



Bar Council response to the Legal Education and Training Review's Discussion Paper 02/2011 'Equality, Diversity and Social Mobility Issues Affecting Education and Training in the Legal Services Sector'

1. The General Council of the Bar of England and Wales (the Bar Council) welcomes the opportunity to respond to the Legal Education and Training Review's Discussion Paper 02/2011 on 'Equality, diversity and social mobility issues affecting education and training in the legal services sector'.
2. The Bar Council is the governing body and the Approved Regulator for all barristers in England and Wales. It represents and, through the independent Bar Standards Board (BSB), regulates over 15,000 barristers in self-employed and employed practice. Its principal objectives are to ensure access to justice on terms that are fair to the public and practitioners; to represent the Bar as a modern and forward-looking profession which seeks to maintain and improve the quality and standard of high quality specialist advocacy and advisory services to all clients, based upon the highest standards of ethics, equality and diversity; and to work for the efficient and cost-effective administration of justice.

Overview

3. The Bar Council welcomes the focus that the LETR has placed on encouraging equality, diversity and social mobility in the legal professions. The Bar Council has previously responded to consultations from its regulatory arm, the Bar Standards Board (BSB), and the Legal Services Board (LSB) on equality, diversity and social mobility issues.¹
4. In its capacity as the representative body of the Bar, the Bar Council promotes the Bar's high quality specialist advocacy and advisory services, fair access to justice for all, and the highest standards of ethics, equality and diversity across the profession. The Bar Council has an important role in providing information, advice, guidance and training to students and prospective barristers about careers at the Bar. The Bar Council also provides guidance, support and training to barristers to encourage retention and career progression.

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http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/bar_council_response_to_the_lsb_march_2012_3.pdf

5. As the Discussion Paper describes, societal issues affecting equality, diversity and social mobility are deep rooted and the professions alone cannot hope to address and resolve these problems. The Bar Council is committed to promoting equality, diversity and social mobility at the Bar, with the aim of encouraging a profession that is more representative of the population that it serves.
6. The Bar Council undertakes a wide range of outreach programmes to encourage equality, diversity and social mobility in the profession. These include the Bar Placement Week with the Social Mobility Foundation for year 12 and 13 students, the Bar National Mock Trials competition with the Citizenship Foundation for students aged 11-14, a programme of careers days on circuit for state school students, attendance with the Inns of Court and chambers at the majority of law careers fairs throughout the country, and a speaking programme introducing school students to the Bar.
7. The regulatory landscape in this area has recently undergone considerable change. The LSB's requirements for the approved regulators to collect and publish diversity and social mobility data for the legal workforce on the firm/chambers level have been incorporated into new Code of Conduct rules by the BSB. New Equality and Diversity rules in the Code, which came into force in September 2012, require members of recruitment panels to have received recent training in fair recruitment practices. The Bar Course Aptitude Test (BCAT) will be implemented in late 2012, and we may see an impact on equality, diversity and social mobility at the level of those seeking to join the profession. These changes require close monitoring.
8. In addition, the recent progress report by the Independent Reviewer on Social Mobility and Child Poverty, 'Fair Access to Professional Careers', identified several areas where action is needed from the legal profession, including improved monitoring and evaluation of diversity and outreach initiatives and updated recommendations that the professions are tasked with delivering.
9. Given the amount of regulation and guidance designed to improve equality, diversity and social mobility in the last year, the Bar Council is of the view that time should be taken by the legal professions and their regulators to ensure implementation of and compliance with the new regulations, and to plan delivery of the updated recommendations mentioned above. While the Bar Council welcomes the scrutiny given to equality, diversity and social mobility by the LETR, and in particular the increased understanding of the issues and improved coordination that should result from it, it is responsible to caution against further intervention in what is currently a radically shifting landscape.
10. The Bar Council's data shows that students with state school backgrounds are far less likely to apply for pupillage than those who have attended fee paying schools. 61 per cent of pupillage applicants in 2011 had attended state

schools², compared to 93 per cent for the UK student population as a whole³. 58 per cent of those who obtained pupillage in 2011 had gone to state schools⁴. Overall, those who have attended state schools are far less likely to apply for the Bar Professional Training Course (BPTC) and for pupillage than their privately educated peers.

11. 60 per cent of pupillage applicants in 2011 identified at least one of their parents as being a professional or senior manager, indicating that the majority of applicants are in the highest socio-economic brackets in the UK. 51.6 per cent of applicants and 71.1 per cent of pupils reported that one or more of their parents were educated to degree level, compared to just 24 per cent among the general population in those age groups.⁵
12. These indicators are proxies of socio-economic background and are not definitive. Nevertheless, the trends identified indicate that there is a lack of socio-economic diversity amongst pupillage applicants and pupils compared to both the UK student population and the general population.
13. The Bar has seen a gradual decline in numbers of pupillages since about 1995, particularly at the publicly funded Bar. The impact of ever increasing cuts to legal aid, contraction in the scope of legal aid and late payment of fees has exacerbated this decline.
14. The Bar Council conducts an annual exit survey to quantify and identify the reasons why barristers cease to practice. For women caring responsibilities are a significant factor but for both men and women the chief reason relates to actual or expected income⁶. Many female barristers, particularly Black, Asian and Minority Ethnic (BAME) female barristers rely on publicly funded work and are being adversely impacted by the funding changes referred to above.
15. The Bar Council has identified retention of diversity as a priority. It offers an annual seminar on managing career breaks, has published guidance on taking career breaks and resuming practice and raises awareness of this guidance through diversity training courses for practitioners, practice managers and clerks. Careers information and profiles are being revised to encourage wider interest by female and BAME practitioners in commercial, chancery and civil practice areas that are not reliant on public funding. Mandatory equality rules have been added to the Code of Conduct on:

² Carney, C. (2011) *An analysis of the background of pupillage portal applicants in 2011* p.18

³ <http://www.education.gov.uk/rsgateway/DB/SFR/s001011/index.shtml>

⁴ Carney, C. (2012) *A comparison between the backgrounds of Pupillage Portal applicants in 2009 and registered pupils in 2011*

⁵ *ibid.*

⁶ Robinson, Tim and Cynthia Pinto (2011). General Council of the Bar Exit Survey 2011. London: Electoral Reform Services Research.

http://www.barcouncil.org.uk/media/18145/15_12_general_council_of_the_bar_leavers_report.pdf

parental leave, flexible working, the fair allocation of work and the monitoring of the allocation of unassigned work in chambers.

Responses to questions posed by the Discussion Paper

16. The following are responses to specific questions posed by the Discussion Paper which are relevant to the Bar Council.

Question 1: To what extent is contextual information being used in admission decisions to academic and vocational law courses, and if so what kinds of contextual factors are being taken into account?

The Bar Council is aware that contextual information is used in admissions to academic and vocational law courses to a varying extent. Kaplan Law School is, to our knowledge, the only provider of the BPTC which uses an admissions test. Each student must pass tests in oral and written advocacy and an interview before securing a place.

One common difficulty faced in this area is that there is a lack of consensus surrounding use and application of indicators as there is a lack of standardisation across the sector.

Question 2: Do the difficulties of ensuring continuity and consistency in the use of contextual information at undergraduate/vocational/recruitment stages militate against its use in the legal education and training system?

Not necessarily. We would suggest that the lack of standardisation in the way that contextual information is used may make it difficult at this time to regulate how and when indicators of, for example, socio-economic status are used at undergraduate/vocational/recruitment stages. Admissions systems of universities vary considerably, and the Office for Fair Access (OFFA) has been tasked with overseeing fair admissions in higher education (HE), and would lead on regulating the use of contextual data in the HE sector.

We would also draw the LETR's attention to the fact that much contextual information is used in the existing legal education and training system. Selection for pupillage relies on an intensive process of detailed personal statements, application forms, consideration of mitigating circumstances, interviewing, tests and references.

At least two of the Inns of Court take financial need into account when allocating the millions of pounds of scholarships that they award each year to prospective barristers.

The Bar Council supports the use of contextual information at recruitment stage, and recognises that academic achievement is not the only quality that a good barrister needs to demonstrate. We agree with much of 'The complexity of disadvantage' (p4-

6) section in the Discussion Paper. The new Equality and Diversity rules in the Code of Conduct, which came into force in September 2012, require first the chair of recruitment panels to have undertaken recent training in fair recruitment practices, and by 2014, all members of recruitment panels to have undertaken such training. The training includes best practice guidance on the use of contextual information. This is part of the Bar Council's commitment to encourage and embed support for effective and sustainable policies that will promote improved equality, diversity and social mobility in the profession.

Question 3: Would you welcome greater use of standardised (aptitude) testing at the academic stage? (Please give reasons why/why not)

The Bar Council is of the view that it is for each university to decide whether use of such tests promotes their selection of the best students from the widest pool of applicants.

Question 4: Are you aware of any more recent evidence that suggests the findings of the Cohort Study regarding the impact of student debt on progression still hold true?

No.

Question 5: Do you or your organisation have any direct evidence of the impact of the planned fee arrangements for 2012 on widening university participation?

The LETR Research team will be aware of the UCAS report 'How have applications for full-time undergraduate higher education in the UK changed in 2012?', published on 9 July 2012.

Question 6: Should the relevant approved regulators have any role in offering guidance to law schools on admissions criteria and/or practices in respect of qualifying law degrees?

The Bar Council is not of the view that the approved legal regulators have a role in providing guidance on admissions at the academic stage. More than half of law graduates decide to pursue careers outside of the practising legal professions, and as such it would not be appropriate for the ARs to make regulatory interventions. As mentioned above, this would seem to fall under OFFA's remit. If there is to be any regulatory guidance on admissions, it should be provided by regulators for higher education.

Question 7: A number of diversity initiatives are seeking to make access to work experience more equitable. Are you aware of any evidence to show that these initiatives are being reflected in changing recruitment practices and trends?

Work experience is an important part of obtaining pupillage and most chambers will view work experience as evidence that the applicant has some familiarity with what barristers do and how they work. With this in mind, the Bar Council runs an annual

placement week with the Social Mobility Foundation, assisted by the Inns of Court, that sees year 12 students placed with up to 65 participating sets of chambers. In 2012, year 13 students who took part in the placement week in 2011 and successfully demonstrated their interest in the Bar, returned to undertake a second placement and a developed programme of training. Next year, when these students will have moved on to university, they will be given priority for places on the Pegasus Access Scheme, run by the Inner Temple in partnership with more than 50 sets, which provides mini-pupillages to high-achieving students from less advantaged backgrounds. This has been an important step in coordinating outreach initiatives across the Bar.

The Inner Temple has undertaken to co-fund doctoral research with Keele University to investigate professional intervention in social mobility. It will monitor the impact of some of the social mobility and outreach programmes undertaken in the legal sector, with research beginning later this year. The Bar Council awaits those findings with interest, in particular evaluation of impact of initiatives on recruitment practices and trends.

Question 8: More generally, would you support the creation of some kind of central clearing house for a pool of legal internships?

With very few exceptions, the Bar currently does not offer internships, although it remains willing to consider the extent to which internships might assist with its social mobility objectives. As part of this, the Bar Council is aware of and supportive of several existing third party organisations that aim to coordinate internships across the professions.

Pupillage is the Bar's practical training stage and it is compulsory for all chambers and sole practitioners to register pupillage places on Pupillage Portal (PP). It was decided in 2008 that PP would advertise unfilled pupillage places, in the manner of a clearing system, but that was discontinued in 2012 due to a lack of unfilled places.

Question 9: Do you have any reliable evidence of how widespread clinical and legal work experience programmes are across law schools in England and Wales? Are you aware of specific examples of effective practice that you think we should know about?

The Bar Council is not aware of clinical or legal work experience programmes in law schools.

Question 10: Is there a role for regulation/guidance in encouraging or requiring clinical and/or legal work experience as part of the qualifying law degree?

As discussed at Q 6 above, recent data shows that more than half of law graduates decide to pursue careers outside of the legal sector. Therefore the Bar Council is not of the view that regulation in this area is necessary or appropriate. As part of their respective careers services, the advice of the Bar Council and the Inns of Court is

consistent, advising law students and non law students who are interested in pursuing a career in law to undertake work experience while at university.

Question 11: Are you aware of any recent evidence to suggest that cost is a significant barrier to wider participation in vocational training?

From contact with students and teachers, the Bar Council is aware that the cost of the BPTC is a considerable and even insurmountable challenge for many students, and clearly for students from lower socio-economic backgrounds this is a real barrier to entry. Fees now range from £10,000 to £17,000.

Research carried out by the Bar Council suggests that 45 per cent of pupillage applicants in 2011 expected to have £20,000 or more of debt on completion of pupillage, with 11 per cent expecting to incur £40,000 or more and 15 per cent expecting to complete pupillage debt free. Those who did not expect to incur debt were found to be more likely to have gone to a fee paying school; have parents educated to degree level; and have parents working as professionals. Those individuals with the highest levels of debt were more likely to display other indicators of lower socio-economic background. They were more likely to have been state educated, to have parents not educated to degree level, and to have parents working outside of the professions.⁷

Question 12: To what extent (if any) is contextual information used in informing admissions decisions to the LPC and BPTC? Should its use be increased?

See answers to Qs 1 and 2, above.

Question 13: What role (if any) should regulation play in setting criteria or guidance for the offering of sponsorship by training providers and/or professional bodies?

The Bar Council is strongly opposed to regulatory intervention or the setting of criteria in relation to scholarships provided by independent organisations with their own charitable objectives. The majority of funding for BPTC students and pupils is made through scholarships awarded by the Inns of Court, which will grant approximately £5 million in total in 2012-13. The Bar Council understands that two of the four Inns use means testing to influence the allocation of scholarship awards.

The Bar Council believes that provision of scholarships by BPTC providers should be encouraged, but not if this would result in increased course fees which would be likely to adversely affect the vast majority of students.

Question 14: What additional measures (if any) should be introduced regarding the monitoring by the relevant approved regulator of funding awards for BPTC/LPC?

The Bar Council intends to work together with the Inns of Court in procuring the

⁷ Carney, C. (2011) *An analysis of the background of pupillage portal applicants in 2011* p.21

publication of criteria for scholarship awards and allocation, which would increase transparency, and encourage best practice. Much of this information is already available on the Inns' respective websites. As noted above, the Inns are independent organisations and the Bar Council does not see that regulatory intervention or the setting of regulatory criteria in this area would be appropriate.

Question 15: In principle, could/should the professional law schools (offering the BPTC/LPC) be required to offer scholarships linked to financial need as a condition of validation?

As above, the Bar Council would support the provision of more scholarships by BPTC providers, but not if this has the direct or indirect result of increased course fees, which would be likely to adversely affect social mobility and equality and diversity in the profile of those applying to and joining the Bar.

Question 16: What evidence is there (if any) that lack of portability of LPC/BPTC is a problem or constraint? Could/should more be done to increase the general value of these qualifications in the graduate jobs market, without diminishing their professional relevance?

The Bar Council recognises that up to 5 out of 6 BPTC graduates will not obtain pupillage. Therefore, it is important that the BPTC is a rigorous and useful qualification to prepare students for careers both in and outside of the legal sector. As such, the Bar Council supports the offer of BPTC/LPCs that can be upgraded to a Master's degree relatively easily, as this improves the portability of the qualification.

Any revision to content and/or structure of the BPTC would need to be impact assessed to ensure that particular groups are not adversely affected, and to ensure that standards are maintained.

Question 17: In your view, is the introduction of aptitude testing something that is more likely to have a positive, negative or neutral impact on diversity at the vocational stage?

The Bar Council supports the BCAT commissioned by the BSB. Evidence from two pilots shows that BCAT has been found to "predict better than A-levels and degree information combined" likelihood of successful completion of the BPTC. Given that up to 5 out of 6 BPTC graduates do not obtain pupillage, a measure that demonstrates likelihood of successful completion of the Bar Course is likely to be beneficial to students, course providers and the profession.

It is likely that some capable students from lower socio-economic backgrounds are deterred from the BPTC by the well publicised discrepancy between the numbers of BPTC graduates, and the numbers that successfully obtain pupillage. The Bar Council welcomes measures designed to alleviate this discrepancy.

Question 18: In your view, are there existing regulatory provisions or standards that

have a negative impact on fair access to the legal professions?

The BSB has long required Chambers offering pupillage to provide funding at a minimum level (currently £12,000), in order to avoid lack of funding acting as a deterrent to practice at the Bar. The Bar Council views this as an important social mobility initiative. However, some sets (particularly those carrying out publicly funded work) may find themselves unable to subsidise pupils in this way and, as a result, the number of pupillages on offer may decline. Recent data shows that pupillage numbers fell from 562 in the year 2007-8 to 446 in the year 2010-11⁸. The Inns of Court have set up a committee to consider the ways in which this problem might be addressed. The effect on diversity is disproportionate, since the publicly funded sets tend to attract higher numbers of female and BAME candidates. The percentage of female pupils has fallen from 44 to 41 per cent and for BAME pupils from 19 to 13 per cent between the years 2007-8 to 2010-11.

Regulation of Approved Training Organisations (ATOs) of pupils outside private practice should be reviewed to ensure that it meets and protects the needs of the public, the Bar, and the wider legal profession. With the Employed Bar set to grow and with the introduction of entity regulation, regulation of ATO's should be aimed at protecting standards of training for pupils, and to encourage more employers to offer more pupillages. The Employed Bar has greater proportions of both female and BAME pupils and practitioners than the self-employed Bar, therefore growth in this area of the profession would be likely to have a positive impact on levels of social mobility and diversity.

Question 19: Are there existing regulatory barriers that, in your view, unduly limit training opportunities in the in-house or third sectors?

The Bar Council believes that pupillage outside chambers is at present undervalued, and is capable of allowing a greater and diverse number of BPTC graduates to complete their legal training and become barristers. It is currently considering a strategy to involve the employed Bar to a greater extent than hitherto in this process.

Question 20: Are there other measures that the regulatory or representative bodies could introduce that would increase alternative training opportunities outside of private practice?

The Bar Council considers that improved communication with the profession including guidance on how to register and maintain status as an ATO, and improved careers information about career opportunities beyond self-employed and publicly funded practice would be beneficial.

Question 21: What equality, diversity and social mobility outcomes (if any) would you wish to see prescribed by approved regulators in respect of legal education and training?

⁸ *Bar Barometer: Trends in the profile of the Bar (2011)* – The General Council of the Bar

The Bar Council's view is that regulation of equality and diversity outcomes in respect of the academic stage of legal training is for existing regulators to decide. The prescription of social mobility outcomes is not currently a regulatory objective, and the profession should be free to continue the work it is currently doing without regulation.

At the BPTC stage, there are more places available than there are applicants that are enrolled, so it is difficult to see what social mobility outcomes the Bar Council as AR could prescribe that would have an impact on levels of social mobility in the profession.

Question 22: Is there a case for introducing recruitment targets for equality and diversity purposes, and if so, should these be measured against general population, or general university, or law school, or other norms?

The Bar Council is not in favour of introducing recruitment targets for equality and diversity or social mobility purposes at this time. The imminent introduction of Code of Conduct rules requiring collection and publication of workforce statistics on equality and diversity and social mobility should attract useful focus to the current profile of the profession, and the impact of those rules should be gauged before further regulatory intervention. Compliance with the new rules poses administrative challenges for the profession, and thorough implementation will take time.

The majority of chambers that offer pupillage offer no more than one or two each per year, and the application of recruitment targets in that situation is wholly impractical in the Bar Council's view.

The BSB has promulgated a new Code of Conduct rule on recruitment diversity monitoring and encourages chambers to monitor by protected characteristic and socio-economic background the success rates of different groups into pupillage and tenancy. It recommends chambers management committees review their diversity recruitment data, measure outcomes against appropriate external comparators and take remedial steps where under representation of a particular group is identified. The Bar Council has published detailed guidance to barristers on monitoring and evaluation in its Fair Recruitment Guide and recommends external comparators.

Recruitment panels at the Bar remain focused on merit as the key criterion for selecting pupils, and this is typically assessed on myriad factors including academic achievement, performance in interviews including written and oral advocacy tests, demonstrable interest in the Bar and in the work of barristers. Merit must remain at the heart of recruitment criteria, to maintain standards in the profession and to protect consumers and access to justice.

Question 23: There have been long-term criticisms of a lack of support for returners-to-work. Are there gaps in relation to return-to-work programmes, or entity training obligations to returners that should be addressed by the approved regulators?

The problem of retention is widely recognised and much work has been done to identify and address the issue and devise schemes for returners. The Equality and Diversity Committee of the Bar Council is engaged with this issue (see paragraph 15 of the introduction to this response.)

As a first step, all chambers are now expected by Code of Conduct rules to have devised a policy for barristers and staff taking maternity/paternity leave. In some instances these policies extend to pupils and researchers. The provision of return-to-work programmes rarely happens at a chambers level, most programmes are run more centrally by the Bar Council. This is because few chambers are large enough to devise and run a return-to-work programme although steps that chambers can take to assist retention (e.g. provision of mentors and keeping in touch opportunities) are set out in Bar Council guidance.

The Bar Council's annual seminar on managing career breaks deals with all issues relating to returning to practice and assists barristers in building the skills needed to re-establish their careers.

Question 24: Are you aware of any other significant training gaps or needs that appear significantly to limit career progression and retention of a diverse workforce?

The Bar Council would strongly support further training and information events to encourage a broader pool of applicants for silk and judicial office. We would support the monitoring of equality, diversity and socio-economic background of those progressing through legal careers.

The 2007 Entry to the Bar Working Party Report, which was adopted by the Bar Council, recommended that some equality and diversity training should be made compulsory for all barristers as part of their continuing professional development requirements. This is also expected by many government agencies and others who instruct the Bar. By introducing compulsory training, all barristers both as individuals and within a chambers setting would have greater understanding of the issues that affect diversity and retention. The recent changes to the Code of Conduct are an important step in this direction, and it is contemplated that compulsory equality and diversity training for all practitioners will be introduced in the foreseeable future.

Question 25: Do you agree that (i) diversity training should take place at several career points including the LLB, LPC and BPTC stages and for qualified lawyers (as CPD); (ii) approved regulators should also specifically require diversity training of senior staff in firms/chambers/ABSs? If so why, if not, why not?

- (i) The issue of diversity is relevant to all aspects of legal education. The Bar Council would in principle support any efforts to introduce Bar students to the concepts and their practical application at an early stage. The regulation of the LLB or LPC is not an issue on which the Bar Council

wishes to comment.

- (ii) See answers to Q. 24 above in respect of mandatory diversity training. A requirement for training in fair recruitment has been included in rules published this September.

For some years the Bar Council has been offering voluntary diversity training courses to practitioners. All chambers are currently expected to devise and adopt policy in respect of equality and diversity. The policy is expected to ensure that diversity training is given to as wide a group within chambers as possible. Firstly and most importantly training is given to key players within chambers such as those involved in recruitment, Chambers' Equality and Diversity Officers, Clerks and Practice Managers. Thereafter all chambers are encouraged to cascade the diversity training to others within chambers until all those involved in recruitment and the management of chambers are fully trained.

Question 26: Do you have any concerns, and are you aware of any evidence, that CPD costs currently have a negative impact on equality and diversity in respect of any part of the regulated workforce?

The Bar Council and other providers of CPD currently offer a wide selection of professional development opportunities. The cost to practitioners varies enormously. The most expensive are commercial CPD providers for whom it is essential to make a profit. However, many of the best events run by the Bar Council, the Specialist Bar Associations and the Inns of Court are subsidized and therefore reasonably priced and most often within the budget of the regulated workforce. There is no evidence that the quality of the content of these 'cheaper' CPD opportunities is inferior to the more expensive events, and in many instances the content is in fact better than its costly counterpart. Whilst the cost of some of the most expensive CPD events is prohibitive and beyond the purse of many practitioners, there is no evidence that CPD costs is having a negative impact on equality and diversity.

It is essential that CPD course providers offer courses in accessible venues and materials in accessible formats so that disabled practitioners are not restricted in the opportunity to obtain CPD.

Question 27: Are concerns about their adverse equality and diversity impact currently acting as a brake on the introduction of CPD requirements, or on other innovations in training developments, in your part of the sector?

No. See answer to Q.26 above.

Question 28: In your opinion, would a periodic (e.g. 5 yearly) re-accreditation requirement have any disproportionate impact on equality and diversity in your part of the sector? Are you aware of any evidence in support of that opinion?

The Bar Council is not aware of any evidence that would support an opinion either

way, and does not therefore feel able to provide an opinion in answer to this question. The Bar Council would naturally expect to see an equality and diversity impact assessment prior to any reaccreditation proposals being taken further.

Question 29: Are you aware of successful examples of outreach work with younger pupils (11-14)?

The Bar Council is aware that The Citizenship Foundation and Linklaters run 'Lawyers in Schools', which places practising and trainee lawyers into the classroom to work with young people to develop their awareness and understanding of the law.

Question 30: Do you agree that there should be a sector-wide, non-regulatory, body to co-ordinate diversity initiatives? (Please give reasons why/why not)

The Bar Council would support a non-regulatory body that would work to co-ordinate diversity initiatives, though mindful to not incur any additional expenses on already financially stretched professional bodies. With agreement improved co-ordination could be achieved by informal mechanisms. We endorse the need for coordinated evaluation of diversity initiatives as 'Fair Access to Professional Careers' noted that 'the plethora of initiatives has to be much more focused if it is to stand any chance of broadening the social intake and make-up of the legal profession.' (p40) This can be achieved through the sharing of information and use of existing research resources across the legal professional bodies by a co-ordinating hub.

Question 31: Do you agree that law schools should publish equality and diversity data in respect of their law courses? (Please give reasons why/why not)

The Bar Council would support the publication of equality and diversity data by individual law schools, as it would enable the better identification of how and where the legal profession becomes less diverse, and help better to target the issue. This data should cover all the protected characteristics and socio economic background on applicants, those enrolled and results achieved. We consider that students would be better advised on their choices of law course if this data was published.

The Bar Council takes the view that the number of BPTC graduates is excessive. At the pupillage stage there is a massive oversupply of applicants. The problem is exacerbated by the recent reductions in publicly-funded fees which has had an impact on the level of work available and number of pupillages being offered.

In the assessment of the Bar Council the scarcity of pupillages and the debt burden faced by candidates is already impacting adversely on the diversity of those applying to law school. The Bar cannot hope to correct this imbalance on its own.

Question 32: In your view, have the approved regulators (or any one of them – please specify) done sufficient to embed the social mobility and fair access agenda into their future strategic planning?

The Bar Council considers that the BSB has done an immense amount of ground-breaking work in recent years to embed the objectives addressed by this paper. That said, the Bar Council is not complacent and acknowledges that there is always more to be done. It considers that it is better to implement the agenda in an incremental fashion to ensure buy-in from the progression than to force through rapid and unexpected change that may have little impact on affecting ways of working.

Question 33: Is there any other regulatory action that should be taken by the approved regulators (or any one of them) to ensure that progress on fair access and social mobility is embedded in the work of the regulated profession(s)?

As this question identifies (although it should again be emphasised that social mobility is not a regulatory requirement), the key to progress social mobility at the Bar is to ensure that the importance of social mobility and equality and diversity is embedded into the professions. It is vital to ensure that the professions do not suffer 'regulatory fatigue' in this area as that would be counterproductive. Compliance with and the impact of existing regulation in this area must be properly monitored and evaluated. The ARs should monitor the collection and publication of data on diversity and social mobility within the legal workforce.

'Fair Access to Professional Careers' concluded that 'overall, law is on the right track but its progress is too slow. It needs to significantly accelerate.' If law is on the right track in relation to improving access, the sector has needed very little- if any- regulatory intervention to find that path. Further regulation at this stage, without a thorough understanding of potential impact, risks derailing the progress the profession has made.

Question 34: Is there any other regulatory action that should be taken by the approved regulators (or any one of them) to ensure that progress on fair access and social mobility is embedded in the work of the academic and/or professional law schools?

The Bar Council takes the view that this is more a matter for the law schools.

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