, and would be picked up by chambers. They understand that this would be difficult for the publicly funded Bar, but Inns' scholarships could target this area. The benefits of this option are that trainee barristers can watch their supervisors in practice, and interact with solicitors, judges and clients; barristers are specialists – this option allows one to train in the area in which one intends to practice. The more general areas of training would be covered during the study leave period.

The CBA considers that the current system does not work and needs to be changed.

Daren Timson-Hunt

Modular learning will break down competency-based training course content (both theory and practice) into short, logical, self-contained units/modules. It is a type of training appropriate to law, and to the modern Bar. The three phases of learning – cognitive, practice fixation, and autonomous – will be employed and problem solving is a key focus. The greatest advantage of this option is its flexibility, both for students and employers. Modular learning is particularly well suited to law as it is unitary-based, the academic and vocational stages are easily modularized. The HMRC takes the modular approach with its legal apprentices, identifying and developing the talents of high calibre individuals, who gain academic qualifications and are able to put their skills into practice. The modular approach is perfect for teaching Ethics: students are able to apply ethical challenges to real situations in a supported environment.

Questions

1. Could one go a step further and have chambers delivering training, rather than providers, in order to reduce costs?

PR: The difficulty would be that chambers would in effect be 'marking their own work' and regulated qualifying tests are required to ensure a level playing field.

2. Are the managed pathways described today the only ones on offer? In either route, the point of call is at the last possible minute.

DT-H: We still support the current system but we see advantages in modularization. The 'journey' will not be completed by all, but all will have different stages which they can reach, and there will be stopping off points at where they will gain qualifications which will equip them to do something else.

PR: There is sense in doing it in one way, but it is not the only way. Regarding call dates, her personal view is that she is not convinced that being called to the Bar is useful.

It would be possible within a modular approach to take some of the modules outside the UK.

DW: combined vocational and pupillage pathway would reduce the numbers on training courses to the number of pupillages available, currently 400. The current system allows people five years after graduating from the BPTC in which to obtain pupillage.

JW: Agrees with DW, as only a handful of students get pupillage before starting the BPTC. Diversity would disappear on the combined vocational and pupillage option as selection would be by A levels and undergraduate degree; this would exclude late bloomers and those from lower ranking universities. Also, Chambers generally want to see people after they have had some training.

3. The COIC/Bar Council option would mean that students from across the UK would have to come to London which would be a retrograde step, and one which would get rid of overseas students.

DW: This is a misapprehension as Part one of the option would allow students to study anywhere and Part two would be provided by the existing BPTC providers which are nationwide.

JW: At BPP, the current ratio of students is 50:50 home and overseas. Visas are not available for courses of less than nine months. The market will be killed if overseas students are lost – there would only be enough students for one London provider to be viable, and that would only be for 100 or so students.

PR: One could recruit from the GDL. Students do have to learn other areas of the law, and specialism already takes place.

4. Will there be consultation with current pupil supervisors, who already have considerable responsibility, before any changes take place? It is inevitable that for the COIC/Bar Council option, private tutors will charge for teaching Part one. How can this be moderated, or stopped?

DW: It cannot be stopped, nor would we want to do so. Some might want to be taught by a Provider. We want to make it possible to prepare for Part one by many means; bright students will be able to self-study.

DT-H: We need to look again at the entire process. The modular route will mean that a student could spend 3.5 days per week in chambers, possibly a few different ones, and the remainder of the week at a Provider. We should not be constrained within our current straightjacket.

EP: The issue remains that those who are already advantaged will be able to pay for training, to access the 'best' training. It will be catastrophic for those from disadvantaged backgrounds and international students will disappear. Not convinced that self-study is a viable option.

5. It does not seem as if the modular managed pathway would work for the standard undergraduate as one would be required to commit to a career in law very early on.

DT-H: It would be more flexible in ways of working and resources could be shared with chambers.

PR: One needs to think outside the box and start with a clean sheet of paper to design a new system capable of producing better barristers.

6. There has been discussion of cost reduction, of pupillage availability but what of improving legal effectiveness? One must consider the quality of outcomes, and the most vulnerable users of the legal system.

EP: Students are developed in the most rounded way on the MLaw – the integrated route gives students early access to users of the justice system, they can apply themselves to the way the law works while bearing wider social issues in mind.

DW: The Inns' view is that improving one's skills is a lifelong experience; the process of education continues throughout one's career. One cannot acquire everything one needs at one point on the educational spectrum. The Inns have an extensive programme of training which includes dealing with vulnerable witnesses but it is placed at the most appropriate point, which is later than the vocational stage.

JW: Since the introduction of tuition fees, universities have tried to cut costs and therefore teach differently; the students they produce are less ready for work, less able to think independently and have bigger debts. This pushes problems further down the line. There is an acute tension. Nine months between the academic stage and pupillage is barely enough.

DT-H: One cannot learn about victims from a text book, it is only at pupillage stage that one comes into contact with them. The modular approach would allow students opportunities to see the real world and real victims much earlier than they currently do.

PR: Agree – BPTC does not prepare students for this.

7. There will be greater burden on chambers with greater duration and higher incidence of failure will mean that chambers take on more people, increasing their costs. Not convinced of affordability to individual chambers.

DW: Agree.

PR: This might be an overestimation. It was suggested that there was an additional six months of supervision. The big chambers already offer significant pupillage awards. One should consider changing the way scholarships work and use the money to fund pupillage, not the course. This will not exclude people from pupillage, but will widen the net.

JW: Not every practitioner makes a great trainer and vice versa. As things stand the way in which one is assigned to a pupil supervisor is a lottery. There is a need for greater oversight and to assess who is fit to train. This is a BSB issue.

EP: Agree.

DW: BSB requires pupil supervisors to undergo training. One cannot take on pupils until one has completed the training.

DT-H: There will always be costs incurred by chambers, let us remember that they are businesses. We need not place all the burden on one set; pupils could go to two to three sets, allowing for greater diversity.

8. How can one address the loss of talent in each model? And manage the expectations of students so they can get jobs? None of the options presented is perfect, so what is the possibility of having a blended version which takes the best aspects of each option?

DT-H: HMRC has approximately 3,500 applicants for 15 to 20 positions. They are whittled down and 60 are invited to a two-day interview exercise. HMRC brought in an apprentice scheme across the UK to address the loss of talent.

EP: The MLaw works with the evolutionary option. Students with a lower second class degree are more likely to be from a black or minority ethnic background. Less regulation of the current system would drive down cost, keep open access for all, and allow access to training for the Bar in students' localities.

DW: No one can claim to have the perfect solution. The COIC/Bar Council option cannot solve all the problems, but it will bring down the high failure rate. It will not increase the number of pupillages available. The blended options overlook the problems which exist. Law is not a market, but a profession. We do not want to erect barriers for those who wish to progress in our profession.

JW: Life without pupillage is not death; this is 'project fear.' The reality is that graduates are not ready for the world of work and during the BPTC they change out of all recognition, improving their logic and analysis. The recognized qualification makes them more employable. It is not true that money is burnt. The course holds good rewards for overseas students as well. The COIC/Bar Council option of self-study plus a Part one test is not portable as a recognized qualification; the Part two test is not portable. This route does not give students the opportunity to study for a master's degree or a LL.M. It is not developing them for the world of work. Therefore, someone who studies by this route really will have nothing at the end of it if they do not get pupillage.

PR: One must try to stop the waste of talent. During paper sifts of pupillage applications, it is hard to distinguish between talented BPTC graduates. The BPTC exists to train barristers, who need pupillages which is why the managed pathways model combines both.

The issue about increasing the number of pupillages needs to be addressed, but it is not addressed by either DW's or PR's models.

9. The BPTC does not prepare students for pupillage. Private tutoring already exists for some BPTC students. A lot of the current course is just about learning facts, so why is face-to-face teaching needed? Why should the current exploitative course continue? What can be done about the bias towards Oxbridge candidates?

JW: If this is the case, it is the fault of the delivery of the course, not the model itself. One can learn civil procedure oneself but on the course one is challenged by practitioners, then one will have to write an opinion: learning is constantly reinforced. If students believe they have a chance, they have to have access.

PR: The selection processes of chambers are antiquated, people are recruiting in their own image and this ought to be addressed.

DT-H: HMRC selection process differs to that of chambers; it is more open.

DW: The BSB has rules for the selection of pupils. There must be equality and diversity training for selection committees in chambers.

10. There is a lack of social diversity at the Bar, in part due to course costs. What regulations could the BSB safely repeal in order to reduce costs by £10,000?

JW: One cannot run the BPTC at £10,000 less than current prices. Staff-student ratios can be removed, bigger Providers can use economies of scale, but the BPTC is not the cash cow some think; law schools run the BPTC to have the added advantage of running a full suite of law courses, not to make money as the margins are not big to begin with. It is fanciful to think one can create quality lawyers at a low cost.

EP: Agrees with JW. In order to keep the standards high, one has to keep a high quality of teaching which is expensive. If we lose overseas students, we will end up with a three month course in London with London prices.

JW: The COIC/Bar Council Part two course is likely to have fees of £12,000 for a three month course.

EP: This is not value for money; the current nine-month course is cheaper and gives students a significant amount of integrated training. Some students need to be taught the skills modules. The value of overseas students exceeds just maintaining the domestic market – there is great value in a multicultural, multi faith cohort – and the values of the England and Wales Bar are exported overseas.

DW: This is 'project fear'. The COIC/Bar Council option will continue to train overseas students. There are practical ways in which any problems can be overcome. The combined vocational and pupillage model is of more danger to overseas students.

Roadshow events

Key Themes

The following themes and comments were raised by delegates:

Degree classification requirement:

- Most chambers do not hire students with a 2:2 so it is unfair to have that as the degree requirement, it should be raised to 2:1;
- Chambers filter based on degree requirements and that is unfair because it is just one factor on an application;
- The degree classification requirement should be removed and instead replaced with the BPTC result;
- The degree classification is unfair on mature students who may have got their degree many years ago;
- A 2:2 works because it means that people are given the opportunity to progress; and
- Students should be able to do a test set by the BSB to prove what degree level they really are (even if they have achieved less than a 2:2).

BPTC:

- Students are not well enough prepared for pupillage;
- Some students felt the course was too long whereas others disagreed and argued that it could not easily be shortened;
- There needs to be more flexibility for students who have qualified abroad;

- Students should be able to complete the course abroad so they do not need to come to England & Wales;
- It would be good if foreign students could take an exam like the New York Bar Exams;
- There should be caps on students who can train;
- Geographical spread is necessary for access;
- There ought to be more opportunity for “earn as you learn”; and
- There is not enough competition in providers as they are just making a lot of money from students.

Centralised Assessments:

- There should be centralised assessments for advocacy;
- There should be an 11+ style centralised assessment to determine who gets pupillage and the chambers should not be able to pick their own pupils;
- Knowledge subjects should be taught online or through a crash course and skills should be taught separately;
- Centralised assessments are important and should remain; and
- BCAT score should be available for chambers as it is a good predictor of success.

Pupillage:

- There ought to be more flexibility in pupillage;
- Students should be allowed to self-manage their pupillage like chartered engineers (have an informal arrangement for supervision);
- Traditional pupillages should be maintained as there is a lot of value in pupillage;
- Too many students complete the BPTC without pupillage, there should be a limit on this;
- Students should be told if they have pupillage earlier as currently they are told after they have to accept their place on the BPTC;
- Specialist skills should only be taught during pupillage not the BPTC;
- Some Chambers are recruiting only from set universities but will not admit it;
- There needs to be better assessment of pupillage; and
- If there are more pupillages’ created then this will artificially move the bottleneck, currently at pupillage, to tenancy.

Cost of training:

- BPTC providers are not competing over price;
- Students wrongly think that some providers are better than others due to price, which leads to exploitation by providers;
- Pupillage pay should not be so much lower than BPTC costs;
- The Inns of Court should pay for all the criminal pupillages instead of giving scholarships;

Publically funded v Commercial Bar

- Publically funded sets cannot afford to pay money for training;
- There could be a two tiered system if some Chambers can afford to train in a certain way and others cannot; and

- It would be better to have a fused system.

Consideration of the Options

Delegates were asked to look at the Options and consider the different advantages and disadvantages of each.

Option B

Advantages:

- It would give greater flexibility;
- B(iii) gives you the opportunity to “earn while you learn” increasing accessibility;
- Could allow more people to come to the Bar; and
- Really good for students to have a range of options as some people learn in certain ways while others learn differently or would prefer linear training.

Disadvantages:

- If there are too many pathways this could get confusing for students and chambers;
- There would need to be clarity to the routes so those recruiting pupils understand them;
- A gold standard could arise which means some Chambers will only hire from one route
- There is no clear one way to train which is unfair on students without connections;
- B(iii) would be too much of a burden on Chambers;
- B(iii) would not work if only some chambers work with specific providers, leading to some routes being exclusive;
- Chambers are not like solicitors firms, they will not want to spend money on routes;
- Chancery Bar Association backing B(iii) is not convincing as it is not very diverse and has a bad track record of recruitment;
- Many prestigious universities will not offer the combined academic and professional training, reducing students options; and
- Could give too much power to providers and they cannot be trusted to do the right thing for the profession.

Option C

Advantages:

- Could address the issue with the cost of training;
- Would allow for more self-directed home study;
- Similar to the SRA model which will streamline training and could save the BSB money; and
- Feasible if covered knowledge and procedure but not in one exam.

Disadvantages:

- If anyone with a degree can do the BEE then too many people will pass;
- Concern that freedom to prepare however students wanted could be open to exploitation by providers;

- Students must be made to study law;
- You need more than a short course to understand advocacy
- This option is confusing because it is similar but not the same as the COIC proposal;
- May put some people off from lower socio economic groups as it is very intimidating;
- Must not over glamorise the New York Bar Exams;
- Students should not be made to take exams on legal knowledge twice; and
- Chambers will not take a student without a law degree.

King's College London Event

Key Themes

Law Courses:

- Law schools are successful at attracting students and law graduates are employable;
- Law courses are relatively cheap to teach;
- It would be challenging to develop a training pathway which focused on qualifying for the Bar (at an academic level) as there is only a small number of students wishing to qualify for the Bar;
- Only a third of students on law courses wish to qualify as a barrister or solicitor;
- There should be more of a focus on law as an academic subject, which includes problem solving, critical analysis and research;
- Building the bridge from academic to vocational learning requires huge resources which aren't necessarily available from universities. Requirements from the BSB and SRA protects budgets for courses e.g. for law libraries;
- The development of professional competencies should be focused on extra-curricular activities (e.g. mooting) at the academic stage and should not form part of the substantive degree;
- Some (contrary to above) felt that a compulsory practical element could form part of the academic study (e.g. mooting in criminal law, etc.). If it is extracurricular, then those working or from poorer backgrounds may not be able to participate;
- Most in society are unable to afford legal advice. We need more provision of legal help and it is therefore possible that universities could be used to help fill this gap. The students could engage in clinical legal education and have supervised experience in real cases. They may value this experience when it comes to applications;
- The students found law clinics empowering and would want it as part of the courses;
- Offering clinical legal education from universities is resource intensive because supervision is considerable and expensive, the cost of which will be passed to students;
- It was suggested that universities are not best placed to be meeting this unmet societal need of legal services;
- Some may not be able to engage in extracurricular activities due to other responsibilities. By mandating it on the curriculum then students would likely be able to complete this during the day, making it more accessible;
- Adopting this approach to clinical legal education is difficult if only a third of law students want to enter the profession. They may not be interested in pursuing clinical legal education;
- Some students are satisfied with reduced flexibility if they can access the course;
- Minimising regulatory involvement in academic legal education is good. The QLD elements take up more than half the LLB;

- A senior status LLB could be developed if not careful – one for academics and one for those with inside information to decide to take the foundation modules;
- There was support for the regulator’s involvement in redesigning the content of the QLD;
- Particular grades in particular modules are favoured by recruiters;
- Institutions have competing pressures to meet the requirements of the SRA and BSB; and
- There is a question over whether increasing diversity will be reflected in quality.

The Core subjects and the QLD:

- Concern was raised that the foundation legal knowledge subjects should not be removed. They only account for a third of the degree and therefore offer sufficient flexibility;
- If there is not a sound foundation of legal knowledge then service to clients may be affected;
- If the QLD was removed, then there would be a need to set a different standard to assess whether the degree is sufficient. If this is absent, it could be confusing for students if they later apply for pupillage and their degree is not favoured by chambers;
- Students are paying and therefore want to gain skills. They would like the foundational knowledge to remain (e.g. contract) as this permeates into other areas of practice (e.g. construction);

The Vocational stage:

- Students would also ask for a vocational training to be incorporated into the LLB in Law to reduce cost. Would also like Northumbria model at other universities, like Kings if not part of LLB;
- The BCAT needs to be a better indicator of how students perform on the BPTC
- The vocational training can be added into clinics which may reduce costs; and
- A main concern is that covering the cost of the vocational stage, on top of a degree, is risky because pupillage is rarely obtained before committing to the BPTC. This occurs less regularly with solicitors as training contracts can be offered before starting the LPC. If this approach became accepted then the financial risks associated with the BPTC are mitigated.

The Bar:

- Demand outstrips supply as the number of students who wish to become barristers is much higher than the number of pupillages;
- To group solicitors and barristers together is unhelpful as they are such varied professions, both in their work and culture;
- If you have intellectual ability and research skills then you can be a barrister. This was viewed by some as being more important than having the core knowledge areas; and
- It would be difficult for a 17 year old to know which profession, if any, they want to pursue.

Option B:

- Need to explain to prospective students the route to qualification;
- Option B(ii) would increase affordability and understanding of law and could be adopted by more universities; and
- Some delegates questioned what demand there was among academics to teach the combined vocational and academic stages. There was little appetite for attendees wanting to teach the SQE.

Option C: This option misunderstands the nature of assessment

Annex 2

Analysis of the Options

Some respondents offered analysis of the advantages and disadvantages of the Options, outside of the consultation questions. To accurately capture these views and reflect the range of issues raised we have summarised them separately from the consultation questions below.

Option A

Option A is the 'evolutionary approach,' in which the current three-stage system is retained, and the changes that are already taking place to improve the current system will continue.

Advantages

Twenty four people commented on the perceived advantages of Option A; thirteen of whom were barristers.

Many respondents described the benefits of the current system, with one chambers stating that they believed the current BPTC is a '*substantial improvement on previous iterations of the BPTC and BVC.*' City Law School likewise described what they saw as the advantages of the system:

"Whilst we would not seek to argue that the present regime is necessarily the only way of providing effective training for would-be Barristers, we would argue that there is considerable merit in the sequential approach that is currently adopted, namely the study of law as an academic discipline (either through the LLB or GDL), then learning (through vocational training) how to use law in practical and ethical ways to help clients achieve their objectives and to serve the administration of justice, and then "on the job" / "work-based" training in the form of pupillage, putting the earlier learning into practice."

One barrister respondent also questioned the need to alter the BPTC in the absence of evidence that students have not been able to access training due to the structure, content, availability or delivery of the BPTC as it is. Others indicated that Option A has the advantage of being a 'tried and tested' model, which is well understood by the profession.

Many respondents welcomed the proposal to allow greater flexibility in the delivery of the academic stage of training, which would give providers a greater level of discretion in choosing and tailoring the delivery methods. Nottingham Law School endorsed the proposal for a less prescribed model, which they said could allow providers, '*more flexibility, creativity and efficient use of resources.*'

Several respondents – the majority of whom were barristers – explicitly stated that their preferred model was that presented by the Bar Council and COIC but, of the options presented in the consultation paper, they would recommend the adoption of Option A.

Disadvantages

Forty nine respondents commented on the perceived disadvantages of Option A – all but twelve were barristers.

The vast majority of respondents articulated the same perceived disadvantages of Option A, that is:

- It fails to address the current issues around the cost of the BPTC, and
- It fails to address the issue around students paying excessive costs for the course, without a realistic prospect of then gaining pupillage.

The majority of respondents agreed these two issues are key, and action must be taken to address them. One barrister summarised the point:

“Option A does nothing to address the problems which afflict the current system of training for the Bar. These problems are (i) the cost of the BPTC; and (ii) the risk of not securing pupillage following the BPTC. Taken together, the present levels of cost and risk serve to deter talented applicants and damage diversity at the Bar. This cannot be allowed to continue.”

Young Legal Aid Lawyers did not feel that Option A addressed concerns around costs and, for that reason, could not lend their support:

“We cannot support Option A because it suggests the continuation of the twelve-month BPTC course run by private providers for excessive fees. This does not address our concerns about the financial burden on students and, therefore, is not properly accessible to people from disadvantaged backgrounds.”

The Bar Council believed that in the costs of delivery of the BPTC to providers as a result of reduced regulatory requirements would be passed on to students. The Professional Negligence Bar Association was similarly sceptical of the current system, highlighting the length, cost and compulsory attendance of the BPTC, in particular. They also said:

“In our view, the main disadvantage of the current system is the cost of the vocational training stage rather than, as suggested in the Consultation Paper, the cost of having a three-stage route to authorisation: The cost of the academic stage is the same as for any other graduate profession and the cost of the pupillage stage is borne by chambers and employers. We are in favour of retaining the three-stage

sequence...but urge the BSB to implement targeted reforms designed to improve and reduce the cost of the vocational stage.”

The Association was supportive of allowing providers to develop ‘*innovative and cost-reducing ways*’ to deliver training, including removing the requirement for classroom-based delivery, and suggested this be similar to the COIC/BC option.

The second most common concern – and an extension of the first, discussed above – is that Option A does not amount to a reform but merely a continuation of the ‘*status quo*.’ Some felt that the current problems with the system are in urgent need of resolving, and that to pursue Option A would be a ‘*missed opportunity*’ to improve and reform an imperfect model. However, when considered together with comments on the advantages and disadvantages of all options, respondents were generally complimentary of the current system (although many of these indicated a need for certain improvements). Although less common, a general concern that the BPTC is not currently fit-for-purpose and is failing to achieve the ‘highest possible standards’ was also discernible from responses.

Option B

Option B is the ‘managed pathways’ approach, which provides for several different routes for students to be able to train in the way that suits them best, including:

- Option B(i): Academic legal education followed by vocational training and work-based learning (as in Option A)
- Option B(ii): Combined academic and vocational learning followed by work-based learning
- Option B(iii): Academic legal education followed by combined vocational and work-based learning
- Option B(iv): Modular format, in which components can be acquired separately, over time

Overall

Advantages

Sixteen respondents commented on the advantages of Option B overall (as opposed to the specific routes within it, which are discussed below).

Those who left comments as to the overall advantages mostly referred to the benefits of offering students flexible routes. Some thought that this would help increase access, including for those with childcare and/or caring responsibilities, and those from ‘*non-traditional backgrounds e.g. BME students facing more barriers to access.*’ The benefits of Option B from a provider’s perspective were also highlighted by respondents, including the University of the West of England:

“We envisage that the Managed Pathways approach:

- a) would present significantly fewer challenges for providers to adapt existing BPTC provision in comparison to the previously preferred “Bar Specialist” option;*
- b) Would provide providers with opportunities to develop and enhance existing provision which appeals both to the Home/EU and International markets.”*

The benefits of flexibility were recognised as self-evident by several respondents, including in terms of equality and career options. Some respondents, including the one quoted above, were keen to suggest additions to this Option, for example:

- A more flexible pupillage structure could be added or expanded;
- CILEX routes could be included;
- Online learning could be incorporated.

The Middle Temple Young Barristers' Association suggested that Option B(i) could run alongside the COIC/BC proposal, if it were reformed to (i) include practitioner input on the course, (ii) improve the standard of teaching, and (iii) reduce course cost. They also recommended that efforts be made to ensure students have sufficient understanding of their chance of obtaining pupillage. This was indeed a theme throughout the consultation responses: many highlighted the large numbers of students completing the BPTC when compared to the number of those who obtain pupillage.

Disadvantages

A total of ninety three respondents commented on the perceived disadvantages. However, this may be due to the fact that it encompasses several different routes – all of which will have differing advantages and disadvantages – and should not be taken on its own as evidence that this is the least preferred option.

The majority of respondents cited the same disadvantages of the multiple routes option, from both a chambers and student perspective. These included that:

- It would be difficult for chambers to assess students pursuing different routes in a fair way;
- Logistically, chambers would not be able to offer pupillage simultaneously to people on different routes. The Chancery Bar Association felt this was the worst of the three options, considering it to be 'unsuitable.' They also argued that it would be unlikely that chambers would offer pupillage simultaneously to students on different pathways, which would have a negative impact on diversity and access;
- If multiple routes were available, many respondents felt that some pathways would inevitably come to be seen as superior to others, establishing a 'gold standard' that would discriminate against those from non-traditional backgrounds who it is assumed would pursue the non-traditional routes. Many respondents insisted that chambers would only recruit from Option A (the 'traditional' approach), whilst others suggested that chambers might insist on a single pathway;
- It would not be possible to ensure and maintain high quality with multiple routes, which could, in turn, lead to falling standards. One respondent stated that this would risk a lack of uniformity in regulatory standards and learning outcomes. Another suggested that chambers, as a result of variable standards, might require students from some pathways to, for example, complete two years of pupillage instead of one. The regulatory cost associated with this was also raised by many respondents, some of whom considered it would be disproportionate.

“A mass of varying routes will not assist chambers in picking up the best candidates for pupillage regardless of background. Whether correctly or otherwise, some will inevitably become to be considered "better" those who follow the "lesser" routes will find them unable to get pupillage.” (Barrister respondent)

The Bar Council agreed with this assertion, listing the following disadvantages:

- *“Multiplicity of route would lead to confusion for individuals and training organisations. Only those with contacts will be able to be guided through the profession*
- *Problems with E&D due to the interaction between different pathways*
- *Students have to make decisions at different times*
- *Different pathways arising at different times will mean that it is impossible to see interactions*
- *Danger of preferred route by some chambers.”*

Hardwick chambers said that it is ‘*wholly unrealistic*’ to ‘*expect [chambers] to efficiently train and support tenancy candidates at different stages.*’ It explained that it would have difficulties in assessing tenancy candidates fairly at different stages and proposed that an array of options creates an ‘*unfair guessing game*’ for students ‘*who do not know what chambers will prefer.*’ Others agreed that the option would cause both uncertainty and confusion.

In a joint letter to the Chairman of the BSB responding to the Consultation, three barristers laid out their objections to Option B, which included the concerns above, but additionally claimed that the Option ‘*incorrectly shifts the focus from reform of the BPTC to reform of pupillage and the academic stage*’ and risks increasing the cost to become a barrister as a consequence of increased regulatory costs. Monckton chambers agreed with much of this analysis and additionally stated:

“The principle of proportionality has consequences in relation to the appropriateness or otherwise of altering the framework for vocational training for the Bar so as to allow multiple “managed pathways”...It is difficult to see how the BSB could be justified in incurring the costs of developing, consulting on, and then applying, such frameworks and processes unless there are good reasons for expecting that there will be significant numbers of pupils who would utilise such new pathways.”

Several respondents believed that the priority of the BSB should be to reduce the cost of the BPTC in order to increase access to the profession and encourage diversity. Conversely, one University respondent was concerned that this Option would lead to limited providers and a London-centric model. A small number of respondents suggested that Option B would increase demand for pupillage, which would need to be matched by an increase in the availability of pupillages.

Option B(i) will not be considered separately here, since it is identical to Option A and would, therefore, amount to a duplication of the discussion above.

Option B(ii)

This option involves combining academic legal education and vocational learning, followed by work-based learning.

Advantages

Thirteen respondents commented on the advantages of Option B(ii).

Many highlighted the fact that this model is offered at present by one University, Northumbria University – and that this already exists as a model was noted as an advantage by some, who generally saw no harm in the provision of such courses. COIC recognised the merits of the approach, in that it provides students both the shelter of a student loan during the BPTC

and a Master's degree. Reading University also considered that it is an attractive option from a cost and convenience perspective. Two respondents thought this option would appeal to institutions specialising in vocational courses.

Disadvantages

Whilst some felt that the existence of such a course at present was an advantage, others questioned why the model had not been adopted by other providers if it were an attractive option. Additionally, some noted a lack of demand and the small size of the market. Indeed, the Bar Council and COIC did not feel the option had widespread support, although they did feel that providers should continue to have the option of delivering such a course if they chose. The University of Southampton offered insight into why this option may not be popular with providers:

“This model is likely to be unattractive to many Law Schools for it requires the provision of a separate and distinct programme combining academic and vocational modules, probably therefore requiring additional staffing resource, for what is likely to be a small number of students. It may appeal to institutions currently specialising in vocational provision.”

Some respondents expressed concern about the likelihood of securing pupillage for those who chose this option, and that it could lead to a two-tiered system whereby combined courses are seen as less desirable. Some respondents simply failed to see the additional benefit of combined academic and vocational learning over the current system.

Whilst Reading University felt the option was attractive from the perspective of both cost and convenience, it felt that the route ignores the fact that most students secure pupillage between the ages of twenty five and thirty four. Several other respondents did not feel it appropriate to ask students to choose a career at the age of seventeen/eighteen (the necessary age, assuming that students would enter higher education and thus the combined course immediately following secondary education).

Option B(iii)

This option involves academic legal education, followed by combined vocational and work-based learning.

Advantages

Ten respondents commented on the advantages of Option B(iii). The first set of advantages described by respondents related to the anticipation that this option would reduce both money and time spent for students in achieving a qualification. Some respondents were supportive of the idea that universities could deliver criminal, civil and other non-skills based subjects, thus leaving chambers and the Inns responsible for advocacy training and development. This, one respondent argued, would create a strong incentive for chambers to train pupils ‘properly,’ and could permit the relaxation of pupillage funding, thus increasing pupillages.

The majority of respondents recognised merit in linking vocational and work-based learning – and the Association of Law Teachers highlighted that a significant number of LPC students already do this. One barrister respondent put it simply:

“I can see the advantage of combining vocational training with practical experience, because many aspects of the law become much clearer when one actually sees them in action.”

Some respondents did not feel that the BPTC in its current format was particularly valuable or of use in a practical context, and felt a combined approach may be more beneficial by providing students with more *'hands on'* learning. Additional advantages noted include the fact that pupillage would be gained following academic qualification, with the Western Circuit suggested that this option would be particularly attractive to the employed Bar. Reading University also surmised:

“Candidates could be paid for the work undertaken and this might identify those likely to succeed at the Bar. For the remainder (of which there may be a large number) this might also serve to indicate the risk before them. Thought should be given to creating a masters level qualification to reflect the additional experience obtained.”

Disadvantages

This option was thought by many to be unattractive to the self-employed Bar, given the administrative and financial burden that would be conferred on to chambers. Respondents felt that responsibility for training students would fall on self-employed barristers and pupil supervisors – a role which many stated was already burdensome. Some respondents indicated that this option would only be viable for large chambers, which receive privately paid work. The Inner Temple Bar Liaison Committee, whilst *'open minded'* about Option B(iii), expressed serious reservations about the workability of this option in the self-employed, independent Bar, arguing it would be too burdensome to *'turn chambers into training centres.'*

COIC suggested a need to conduct market research to establish the appetite for such a route, but were similarly sceptical that it would be seen as either a viable or appealing option. COIC also questioned whether chambers would be required to fund the pupil for the whole two years and, if so, said this would have a significant impact on chambers' budgets; which would result in a reduction in the number of pupillages.

Aside from these burdens, some respondents questioned chambers' competence to be able to assess students prior to them having acquired the necessary skills. A significant number of responses expressed scepticism that chambers would opt for this model at all, including the London Common Law and Commercial Bar Association and the Professional Negligence Bar Association. This led some to the conclusion that Option B(iii) would be counterintuitive: requiring higher regulatory costs, yet achieving low take-up rates.

One barrister also suggested that this option would be problematic from a BPTC provider perspective, asserting that providers would be unable to offer modules with sufficient flexibility to fit in around the demands of pupillage. Several also noted the unpredictable nature of work at the Bar, which could adversely interfere with vocational study.

The Bar Council, along with other respondents, suggested that this option would reduce the number of work-based placements for those graduating from different routes under Option B. The Professional Negligence Bar Association likewise expressed concern about this and felt that both Option B(iii) and B(iv) would limit career options, arguing that from a student's perspective, Option (B(i) would be preferred.

A further concern evident from responses related to quality assurance: respondents were not confident that Option B(iii) could provide sufficiently high quality learning around advocacy skills, and highlighted the need for basic knowledge and skills before commencing work-based learning. Indeed, COIC felt that it would be seen as *'high risk'* to recruit a pupil who had not yet started the BPTC, and that this would encourage *'conservative'* recruitment

practices, which would be unlikely to facilitate entry for students whose *'full potential had not yet emerged.'*

The potential disadvantages from an access and equality and diversity perspective were discussed by a large number of respondents. One barrister said that whilst the route – providing on the job training – was a good one *'in theory,'* he further stated that work-based learning depends on the availability of *'adequate placements'* to all students passing the academic stage; for which there is no guarantee. Consequently, access to the Bar could be limited. This barrister went on to suppose that recruitment would favour those from more traditional Higher Education Institutes.

Another barrister speculated that chambers would be more likely to show preference for students who were privately educated, since those from more disadvantaged backgrounds are less likely to have had capacity to engage in extracurricular activities to *'balance their CVs.'*

A small number of respondents, including Nottingham Law School, did not feel it appropriate to require students at the age of eighteen to decide to pursue a career at the Bar. It also asserted that the process of selecting students from university for a work-based placement favours those with existing connections to the Bar, which would likely negatively impact on diversity in the profession.

One barrister, who is also a pupil supervisor, explained:

"A balance needs to be struck between making recruitment decisions early enough that the students will be supported through their studies and allowing students to acquire sufficient experience that they will be able to demonstrate evidence of their potential. In particular, there is a real risk that by combining the vocational and apprenticeship stages, those with greater social advantage will be better able to demonstrate the skills and attributes that a recruiter is looking for. That would likely have an adverse impact on social mobility."

Option B(iv)

This option offers a modular format, in which components of a qualification can be acquired separately, over time. This may include an apprenticeship pathway.

Advantages

Only four respondents commented on the advantages of this option..

The Association of Law Teachers did not feel that this was a viable model unless the student had a training provider that was *'fully committed to facilitating the student's progression through all three stages.'* They did not feel that chambers would be inclined to undertake such a commitment. However, they envisaged that the Government Legal Service and the Crown Prosecution service may consider this an attractive alternative, having a stronger incentive to take greater responsibility for the education and training of the barristers they wish to integrate into the organisation. They did, however, express reservations about the likelihood of this.

One Essex Court chambers said they would welcome a more flexible approach to the requirements of pupillage, which would enable a candidate who has passed the BPTC to demonstrate that they meet the requirements other than by a traditional pupillage in chambers. This, they said, would help increase the number of pupillages available.

One respondent barrister also saw the advantages of a modular route, providing there would be a '*minimum knowledge entry point*' for different parts of the course.

Disadvantages

Twenty eight responses were received that set out respondents' views of the disadvantages of the modular option.

It was clear that many respondents did not understand this option and felt they needed more information to be able to consider its advantages and disadvantages.

The Bar Council agreed that this may be an attractive option for some of the employed Bar, but felt it would be difficult for the self-employed Bar to administer. They also expressed concern about the quality of learning on vocational and work-based modules where students have not undertaken the entirety of the academic stage. COIC agreed, stating that it '*will be of no interest to the self-employed Bar, which represents 80% of the practising profession.*' In contrast to the Association of Law Teachers, they also disagreed with the idea that Government departments, the CPS or any other public bodies would either wish or have the resources to support trainees over a five-year period, considering the ease with which they are able to recruit '*ready-made*' graduates.

COIC and others, including City Law School, felt that retaining a sequential approach to training was imperative. Several respondents also expressed doubts about quality-assuring the modules that students would study. The University of Southampton considered that this option would be least likely to ensure high standards and would likely be seen as a secondary route, compared to others. Some respondents did not feel that this option was appropriate if applied to the pupillage stage in particular.

The Western Circuit were especially critical of this option:

"Option B(iv) is a nonsense...It would allow a prospective barrister to start with pupillage, then to take the BPTC, and finally to do a degree course. Such a progression would involve standing common sense on its head."

Comments on Option B(iv)'s advantages and disadvantages indicated that, overall, respondents did not consider this to be an attractive option.

Option C

This option is the 'Bar specialist approach.' The model requires a degree (or equivalent) before taking the Bar Course Aptitude Test (BCAT) to test intellectual ability. Students would then be required to pass a new qualifying examination (BEE), and able to prepare for this in any way they choose. Following this, a three-month approved skills course would be required, ending with a period of work-based learning.

Advantages

Seven respondents shared their views on the advantages of Option C.

Birmingham City University held a discussion group to get the views of their students. Two students at this focus group felt that this was the best of the three options presented in the Consultation, since they believed it would be more affordable and accessible than the current model. 5 Essex Court Chambers likewise believed Option C was the most cost-effective. One barrister respondent stated that this route would increase the ways in which prospective candidates are able to undertake aspects of the course, but did not feel it went far enough.

Disadvantage

Sixty respondents noted their views on the disadvantages of Option C.

Many respondents were concerned about the possibility of removing the requirement of a law degree or GDL. One barrister respondent considered this to be the best of the three options, but expressed '*serious reservations*' about the BEE, believing it would increase costs and should not replace a degree classification. 4 Pump Court chambers likewise opposed '*any move to replace the law degree or GDL requirement,*' and insisted that chambers would not recruit a student without those qualifications. They also believed the regulatory cost of devising the BEE would be '*very high*' and would save neither cost nor time for students.

The Bar Council did not support the proposal for the BSB to create a qualifying examination covering the knowledge requirements of a law degree, and one respondent did not believe the BSB was sufficiently equipped to mark an exam that covers all areas of foundational knowledge. The Chancery Bar Association, amongst other respondents, considered the option to be undesirable due to what they saw as duplication between the academic stage (i.e. QLD or GDL) and the proposed BEE. Respondents also agreed with the assessment in the consultation that it would be costly to deliver. Others agreed that the BEE should not be the only compulsory route and the short skills course would not be appropriate.

A significant number of respondents agreed with the disadvantages laid out in the joint letter to the Chairman of the Bar, namely that:

- A single exam cannot hope to adequately assess all topics;
- Students with a QLD/GDL will take a further test at additional cost;
- Cost to the BSB; and
- There are already a range of flexible options for enabling students without a law degree to acquire foundational legal knowledge.

Several respondents indicated that students without having studied the seven compulsory academic subjects would not have rights of audience in all courts. Unease around the impact on equality and diversity was also evident from responses, for example:

"Option C (by allowing any route for preparation for the proposed 'BEE') would simply replicate the problem with option B that richer students would have access to good training whilst others would not." (Family Law Bar Association)

One respondent agreed with the recognition in the Consultation that Option C could have the unintended consequence of harming equal access to the Bar:

“[The] consultation paper does not acknowledge...the link between going to university and better access to the Bar. Universities provide a profound means of redressing some aspects of the systemic inequality that exists in our society.”
(Lecturer/Barrister)

Nottingham Law School highlighted another disadvantage in that it believed shorter courses favour private providers over university providers, as the structure of the course would be more challenging for universities to deliver. This, they said, would remove the quality assurance oversight of both the regulator and institution.