

# BAR STANDARDS BOARD

REGULATING BARRISTERS

## Impact of Covid-19 on pupillage

### Introduction

1. This report provides an update on our [September 2020 report](#) on the impact that COVID-19 has had on pupillage.

### Summary

2. As reported in September, the *potential* risks that we are alert to include the following:
  - a) Whether the Bar remains an attractive career prospect to students.
  - b) The impact on the number of junior barristers and the ability of the profession to deliver access to justice, particularly in the most affected areas of law.
  - c) The impact on the good progress that has been made to improve diversity at the Bar.
  - d) Damage to the financial resilience of some chambers and other Authorised Education and Training Organisations (“AETOs”).
3. As anticipated, there was a significant fall of 35% in pupillage numbers in 2020 and the impact of the pandemic on the profession looks set to affect pupillage numbers in 2021, although recruitment levels are picking up.
4. Our intervention allowing pupils to progress to pupillage pending their BPTC/BTT results in 2020 had a positive impact on the continuity of training and was widely taken up.
5. Further information about the impact of the pandemic on chambers and BSB entities is being gathered from the [Regulatory Returns](#), which are providing a very helpful source of information that we are now analysing. We are very grateful to all those who are contributing to this process.
6. In addition, we will continue to engage with the profession, through responding to questions and reports of pupillage changes, regular communication with the Bar Council, Inns of Court and Circuits and monitoring data on pupillage numbers and composition. In particular, we have decided to invite interested stakeholders to a roundtable event to contribute their views about the pupillage funding model. If you are interested in participating, please contact us by emailing us at [supervision@barstandardsboard.org.uk](mailto:supervision@barstandardsboard.org.uk)

## Pupillage registrations in 2020 and 2021

7. A total of 386 pupillages were registered in 2020, compared to 592 in 2019, which is a significant drop of 35%.
8. In September we reported that 26% of the AETOs that we engaged with that had pupils had confirmed that they intended to delay planned start dates. Most were deferring start dates between one and six months, but some were deferring for a year from October 2020 to October 2021.
9. The deferrals are now starting to show in the statistics for 2021, as January registrations were higher than usual. There were 51 pupillages registered in January 2021, compared with 15 to 17 in January in the years 2018 to 2020.

## Impact of the waiver allowing pupillage to commence before completing vocational training

10. Our intervention allowing pupils to progress to pupillage pending their BPTC/BTT results in 2020 had a positive impact on the continuity of training and was widely taken up.
11. We published a [waiver](#) allowing 2020 BPTC/BTT students to progress to the non-practising period of pupillage with the agreement of their AETO, pending the satisfactory completion of their vocational training. AETOs were required to assess the risks of allowing individual pupils to commence pupillage under these circumstances, with reference to our published [guidance](#). We encouraged AETOs to allow people to progress as planned to pupillage. The guidance set out the factors to consider when taking that decision.
12. These pupils are not permitted to progress to the practising period of pupillage, nor be eligible to apply for a provisional practising certificate, until they have successfully completed their vocational training and required Qualifying Sessions, and been Called to the Bar. If a pupil fails to complete the BPTC or BTT satisfactorily, it will be for the AETO to determine whether they are willing to continue to fund the pupil through an extended non-practising period of pupillage. The AETO will need to consider, in line with our guidance, how long they are prepared to continue funding the pupil through an extended non-practising period and to address it in the written pupillage agreement (which is now a mandatory requirement).
13. We identified 81 AETOs and 115 prospective pupils in this position. The majority of these took up the waiver, enabling the pupillages to commence. The outcome for those 115 pupils so far is as follows:

Number of pupillages that have commenced	95
Number of pupils that have commenced pupillage but not yet been Called	30
Number of pupillages that have not commenced	20

Of those that have not yet commenced, AETOs have so far reported that 14 are due to start later in 2021 (some in March and some in October).

## Extended pupillages

14. We reported in September that 13% of those with whom we engaged that had current pupils told us that, in order to sign off their pupil as having met the competences in the Professional Statement they were considering extending, or had already decided to extend, the practising period of pupillages. Some were planning to extend the period of pupillage to give pupils a better chance to build their practice and continue to receive financial support from chambers.
15. This pattern is now reflected in the statistics for 2020:
- As of 1 December 2020, there were 39 pupils undertaking pupillages that commenced more than one year ago. The equivalent average figure from 2015-2019 was around eight such pupils.
  - Of the pupillages that commenced from March to December 2019 which should have been completed in the period since the March 2020 lockdown, 54 pupillages were extended.

## Recruitment 2021-23

16. In September, we reported that an encouraging proportion of AETOs were pressing on with recruitment plans but the knock-on effect of the next intake of pupillages being deferred could affect plans for pupillages in future years up to 2022. We also reported that the Bar Council's statistics from AETOs that recruited via the Pupillage Gateway in the November 2019 to May 2020 recruitment period, indicated that the number of pupils recruited for 2021 through the Gateway last year (which accounts for about half of AETOs) had fallen significantly.
17. We have now mandated the timetable for pupillage recruitment. The advertising window for this season opened in November and closes on 8 February. As at 19 January 2021, 172 AETOs were advertising pupillages. This compares to 159 AETOs that had new pupils starting in 2020.
18. As at 19 January 2021, the following adverts were live:

<b>No. pupillages advertised</b>	
Starting 2021	103
Starting 2022	295
Starting 2023	8
<b>Total</b>	<b>406</b>

There are 216 AETOs who took pupils in 2020 and/or have advertised for 2021-23. Of these, 39% are increasing their intake over this period, 33% are recruiting at the same level and 28% were not advertising at a comparable level. Such fluctuations are not unusual. Not all AETOs take pupils every year. Also, this is not the complete picture as some pupillages starting in 2021 will have been advertised last year and some AETOs will advertise for 2022 pupils next year. The above proportions advertised for the same

or following year, together with the information provided by the Bar Council about recruitment last year (see above) help to build the picture.

19. Also to note, three large pupillage providers are not represented in the above data. In 2020, they took on 70 pupils between them and we are aware they intend to apply for a waiver to advertise outside the timetable this year.
20. There may be some AETOs who are undecided about their ability to take on pupils this year or next and who will seek a waiver to advertise outside the mandatory window. We will provide more flexibility by allowing those who do not feel confident enough to advertise for pupils between November and January to advertise subsequently, provided they complete their recruitment by the end of August and do not make any offers before the mandatory 7-day offer period in May.
21. Taken in total, the above data continues to indicate potential for a decline in pupillage numbers in 2021-22 compared with 2017-19, but indicates an increase on 2020.

### **Diversity**

22. The [2020 Diversity at the Bar](#) report has been published. Compared with 2019, there has been a relatively large change compared to previous years in the following areas:
  - Whilst the proportion of female and male pupils as of December 2020 was the same, at 50 per cent, the proportion of female pupils has fallen by 4% since 2019. This is the first year since 2015 where the percentage of female pupils has not been greater than that of male pupils.
  - The proportion of pupils from a minority ethnic background increased by 4 per cent compared with December 2019 to 23 per cent. This is the highest proportion of pupils from minority ethnic backgrounds, and the largest year-on-year increase seen since the first Diversity at the Bar Report in 2015.

### **February 2021**