

Pupillage Recruitment research

Bar Standards Board
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Bringing the voices of communities into the heart of organisations



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1. Executive summary

1.1 Introduction to the research

In February 2023, the BSB appointed Community Research to undertake research to understand the experiences of organisations who have adopted various approaches to pupillage recruitment, to understand how these approaches would be beneficial to a diverse range of candidates, and to explore organisations' experiences to date using these approaches.

The research programme comprised a series of depth interviews that took place between April and October 2023:

- 10 x stakeholder organisations, including Inns of Court.
- 30 x AETOs (Authorised Education and Training Organisations), from here on in referred to as 'pupillage providers'.
 - These interviews included organisations from both the self-employed and employed Bar.

1.2 Key findings

Views on diversity as a priority within the profession

- The research identified numerous drivers for a focus on more diverse outcomes at recruitment, including ensuring the legal system reflects and has the confidence of the society it serves, as well as moral and commercial imperatives.
- There is a sense that progress has been made both through specific initiatives and through organic change with new generations of barristers coming through. However, effecting meaningful change is regarded as challenging and there was acknowledgement that there is some way to go.

Pre-application activities and outreach

- Providers mentioned a host of activities aimed at dispelling the prevailing narrative about who a career in the Bar is for and widening the pool of potential applicants. It was evident that much effort is expended by pupillage providers to recruit for more diverse outcomes— both in collaboration with other organisations and individually. Inns of Court are also alive to the issues and some are reviewing or have reviewed how they award scholarships.
- Mini pupillages were a core activity – both in terms of the applicants getting a feel for a career at the Bar and also demonstrating their commitment and interest to potential pupillage providers.
 - Whilst some informal networking remains in place, much work is being done to ensure more equitable access to these vital opportunities.
- That said, some issues were noted in relation to mini pupillages and pre-application activities and outreach more broadly:



- There was some concern that a plethora of different pre-application initiatives did not necessarily widen access but potentially resulted in the same aspiring applicants receiving multiple offers of support.
- Amongst all organisations there is finite capacity to support mentoring activity and challenges associated with implementing a robust application process for mini pupillages. These issues are felt most acutely within smaller organisations.
- There were some questions over the evaluation of pre-application activities including schemes offering mini pupillages to under-represented applicants i.e. can their impact be measured and, if so, are they making a difference?

Designing and delivering the recruitment process

- The mandatory timetable was thought to have a significant impact on the design of recruitment processes, as providers worked to deliver fair and robust systems within a set timeframe.
- While there were some evident similarities across many of the processes adopted (and in particular the selection criteria employed), no two processes described by pupillage providers were exactly the same. There were particular differences in relation to:
 - How long in advance pupillage providers recruited for.
 - The use of the Gateway (and attitudes towards it).
 - How academic achievement is treated within the weighting criteria and whether the name of the university is redacted (with evident debate within chambers about this).
 - The amount of information sent out to applicants in advance of an interview.
 - The format and length of interviews and the number of people on the interview panel.
 - The use of mini pupillages as an integral part of the recruitment process.
 - The merits of using an oral advocacy exercise based on a topical – rather than legal – question and of testing an applicant’s ability to ‘think on their feet’.
- There were also some specific areas of debate and discussion:
 - Whether the rigidity of the scoring system at the sifting stage potentially disadvantages applicants from more diverse backgrounds.
 - Whether blind recruitment, whilst appearing fairer, doesn’t always lead to more diverse outcomes.
 - If contextual recruitment was being used to its full potential by those who used it. Linked to this, those who didn’t currently use it were looking for advice on how to do so (in a cost-effective way).
 - Whilst most were comfortable about the use of access schemes and targeted mentoring support, concern was expressed about any notion of positive discrimination.



- Concern about the fact that applicants from diverse backgrounds were making it through the initial sifting and first interview but then failing to progress to second interview. Some attributed it to their lack of 'polish'.
- Discussions highlighted how 'polish' was more likely to be displayed by applicants who had enjoyed the benefits of a 'middle-class' education, top university and, to a lesser extent, mentoring schemes.

Data, monitoring and evaluation

Various issues were identified in relation to data completeness and accuracy of the data collected, in addition to how it is used:

- Applicants are not required to provide a response to specific questions which results in incomplete sets of data.
- Social mobility is difficult to reliably monitor, with inherent problems seen in most of the proxy measures.
- Questions were also raised about whether the intersectionality of ethnicity and socio-economic group was monitored and understood, in addition to whether analysis by ethnicity is conducted at too high a level.
- Stakeholders questioned the extent to which pre-application activities are measured for impact.
- It was apparent that there was variability in the extent to which pupillage providers analysed the collected data.

Perceived barriers to recruiting for more diverse outcomes

The challenges of recruiting for more diverse outcomes were clearly articulated and included the following:

- Tackling issues at pupillage recruitment was felt to be only a small part of the equation with broader, more systemic factors that need to be addressed before meaningful change can happen.
 - Some advantages are felt to be 'baked into the system' much earlier than the recruitment process for pupillage and others are difficult to tackle (for instance, 'accentism' and the use of language impacting on interview stages).
- Most of the pupillage providers taking part in the research were recruiting pupils with a view to tenancy and, therefore, understandably reluctant to take a risk on an appointment.
- It was flagged that it can be very difficult attracting diverse applicants to less diverse areas of law (and less diverse chambers).
- While culture was rarely seen as an outright barrier to recruiting for more diverse outcomes, several pupillage providers did recognise that there could be an issue with affinity bias within their recruitment process.
- As pupillage providers only recruited a small number of pupils each year (or alternative years) any changes to recruitment processes were inevitably slow to make an impact.



- Effort and resources applied to recruiting for more diverse outcomes may not necessarily translate into outcomes i.e. pupillage providers may make offers to applicants from minority ethnic groups and/or lower socio-economic groups but they may not be accepted, as outstanding applicants received multiple offers.
- The responsibility for pupillage recruitment was rarely anyone's day job (outside of larger, more affluent chambers and some employed organisations). Meaning that they do not have the time or expertise to make wholesale changes to recruitment processes.

Participants' suggestions to encourage more diverse outcomes

Participants put forward a number of suggestions to encourage more diverse outcomes. These can be broadly summarised as follows:

- Providing more support to providers i.e. free or affordable advice for providers wishing to make changes to their recruitment processes; funding to take on additional pupils.
- Promoting a broad range of pre-application activities as possible alternatives to mini pupillages; more mentoring/interview coaching opportunities for applicants.
- Sharing learnings/best practice about recruitment processes (as well as data).
- Making changes to recruitment processes themselves i.e. include lay person on panels; provide applicants with more feedback; better use of contextual recruitment; and the potential to have a wider debate about the merits of more significant changes, such as introducing situational judgement tests.



2. Introduction

2.1 Policy context

Training for the Bar comprises three components: academic; vocational; and pupillage. To complete the academic component, students must complete a law degree which meets the requirements set out in the Curriculum and Assessment Strategy¹, before proceeding to the vocational component.

Vocational requirements are currently satisfied through completion of a Bar training course which can only be taken after achieving the required academic qualifications and becoming a member of one of four Inns of Court. The Bar training courses are designed to give students the skills, knowledge of procedure, and competence to qualify and be called to the Bar.

Work-based requirements are currently satisfied through the completion of pupillage (usually one year) and consist of gaining practical training under the supervision of an experienced barrister. Pupillage can only be commenced following successful completion of the Bar training course and being called to the Bar.

The Bar Standards Board (BSB) has a regulatory role in all three components of Bar training: they set out the academic qualifications required from the academic component²; the terms of entry to – and the content of – the vocational training which follows, including the elements of centralised assessment; and they regulate the provision of the final stage of pupillage, including prescribing a centralised assessment during pupillage. The BSB is responsible for authorising vocational and pupillage training organisations. The BSB is also responsible for encouraging fair access to the profession, including at the vocational and pupillage stages of training.

Previous research conducted by the BSB as part of an ongoing programme of research has identified differential outcomes in terms of success at obtaining pupillage. In 2017, the BSB published research that explored success at obtaining pupillage, looking at the impact of demographic factors while controlling for other factors such as prior academic attainment.³ This research found that both ethnicity and socio-economic status were strongly linked with success at obtaining pupillage (see Figure 1 overleaf).

Also in 2017, the BSB published qualitative research with vocational course students that looked at barriers to training for the Bar⁴. The research found that students

¹ [Curriculum and Assessment Strategy December 2023.pdf \(barstandardsboard.org.uk\)](#)

² Note that the BSB does not regulate the content of undergraduate degrees or authorise the providers for those degrees and they expect a Higher Education Institution (HEI) or body with degree-awarding powers to do so independently of them within the framework of the relevant competent bodies for HEI quality assurance and regulation. However, they do require the Foundations of Legal Knowledge (see Curriculum and Assessment Strategy above) to be covered.

³ [Exploring Differential Attainment at BPTC and Pupillage \(BSB, 2017\)](#)

⁴ [Barriers to Training for the Bar \(BSB, 2017\)](#)



viewed the Bar as largely the preserve of an 'elite', privileged group, more accessible to White men from an 'elite' educational background than others. Barriers experienced to obtaining pupillage from underrepresented groups included a lack of informal networks in the profession to help find work experience placements or mini-pupillages; the financial implications of attending interviews and unpaid mini-pupillages for those from lower income backgrounds; and a perception that the organisational culture in some chambers influenced the pupillage application and selection process in a way that disadvantaged certain groups.

In 2018, the BSB published research looking at selection criteria detailed in pupillage advertisements and sifting criteria provided by pupillage providers' websites.⁵ The research found that close to half of pupillage organisations cited their support for equality and diversity in some way. Intellectual ability – as demonstrated by prior academic attainment – was the most common criterion for selection given in advertisements, with many providers specifying a minimum degree requirement for consideration (around 39 per cent of pupillage places specified an upper second class or first-class degree as a minimum). Prior academic attainment was also the most important factor in sifting applicants. The focus on prior attainment has the potential to favour those from more privileged backgrounds. Notably, 13 per cent of pupillage advertisements highlighted mini pupillages undertaken with the recruiting pupillage provider as a requirement for consideration, a requirement that could indirectly impact applicants from lower income backgrounds due to the cost of undertaking an unpaid mini pupillage and the increased difficulty of obtaining one for those without existing links to the profession.

Figure 1 – Statistics behind the research

Ethnicity - students from minority ethnic backgrounds are less successful than White students at obtaining pupillage after completing a Bar vocational training course. 2021 Key Statistics report⁶ found that of UK/EU domiciled BPTC graduates with a 2:1 and Very Competent overall BPTC grade, 41 per cent of those from White backgrounds had started pupillage, compared to around 23 per cent of those from a minority ethnic background. This mirrored the findings from earlier research which found that BPTC graduates from minority ethnic backgrounds were half as likely as White graduates to obtain pupillage when controlling for the effects of other variables such as prior educational attainment.

Socio-economic status (using parental degree as a proxy) also has a significant predictive effect when controlling for the effects of the other explanatory variables such as prior educational attainment. BPTC graduates with no parent with a degree

⁵ [Review of Pupillage Advertising and Selection Criteria \(BSB 2019\)](#)

⁶ [BPTC-Key-Statistics-Report-2021-All-parts.pdf \(barstandardsboard.org.uk\)](#)



are around two thirds as likely as graduates with at least one parent with a degree to obtain pupillage.⁷

2.2 Research objectives

In February 2023, the BSB appointed Community Research to undertake research into pupillage recruitment at the Bar. The overarching objective of this piece of research is to understand the experiences of organisations who have adopted various approaches to pupillage recruitment, to understand how these approaches would be beneficial to a diverse range of candidates, and experiences to date using these approaches.

Specific questions that the research seeks to address include:

- What are the experiences of organisations around the recruitment of pupils, in particular those using recruitment approaches aimed at promoting fairer and more inclusive outcomes?
- What factors do pupillage providers consider when assessing applications/interviews, and to what extent does this vary between providers?
- What do pupillage providers see as the key benefits to their organisation/pupillage applicants of adopting particular approaches to pupillage recruitment?
- What challenges have organisations seen in terms of adopting particular approaches to the recruitment of pupils, especially approaches aimed at promoting fairer and more inclusive outcomes?
- What approaches do organisations see as being most successful at both identifying suitable pupillage candidates and promoting diverse outcomes?

2.3 Methodology

The research programme comprised a series of depth interviews that took place between April and October 2023:

- 10 x stakeholder organisations, including Inns of Court
 - Organisations were selected based on one or a combination of factors: their role in pre-application activities; publication of previous reports on the issues; perceived influence over recruitment processes at the Bar.
 - Individuals representing these organisations were often in a role that focussed on EDI or were responsible for work that aimed to meet EDI goals.
- 30 x pupillage providers.
 - These interviews included organisations from both the self-employed and employed Bar.

⁷ [Differential-Attainment-at-BPTC-and-Pupillage-analysis.pdf \(barstandardsboard.org.uk\)](https://www.barstandardsboard.org.uk/wp-content/uploads/2023/07/Differential-Attainment-at-BPTC-and-Pupillage-analysis.pdf)



The BSB approached stakeholder organisations directly and, if they agreed to be part of the research, passed their details to Community Research to schedule an interview. Interviews took place online and lasted approximately one hour; all interviews were recorded and transcribed.

For interviews with pupillage providers Community Research operated an 'opt in' process to the research. The BSB emailed pupillage providers, explaining both the context and the purpose of the research and emphasising the importance of taking part. This initial communication linked to a short screening survey designed to collect the contact details of those that were interested in participating; clearly explaining to potential participants that they were sharing their data with Community Research (not the BSB) for the purpose of being contacted for the research. This method of recruitment, whilst self-selective, ensured that pupillage providers had anonymity within the research process – the BSB does not know the names of the organisations who kindly agreed to participate in the research.

Although this was an 'opt in' approach as far as possible participants were selected against a sample framework designed to broadly represent the profession to ensure a broad mix by key quotas. No incentives were offered and participation was entirely voluntary.

2.4 Sample breakdown

The overall sample frame was derived from information held by the BSB as part of its ongoing monitoring activity. This information includes location, size of organisation (based on barrister count) and whether or not organisations are part of the employed or self-employed Bar. The BSB also classifies the main practice area of organisations based on the income declarations by practice area of the barristers at that organisation. Information on recruitment approaches used by organisations was derived by the BSB from the information provided as part of the Regulatory Return⁸ exercise conducted in 2020. From those organisations that opted in to the research, Community Research selected participants to represent a spread of these variables, as set out below:

Table 1: Number of interviews achieved by category

Location	
London	19
Outside of London (including Wales)	11
Employed v Self-Employed	
Self-employed	25
Employed	5
Size of organisation (by primary barrister count)	
Under 50	12
51-100	13

⁸ [Regulatory Return 2020 \(barstandardsboard.org.uk\)](https://www.barstandardsboard.org.uk/regulatory-return-2020/)



101+	5
Main practice area	
Crime	7
Family – Children	8
Commercial and Financial	5
Personal injury	2
Chancery Contentious	2
Other	6
Recruit processes used (not mutually exclusive)	
Blind applications	14
Contextual recruitment	5
Do not use blind or contextual recruitment	10
Use Pupillage Gateway for recruitment	14
Do not use Pupillage Gateway for recruitment	12
Mini pupillage required	2
No. of pupils recruited in May 2023	
0	7
1	5
2	8
3+	10

2.5 Notes on reading this report

The opt in method that was used to ensure anonymity to pupillage providers, naturally results in a self-selecting sample and it may be that the pupillage providers who came forward were particularly confident in their pupillage recruitment processes and/or were proud of what their organisation had achieved in terms of diversity. Their views may not be representative of the wider profession.

Verbatim quotes have been included throughout the report to illustrate particular viewpoints and bring participants' thoughts to life, using their own words. It is important to remember that the views expressed do not always represent the views of all stakeholders and/or pupillage providers who participated. In general, however, quotes have been included to indicate where there was particular strength of feeling about a topic.

Where examples of recruitment processes and pre-application activities have been highlighted (in purple text boxes) within this report, it is important to recognise that these are for illustrative purposes only and that neither Community Research nor the BSB have evaluated them to be examples of best practice. They are, therefore, simply examples of practices emerging from the research that may be of interest.

Finally, this research is focussed on exploring recruiting for diverse outcomes in relation to socio-economic groups and minority ethnic groups in light of the disparities set out in Figure 1. The intention was not to explore diversity more



broadly, although points relating to gender and disability were touched upon as part of the wider discussions.



3. Views on diversity as a priority within the profession

Section summary

- The research identified numerous drivers for a focus on more diverse outcomes at recruitment, including ensuring the legal system reflects and has the confidence of the society it serves, as well as moral and commercial imperatives.
- There is a sense that progress has been made both through specific initiatives and through organic change with new generations of barristers coming through.
- However, effecting meaningful change is challenging and there was acknowledgement that there is some way to go.
- It was also stressed that recruiting for more diverse outcomes at pupillage recruitment cannot be seen in isolation from wider issues in the profession as a whole (namely working conditions, pay and retention).

3.1 Placing recruiting for more diverse outcomes in the wider context

The research briefly touched upon stakeholders' and pupillage providers' views of the key issues facing the Bar. It intended to identify if, and to what extent, diversity and recruiting for greater diversity was regarded as a priority. Several, often interlocking, issues emerged across the interviews:

- Issues around progression and retention, resulting in less diverse representation at the top of the profession (i.e., amongst 'silks', the judiciary), with specific reference to women and minority ethnic groups.
 - At a more granular level concerns were raised about pay parity, work allocation, the challenges of achieving work-life balance when self-employed, impact of career breaks, mental health and well-being.
- The sustainability of the Criminal Bar, with working conditions and remuneration making recruitment and retention particularly challenging in this practice area.

Recruiting for more diverse outcomes was undoubtedly recognised as a priority for those participating in the research, but most believed that it needs to be considered alongside these wider issues.

3.2 Drivers for recruiting for more diverse outcomes

Both stakeholders and pupillage providers cited multiple drivers that underpinned the profession's focus on recruiting for diverse outcomes (in terms of lower socio-economic groups and/or minority ethnic groups):



- A general belief that the profession should reflect the public it represents.
 - The report from the Lord Chancellor's Advisory Panel on Judicial Diversity⁹ was specifically mentioned which referenced that it was essential for the judiciary to have the confidence of those who use the courts, and of society as a whole, it needs to be reflective of society.
- A recognition that recruiting for more diverse outcomes was simply the 'right thing to do'.
 - Most of those interviewed were very aware that certain groups were under-represented at the Bar and were familiar with several reports outlining the same.
- Regulatory activity such as the Fair Recruitment Guide¹⁰, recommendations from the Race at the Bar report¹¹ further prompting action.
- An inevitable 'changing of the guard' i.e. Younger barristers being more willing to talk about the issue of diversity; new, younger members on pupillage committees; a number of visible leaders willing to share their 'less traditional' backgrounds and spearhead change.

Our pupillage committee is junior and the way in which we do stuff is radically different now to 5 years ago and maybe it feels far more business-like, it feels a far more professional way of going about the treatment of candidates than the more ad hoc let's have a chat with this chap and see if he's the right sort of fellow for the job. (Chambers, practising barrister count over 50)

- Magic and Silver Circle law firms¹² demanding greater diversity from providers, highlighted that there is a business case for greater diversity within the Chancery and Commercial Bar.

I've had an email from a solicitor asking for a fee quote to my clerks, saying that their firm are committed to diversity and so they'd like to be provided with a diverse range of barristers for quotations, which I thought was *really* impressive. And I think it's things like that that will make a difference. (Stakeholder 2)

So law firms are asking us what we're doing. We're being asked questions about things like if we're hosting events, have we got mixed panels; how diverse do we look? Perception of the Bar and really, I think it's all part of the modernising of the Bar itself. There's a real feel that the Bar can't continue to do what it's always done. (Chambers, practising barrister count over 50)

⁹ [The Report of the Advisory Panel on Judicial Diversity 2010 \(judiciary.uk\)](https://www.judiciary.uk/wp-content/uploads/2010/06/Report-of-the-Advisory-Panel-on-Judicial-Diversity-2010.pdf)

¹⁰ [Fair Recruitment Guide – Bar Council - Practice & Ethics \(barcouncil.org.uk\)](https://www.barcouncil.org.uk/ethics/fair-recruitment-guide)

¹¹ [Race at the Bar Report 2021 \(barcouncil.org.uk\)](https://www.barcouncil.org.uk/ethics/race-at-the-bar-report-2021)

¹² Magic Circle and Silver Circle are informal terms used to describe some of the most prestigious and high-performing law firms in the UK. They are based in London, but have extensive international operations and deal with major corporate and financial transactions.



3.3 Perceived progress in recruiting for more diverse outcomes

All of those who participated in the research believed that the Bar had made significant progress in terms of diversity, with participants, often female, reminiscing about their own experience of applying and interviewing for pupillage and the barriers they faced at the time.

I think the profession's very aware now and I think the profession *is*, in large measure, trying to do better, to be more diverse. (Chambers, practising barrister count under 50)

However, many also recognised that there was room for improvement, with some pupillage providers outlining specific issues highlighted by their own data.

What we find in the data is that as we go through, by and large, the pool gets more male, whiter and more privileged and we don't really understand why. We try very hard to keep it blind where it needs to be blind, to keep focused on: 'What is this telling me about how good a barrister the person will be?', not: 'How good are they at classics at Oxford?'. But despite that, we do find that our offers tend to be made to an awfully disproportionate ... well, I don't know about disproportionate, but it probably is disproportionate number of white men. (Chambers, practising barrister count under 50)

We're very good with gender equality. ...We don't seem to be attracting candidates from black and ethnic minority backgrounds. We *do* attract candidates from disadvantaged socio-economic backgrounds, but we have also noticed that those candidates don't seem to make it through to the final round and aren't those that are being offered pupillages. So exactly the trend that Bar Standards Board have noticed, we've noticed too. (Chambers, practising barrister count over 50)



4. Pre-application activities and outreach

Section summary

- Providers mentioned a host of activities aimed at dispelling the prevailing narrative about who a career in the Bar is for and widening the pool of potential applicants, including outreach to schools and universities, attending careers fairs, mentoring and considering their own organisational image.
- It was evident that much effort is expended by pupillage providers to recruit for more diverse outcomes– both in collaboration with other organisations and individually. Inns of Court are also alive to the issues and some are reviewing or have reviewed how they award scholarships.
- Mini pupillages were a core activity – both in terms of the applicants getting a feel for a career at the Bar and also demonstrating their commitment and interest to potential pupillage providers.
 - Whilst some informal networking remains in place, much work is being done to ensure more equitable access to these vital opportunities.
- However, some issues were noted in relation to pre-application activities and outreach:
 - There was some concern that a plethora of different pre-application initiatives did not necessarily widen access but potentially resulted in the same aspiring applicants receiving multiple offers of support.
 - Amongst all organisations there is finite capacity to support mentoring activity and challenges associated with implementing a robust application process for mini pupillages. However, such issues are felt more acutely in smaller organisations
 - Some stakeholders questioned whether offering the opportunity for a mini pupillage to under-represented applicants was enough, if pupillage providers did not consider them for an interview for pupillage at a later date.
 - There were some questions over the evaluation of these activities i.e. can their impact be measured and, if so, is it making a difference?

4.1 Perceived importance of pre-application activities and outreach

Pupillage providers and stakeholders highlighted the importance of pre-application and outreach activities in ensuring more equal access to the Bar. Stakeholders and pupillage providers cited The Bar Council, Inns of Court, Bridging the Bar, 10,000 Black Interns, The Sutton Trust, Specialist Bar Associations, Big Voice London, Legal Cheek amongst others as playing a role in facilitating the work in this area. Pupillage providers were often keen to support activities undertaken by external organisations and, with few exceptions, were also engaged in running pre-application activities and outreach activities of their own.



We are, with all the chambers, fighting...to attract talent from underrepresented groups and that's why we signed up to organisations such as Sutton Trust and Bridging the Bar and the Black Talent Charter as well, because first, we *want* to be involved with them and secondly it gives people who are involved in those groups a chance to apply to us and not think of XXX as a top commercial set that's only for public school boys. You know, we've got to dispel that image that top sets like us had not so long ago and so we *do* subscribe to those. (Chambers, practising barrister count over 50)

That said, stakeholders and pupillage providers were keen to stress the need to avoid duplication of effort, given that initiatives were reliant upon volunteers, drawn from the same pool. Furthermore, there was some concern that a plethora of different pre-application initiatives did not necessarily widen access but potentially resulted in the same aspiring applicants receiving multiple offers of support.

I guess what I'd like to see more of is collaboration and less duplication than individual chambers going it alone because I think that is a waste of energy on the basis that just administering these schemes and supporting them is resource intensive and I think where we can find a way, by working together, that we have more impact, that would be my ambition. (Stakeholder 1)

Yes, so our chambers does do Bridging the Bar and I've seen a bit of that from the outside. Yes, a lot of these things, it's the same, the same applicants sign up to everything going and get the same things [help]. I think it's a relatively narrow pool. They're great things and what I'm giving to you is maybe something slightly different from what you've heard from other people, which I think there's too much of a small number of well-connected people using these things. That's my feeling, from what I've seen. (Chambers, practising barrister count over 50)

4.2 Outreach activities (with schools, universities etc.)

Targeting schools

There was a general consensus that it was important to work with schools to encourage more young people from diverse backgrounds to consider a career at the Bar. Pupillage providers and stakeholders were keen to highlight that inequalities occurred early in the academic journey.

I think all the reports – and I think the Bar Council's done this work as well, in terms of race, certainly –that you end up looking to say: well actually, you need to try and catch people much earlier. It's not at the point that they apply to come to have a pupillage at your chambers that is a good time to catch them; you want to catch them when they're at school, so it happens much earlier. (Stakeholder 2)



For that reason, a number of pupillage providers reported having established links with local state schools. Some saw local outreach as not just a means of attracting diverse applicants but a way of contributing to their local community.

So again, we've started doing things like grass root outreach programmes, so I'm part of Speaker for Schools, so going out in the local community within the northwest, to those schools that are more deprived, to talk about the profession. (Chambers, practising barrister count under 50)

Several pupillage providers also supported the Bar Placement Scheme¹³, a work experience programme aimed at state sixth forms and college students who would be the first in their family to attend university.

Developing links with universities

There was some discussion about the disconnect between careers services at universities and the Bar. Pupillage providers and stakeholders were keen to stress that application preparation started some time in advance of completing the Bar Course and that CV building opportunities and scholarships should be front of mind from the second year of university, at least. There was some suggestion that more needs to be done by universities to ensure that aspiring applicants from diverse backgrounds are making sufficient use of the opportunities on offer during this time.

I'd like to see universities doing more interacting with chambers and legal recruiters to a greater extent in order to fill that gap and I think because they haven't been, that's why we're seeing these other voluntary organisations cropping up more and more. (Chambers, practising barrister count over 50)

But we think the universities can do more themselves. Those universities that have a law faculty should be speaking to each other, or should be *able* to speak to each other. Perhaps it's because they're in competition with each other, themselves. (Chambers, practising barrister count over 50)

There was a specific suggestion that Russell Group universities with a law faculty should join together and share information about Pupillage opportunities.

Pupillage providers themselves often had links with local universities and spoke of giving lectures about specific areas of the law and sponsoring mooting competitions. It was via encounters such as these that some aspiring applicants secured a mini pupillage.

¹³ Bar Placement Scheme (barcouncil.org.uk)



Example practice from stakeholders

Collaborative event with University Careers advisors

Stakeholders highlighted a partnership event between The Bar Council and the four Inns of Court: Gray's Inn, Inner Temple, Lincoln's Inn and Middle Temple.

The session aims to equip career advisors with the knowledge needed to help students to succeed at the Bar:

- The many routes to the Bar
- Bar Council schemes to support social mobility
- The Inns of Court and access pathways
- Q&A session, with focus on support for non-Russell Group universities.

Example practice from the employed Bar

Offering clerking opportunities to university students

One pupillage provider supported an outdoor clerking service¹⁴ that was set up by a local law school, in partnership with the local law society. The scheme allows students to attend court and act as a student outdoor clerk.

Attending pupillage fairs

A number of pupillage providers and stakeholders attended careers fairs and there was some debate about the format and location of such fairs. Several providers highlighted the benefits of online fairs, like those organised by Legal Cheek, over the more traditional face to face fairs organised by the likes of the Bar Council. Some pupillage providers outside of London no longer supported London-centric events due to the travel time involved and the existence of alternative options (online fairs, specific careers fairs hosted by local universities).

4.3 Mini pupillages

Mini pupillages were a well-recognised route for aspiring applicants to gain work experience and demonstrate their commitment to a career at the Bar. Pupillage providers explained that, if applicants had not experienced the courtroom and life in chambers, it would be hard for them to truly know that they wanted a career at the Bar. Many did not require evidence of completing a mini pupillage as part of the recruitment process, but nonetheless recognised that completing a mini pupillage could be a deciding factor. What is more, it was deemed one of the most effective

¹⁴ Outdoor Clerks used to be sent to court by firms of solicitors to make detailed notes for advocates during trials and fact-finding hearings. However, the role disappeared in the wake of successive legal aid cuts and reforms.



ways of demonstrating a genuine desire and determination to work as a barrister or similar such recruitment criteria.

It gives the candidates a bit more of an advantage in being confident in speaking to a panel of barristers, if they've already been in a chambers, understood the environment, shadowed people, worked on minis and had some experience. (Chambers, practising barrister count over 50)

As part of the application process, people list where they've done mini pupillages and it would be very strange to see an application that someone hasn't done any: *very* strange, because you need to find out what you're getting into beforehand. (Chambers, practising barrister count over 50)

Stakeholders and pupillage providers recognised that, in the past, accessing a mini pupillage had, all too often, been dependent on applicants having existing links to the profession and they were keen to stress that much work has been, and is still being, undertaken to ensure more equitable access to these vital opportunities. That said, they also recognised that sometimes current processes could be opaque and/or inconsistent.

It varies tremendously from chambers to chambers... I tell students as much, that I think the best way to get them is face-to-face networking. (Stakeholder 8)

Opportunities accessed via Inns of Court and others

Stakeholders and pupillage providers referenced several schemes designed to widen access to mini pupillage opportunities, for example:

- The Pegasus Access and Support Scheme (PASS)¹⁵
- The Helen Grindrod Social Mobility Prize¹⁶, a social mobility prize which aims to award at least 50% of the places to applicants of black or mixed black heritage.
- The Academy¹⁷, a programme for underrepresented groups at the Bar which includes at least one mini pupillage in an area of interest, to be undertaken before the pupillage window.
- It was also reported that Inns or Court offered financial support to students who had secured mini pupillages through their own means but needed some additional help.

However, some stakeholders questioned whether offering the opportunity for a mini pupillage to under-represented applicants was enough, if pupillage providers did not consider them for an interview for pupillage at a later date:

¹⁵ [PASS | Inner Temple](#)

¹⁶ [The Helen Grindrod Social Mobility Prize for law students - Lincoln's Inn \(lincolnsinn.org.uk\)](#)

¹⁷ The Academy - Bridging the Bar



It's one thing to provide these work experience opportunities, to talk the talk, to give access in the sense of you'll give your students from *any* background, from *any* university come and walk around this place and go visit your chambers and you'll give a talk to them about your profession and give all these insights. It's one thing to do that; but if you're not then interviewing them, what was the point in all that? (Stakeholder 8)

At least one pupillage provider explained that it was somewhat 'heart breaking' when an applicant had a good mini pupillage at their chambers via a scheme but that 'with all the best will in the world' they would not get through the initial sift of the pupillage recruitment process.

Indeed, there were wider discussions about how to measure the impact of social mobility prizes and outreach activities more broadly. Some questioned whether obtaining pupillage was even an effective measure of impact and whether social mobility more broadly needed to be taken into account. For example, suggesting that there is still a positive impact on social mobility if students from disadvantaged backgrounds undertake work experience at a chambers and subsequently attend university but decide not to go into law.

Opportunities offered directly by pupillage providers

As well as supporting mini pupillage schemes co-ordinated by others, pupillage providers reported a number of different approaches to offering mini pupillages directly (for work experience rather than as part of the recruitment process). These ranged from inviting covering letters and CVs and awarding mini pupillages on a first come first serve basis, through to an online application resulting in a full paper sift of applications. Several pupillage providers were even considering extending their use of contextual recruitment to mini pupillages. However, by and large pupillage providers explained that they simply did not have time to conduct a thorough assessment of mini pupillage applications.

There's no set procedure, I suppose. Yes, there's nothing; they just literally email and we find them a date that they can do, so there's not much more of a selection process. And over the age of 18, like if you're perhaps at university doing law it's always a plus. But yes, nothing else. (Chambers, practising barrister count over 50)

They will come in via our pupillage website into our pupillage inbox and they're all put together in bundles and one of the barristers will work with another barrister – we have one that headlines and leads on mini pupillage in chambers for us – and they will undertake the first sift, or two other barristers, if they are not available. (Chambers, practising barrister count over 50)

Several pupillage providers sponsored competitions at local universities, where a mini pupillage was part of the prize. One pupillage provider had ceased offering mini



pupillages directly and instead chose only to support the PASS scheme, explaining that if their members of chambers were giving up time to ensure a constructive and useful mini pupillage experience, they did not just want to offer the opportunity to those who had already completed a lot of mini pupillages in other sets of chambers. This sentiment was echoed by two other pupillage providers who prioritised awarding mini pupillages to applicants who did not already have one on their CV or who attended state rather than private schools.

If someone has already got a lot of mini pupillages, you should maybe not give them one... I'm simplifying *slightly*, but I *think* that was what the Bar Council and the Bar Standards Board told people a few years back: try and spread it out a bit. And so we do. (Chambers, practising barrister count over 50)

Although attempts are undoubtedly being made to achieve a fair process, some providers recognised that those with existing connections to the profession were still likely to find it easier to obtain a mini pupillage.

Those who want to do work experience with us, if somebody's got a niece or a nephew that wants to come along and do some work experience, we don't exclude people from doing that; but the barrister who wants to bring a family member or a friend of the family into chambers has to then take responsibility for them, for the time that they come in to do their work experience. (Chambers, practising barrister count over 50)

Example practice from the self-employed Bar

Mini pupillage with guarantee of interview

One provider offers an Access mini pupillage focussing on social mobility criteria. Everyone who completes this mini pupillage is guaranteed an interview for pupillage. The scheme has succeeded in terms of attracting more candidates but has yet to result in more diverse outcomes. They have had to remove 'first family member to go to university' from the criteria as a lot of applicants who are not socially disadvantaged (e.g. had attended private school) were still getting through.

You still need to be a good candidate, you still have to fill out our normal form and tell us why you want to come and do a mini pupillage with us; but you also have to meet one of various social mobility criteria. (Chambers, practising barrister count under 50)

Example practice from the self-employed Bar

Redesigning mini pupillage

One provider had changed to offering a 2-day mini pupillage where one day is spent with a barrister and the other day is spent in a combined group session that introduces students to different aspects of chambers life. This intention is to lessen the burden on individual barristers and increase the places offered.



Another provider offered a one day online mini-pupillage on a Saturday to widen access.

4.4 Open days and events

In addition to offering mini pupillages a number of pupillage providers spoke of hosting open days or evenings whereby students (at a range of stages in their academic journey) could visit chambers to find out more about the work of a barrister, as well as the pupillage recruitment process. Several ran similar sessions online.

Each year, we hold an open day on a Saturday. It's first come first served, I mean that's the criteria, so there's no screening and we really encourage those from those less traditional backgrounds really to sign up; that's really who we target in terms of marketing. (Chambers, practising barrister count under 50)

It was noted that there is also much work being done or hosted by Inns of Court to support aspiring pupillage applicants more broadly, including pupillage information evenings, drop in sessions via Zoom to talk about pupillage application process and pupillage advice clinics.

4.5 Mentoring

Stakeholders and pupillage providers believed there was value in mentoring. Depending on when offered, it was generally thought to help (aspiring) applicants either to plot their route to the Bar or to hone application and interview skills (the importance of which is further discussed in Section 6.14).

We're getting good feedback from that, because we're getting students now, who, with the help of their mentor, have been able to put together a credible application to become a barrister or a solicitor. (Chambers, practising barrister count over 50)

Opportunities accessed via Inns of Courts and others

Interviewees mentioned a number of mentoring opportunities that focus on supporting candidates from minority ethnic groups and/or lower socio-economic groups offered by the Inns of Court, Specialist Bar Associations and other organisations. As with mini pupillages, some of these opportunities are wrapped within wider schemes and prizes. The Griffin Access Programme and the COMBAR student mentoring scheme were two examples mentioned by individuals taking part in this research.

More broadly, the Inns also endeavoured to provide students from all backgrounds the opportunity to meet with a mentor to give general advice and guidance for those who wanted it. Several pupillage providers also mentioned volunteering their time to mentor undergraduates via mentoring schemes organised by universities.



Finally, one pupillage provider highlighted that there were possible regional disparities in mentoring opportunities, with the majority of barristers concentrated in London.

Opportunities offered directly by providers

In 2021, five planning, property and public law sets established a mentoring scheme for underrepresented groups at the Bar. This scheme is supported by the Planning and Environmental Bar Association (PEBA) and has more recently been joined by three further sets. Other than this example and the one highlighted in the text box below, pupillage providers taking part in the research largely spoke of supporting mentoring schemes run by external organisations rather than operating their own in-house mentoring schemes. One explained that, as chambers, they did not feel qualified to select people from disadvantaged backgrounds and therefore it was more appropriate to support the work of others.

One thing that is done by members of chambers is mentoring outside chambers and outside the schemes that I mentioned. For example, the Social Mobility Foundation, I have been a mentor in that and it's not so much about necessarily applying for pupillage, but it is giving kids from disadvantaged backgrounds the opportunity to help, for example, do a personal statement for university. The Bar Council runs a mentoring scheme for those who are going through Bar school as well. (Chambers, practising barrister count over 50)

Several smaller pupillage providers explained that they had very little capacity to support, let alone run, any mentoring schemes at all. As pupil supervisors, several were still mentoring former pupils who were now tenants.

Example practice from the self-employed Bar

One pupillage provider sponsors an award offered via a local university which includes mentoring.

The recipient will be selected on academic merit, have aspirations of practising as a Barrister and be from a demographic group which is under-represented at the Bar, assessed on socio-economic background, ethnicity and other 'Widening Participation' grounds.

The award comprises a small financial award to help cover the cost of textbooks as well as mentoring from two barristers.

4.6 Mock interviews

Mock interviews were mentioned by several stakeholders. In some instances, they were offered as part of an ongoing support programme, in others they could only be accessed once applicants had received an offer of an interview. One stakeholder



highlighted that organising a mock interview could be challenging because it is volunteer-led and timescales were sometimes not feasible if pupillage providers did not give applicants sufficient notice about an interview.

We have to carefully go through, you have to tell us every chambers you've applied for, in case you are later offered an interview with them and we need to avoid you being given a mock by somebody who's going to interview you. A lot of the mock interviewers are not active in their chambers' pupillage selection, or could be retired practitioners, often. But it's tremendously difficult, because it is all volunteer-led and we receive a large volume of them in a short space of time and it's tremendously difficult; we can't help everyone every time, but we do our best. (Stakeholder 8)

4.7 Scholarships from an Inn of Court

Statistics have shown that pupillage applicants with a scholarship from an Inn of Court are 3.2 times more likely to receive an offer of pupillage than those without a scholarship¹⁸. The Inns award scholarships for both the Graduate Diploma in Law (GDL) and the Bar Course. The scholarships for the Bar Course were more numerous and most frequently discussed in this research.

Stakeholders questioned whether scholarships drove pupillage selection, or whether scholarship awards and pupillage recruitment were simply identifying the same applicants because both seek to select/award applicants most likely to have a successful career at the Bar.

I guess it's helpful to our institution that our candidates that are coming through our system, that are joining the Inn, are going on to get pupillage and practice and we can benefit the cyclical nature of the profession. So they can support our prospective students and future generations and that can, ultimately, help the Inn sustain itself. (Stakeholder 10)

What is more, there are also parallels to be drawn in the selection criteria used in the award process for scholarships and the pupillage recruitment processes. With some evidence that on occasion, the panel members interviewing for scholarships may also be sitting on panels for pupillage recruitment panels.

I think there is the big question, which I'm really keen to look at as well, from a research perspective, about causation or correlation. So do you get a pupillage because you got the scholarship, or do you get a pupillage because you're being selected in the same way [as for the scholarship]. (Stakeholder 9)

The criteria for Bar Course scholarships are outlined on the websites of individual Inns of Court and they all emphasise intellectual ability, motivation and

¹⁸ Pupillage-Gateway-Report-2022.pdf



advocacy/communication skills. These criteria are frequently mirrored in pupillage recruitment processes (see Section 6).

Figure 2 – Selection criteria in summary taken from websites in October 2023

<p>Lincoln’s Inn</p> <ul style="list-style-type: none"> • Intellect • Motivation • Personal characteristics • Communication 	<p>Middle Temple</p> <ul style="list-style-type: none"> • Intellectual ability • Motivation to succeed at the Bar • Potential as an advocate • Personal qualities
<p>Inner Temple</p> <ul style="list-style-type: none"> • Academic performance • Advocacy Potential • Legal Comprehension and Reasoning Skills • Professionalism and Interpersonal Skills • Motivation 	<p>Gray’s Inn</p> <ul style="list-style-type: none"> • Academic ability • Advocacy • Drive and determination • Problem solving • Motivation to succeed

As well as similarities in the award and recruitment criteria and some cross over with members of the interview panels, other similarities also emerged. These are summarised below but will be explored in more depth in Section 6, in relation to pupillage recruitment processes:

- Similar to pupillage providers, the Inns had adopted blind recruitment to varying degrees, with at least one Inn scoring academics separately so that those who assess the competency-based questions never get sight of the academics.
- There was some interest in, and use of, contextual recruitment systems. Although, as with pupillage providers, amongst Inns there seemed to be no consensus on the overall value of either blind or contextual recruitment.
- As with pupillage providers, Inns all appeared to value degree class, with 2:2s generally only considered if the candidate has demonstrated extenuating circumstances.
- Interviews were generally face to face and last between 15-20 minutes, similar to first interviews held by pupillage providers.
- The interview generally included an oral advocacy component and there was often a panel of 3 volunteer members of the Inn conducting the interview, who had received bespoke recruitment training or undertaken the Bar Council’s Fair Recruitment training.
- Diversity of the panel was a consideration, but the final make-up of the panel was dependent on who volunteers, with at least one Inn mixing up the panels after a certain number of interviews to mitigate against group think.



In spite of the similarities, one or two Inns were in the process of reviewing the criteria or had recently reviewed them, to see if there is in-built bias. A recent change implemented by one of the Inns for the latest round of scholarship applications, was to publish more information about how applications are assessed against the already published award criteria. This was based on the belief that transparency is key to demystifying the process and creating more of a level playing field.

Lack of transparency only benefits ...people that have a network, or they know individuals that have been through the system and a better place to deal with a lack of transparency. (Stakeholder 10)



5. Designing the recruitment process

Section summary

- A recurring theme throughout the research was that the pupillage recruitment process is reliant on practising barristers giving up their time (and ultimately some of their income) to facilitate pupillage recruitment.
- Many pupillage providers used no external support aside from the Bar Council's Fair Recruitment Guide and associated training. Others had used specialists to review their recruitment processes, provide training sessions on diversity/unconscious bias or to support the introduction of contextual recruitment. Those accessing external support tended to be wealthier sets of chambers or organisations at the employed Bar.
- Pupillage providers expressed mixed views towards the mandatory timetable for pupillage recruitment in relation to promoting more diverse outcomes:
 - Those in support of the mandatory timetable explained that it helped ensure a more 'level playing field' in that applicants who had existing connections to the Bar did not have an advantage based on their understanding of the timing of different pupillage providers' recruitment processes. It was also felt to take the pressure off applicants from lower socio-economic groups having to accept the first offer they received for financial reasons.
 - However, there was concern it could be challenging for those with additional caring or work responsibilities to work to the set timetable; the brevity of the timetable meant limited flexibility when requesting time from volunteers and scheduling interviews and it increased competition for the same applicants.

5.1 In-house versus outsourcing of recruitment processes

All pupillage providers that participated in the research ran their recruitment processes wholly in-house (many supported by the Pupillage Gateway), with the exception of:

- One organisation at the employed Bar, who used an external supplier to manage the overall process.
- Those who used contextual recruitment and bought in the functionality from an external provider.

That said, several pupillage providers (generally larger sets and/or those practising in Commercial and Chancery law) had employed external consultants to review their recruitment processes.



5.2 Sources of information, support and training

The BSB handbook states that, save in exceptional circumstances, every member of selection panels must be trained in fair recruitment and selection processes. By and large pupillage providers adhered to this through their familiarity with the Bar Council's Fair Recruitment guide and associated training. Some spoke of requiring panel members to attend training sessions run by the Bar Council, many more spoke of ensuring that members of the interviewing panels had all read the Fair Recruitment Guide.

I think the fair recruitment programme and training is really essential. Obviously, it's mandatory now, anyway, for at least *some* of the barristers to have done that. We go further and make it mandatory within chambers, that anyone involved in recruitment whatsoever has to undertake that and as I said before, we've brought that in line, into our own training programme, with our own bespoke portal of training for that and I *do* think that's really essential. (Chambers, practising barrister count over 50)

The other thing that those panel members have to have done is the Fair Recruitment training. Either they have to confirm in writing that they've read the Fair Recruitment rules, or we book them onto a course. And then, we make sure that we keep a note of when they last did it, so that we can remind them that they may need to do it again. (Chambers, practising barrister count over 50)

However, at least one pupillage provider outlined the difficulties they had in getting all members of every interview panel through training and others highlighted that it was difficult to ensure that training took place sufficiently close to the time of the sifting and interview process, due to other demands on practising barristers.

Few other sources of training and support were mentioned, although some pupillage providers used external training consultants to run sessions on topics such as diversity and unconscious bias.

5.3 Impact of the mandatory timetable

Pupillage providers expressed mixed views towards the mandatory timetable for pupillage recruitment. Those in support of the mandatory timetable explained that it helped ensure that applicants who had existing connections to the Bar did not have an advantage based on 'insider' understanding of when the different pupillage providers ran their recruitment processes. Furthermore, it took the pressure off applicants having to accept the first offer they received. One or two pupillage providers believed that those from lower socio-economic groups would potentially be financially pressured into accepting any offer, rather than wait for something that could potentially suit them better given they did not have a financial cushion to fall back on.



The problem with sets, before the Gateway timetable was introduced, there was a free-for-all, where chambers were all trying to beat each other to have an earlier and earlier and earlier day to try and get ahead of the crowd and nick the best people. And then pupils were being told: 'You've got an exploding offer; you've only got 48 hours to decide and after that we're going to send it to somebody else.' To stop all of that nonsense, they said, 'Right, we're going to have a single timetable; everybody makes their offers not before nine o'clock on 9th of May,' or whatever it is and they've got to leave them open for at least seven days or whatever it is. And therefore, students do have the proper, informed choice as to which one they want to accept. (Chambers, practising barrister count over 50)

That said, one pupillage provider questioned the benefit of the timetable to lower socio-economic groups, suggesting that it could be challenging for those working to fund their studies or with caring responsibilities to submit applications within a set timetable.

Whilst some pupillage providers recognised the advantages of the mandatory timetable, most raised one or a combination of issues in relation to its introduction:

- The tight timescales and position within the calendar year (often when barristers were away for Easter, had to deal with insurance renewals, directory submissions etc). This resulted in pupillage providers having limited flexibility when requesting time from volunteers and ultimately scheduling interviews.

I know they're trying to design it with the applicants in mind, but what they seem to be forgetting is that the people that are doing all the work – so the interviews, everything else – are self-employed barristers. And if you're a smaller chambers, like we are and there's four or five of us that are doing most of it, if two or three of those people are in big cases and haven't got time in the window to do that work, then those pupilages probably just won't happen, because we'll sit down and go: 'Well, actually, we haven't got time to do it this year.' So, because the Bar, the BSB is saying: 'You must do it in this window,' if we're not able to do it in that window, then it's not happening. You can make your application to apply outside, but you're jumping through hoops for that. It was a lot easier when you just had to advertise. (Chambers, practising barrister count under 50)

- Concerns that that pupillage providers were not always able to take on the number of pupils they had planned for, as they often competed for the same applicants.

I don't think it was fair, because what happened was, the top pupils got offers from a number of sets and so had a choice. Then the second group of pupils didn't. So therefore, we found ourselves – and a number of very good sets



found themselves – without pupils or without a sufficient number of pupils. (Chambers, practising barrister count over 50)

And the problem with reserves is, if they're a first choice somewhere else, what they often say is – and I *entirely* understand – 'I'd rather be somebody else's first choice than your second choice.' And I get that. (Chambers, practising barrister count over 50)

- Several pupillage providers thought they were at a particular disadvantage because they offered a lower pupillage award and had previously tried to mitigate this by recruiting early, which was no longer an option.

5.4 Reliance on volunteers

A recurring theme throughout the research was how the pupillage recruitment process is reliant on practising barristers giving up their time (and ultimately some of their income) to participate in pupillage recruitment.

The central role that volunteers play in the process is associated with a number of potential issues that will be outlined in Section 6. However, a number of pupillage providers highlighted that, ultimately, the scope and appetite to make changes to existing processes was limited, particularly where changes could potentially demand more of volunteers or incur risk.

There's certainly the will. It's a question of implementing it and getting people involved. And actually, that's the tricky bit: getting people to give their time to the initiatives that we're trying to roll out. (Chambers, practising barrister count over 50)

[We're] not scared of it, but I think we're anxious that we might end up getting it wrong because barristers are recruiting themselves and none of us have got really business experience or HR experience. (Chambers, practising barrister count over 50).

There are X of us; it's quite difficult – to get enough people involved in the pupillage process. So we can't do anything *too* labour intensive, because we just don't have that many bodies, so we can't. (Chambers, practising barrister count under 50)

5.5 Differences between the employed and self-employed bar

Finally, the research included 25 pupillage providers at the self-employed Bar and 5 providers at the employed Bar. There were considerable differences in pupillage recruitment processes with the employed Bar, as organisations could draw upon wider resources within the organisation, not least a dedicated HR team. With these 5 organisations operating in very different spheres to each other, it is also difficult to draw out specifics of the processes without potentially breaking anonymity. Where



reference is made to the processes used by the employed Bar, these are highlighted in a separate text box in the next section and have been kept at a general level.



6. Delivering recruitment processes in practice

Section summary

While there were some evident similarities across many of the processes adopted (and in particular the selection criteria employed), no two processes described by pupillage providers were exactly the same given they are designed to meet the specific needs and limitations of the chambers and entities involved.

There were particular differences in relation to:

- How long in advance pupillage providers recruited for.
- The use of the Gateway (and attitudes towards it).
- How academic achievement is treated within the weighting criteria and whether the name of the university is redacted (with evident debate within chambers about this).
- The amount of information sent out to applicants in advance of an interview
- The format and length of interviews and the number of people on the interview panel.
- The use of mini pupillages as an integral part of the recruitment process.
- The merits of using an oral advocacy exercise based on a topical – rather than legal – question and of testing an applicant’s ability to ‘think on their feet’.

There were some specific areas of debate and discussion:

- Whether the rigidity of the scoring system at the sifting stage potentially disadvantages applicants from more diverse backgrounds.
- Whether blind recruitment, whilst appearing fairer, doesn’t always lead to more diverse outcomes.
- If contextual recruitment was being used to its full potential by those who used it
 - Linked to this, those who didn’t currently use it were looking for advice on how to do so (in a cost effective way).
- Whilst most were comfortable about the use of access schemes and targeted mentoring support, concern was expressed about any notion of positive discrimination.
- Concern about the fact that applicants from diverse backgrounds were making it through the initial sifting and first interview but then failing to progress to second interview. Some attributed it to their lack of ‘polish’.
 - Discussions highlighted how this ‘polish’ was more likely to be displayed by applicants who had enjoyed the benefits of a ‘middle-class’ education, top university and, to a lesser extent, mentoring schemes.



6.1 Bespoke processes

Interviews with pupillage providers revealed a range of recruitment processes, which included anything from inviting handwritten covering letters to situational judgement tests (employed Bar). While there were some evident similarities across many of the processes adopted, no two processes described by pupillage providers were exactly the same as they were designed to meet the specific needs and limitations of the chambers and entities involved.

Small sets of chambers were quick to highlight that they did not have the same resources available to them as larger sets and that all administration relating to pupillage recruitment fell to practising barristers. Pupillage providers at the Criminal and Family Bar pointed out that they looked for a different type of pupil to those at the Commercial and Chancery Bar, potentially less focussed on intellectual ability and more likely to take softer skills into account. They explained that they placed value on barristers being able to relate to their clients and that the high-flying Oxbridge applicant did not necessarily win over other applicants who may have been awarded a lower degree class at a lower ranking university but had evidenced an understanding of disadvantaged communities in their application. Furthermore, the Criminal Bar highlighted specific issues with the funding of pupillage and remuneration more broadly that impacted on the applicants they attracted and could select from i.e. both pupillage awards and future earnings were considered lower at the Criminal Bar than elsewhere. Regardless of size or practice area, pupillage providers also wanted to ensure that their recruitment processes attracted applicants and awarded pupillage to those most likely to succeed within their organisation. All pupillage providers who took part in the research explained that they recruited pupils with the prospect of tenancy.

It depends on what the different chambers are looking for...We do legal aid criminal and family; we're not looking in the same pool as people that do regulatory and tax and shipping. So yes, you can't have one size fits all. (Chambers, practising barrister count under 50)

We haven't got the same resources. Because if you've got a chambers with even 100 people, or 50 people, they have the potential to have much more money coming into chambers, so that they can have much better systems in place. (Chambers, practising barrister count under 50)

6.2 Recruitment and start dates

Some pupillage providers taking part in the research recruited 18 months in advance of pupillage commencing i.e. they made offers in May 2023 for pupillage to commence in September/October 2024. Others made an offer of pupillage to commence in the same year the offer was made, explaining that recruiting far in advance was only really an option for those pupillage providers who were in a



position to be able to plan ahead and that these tended to be the wealthier providers or those chambers and entities in a position to forecast their workflow.

And the way the Gateway timetable works is, it starts by opening Gateway in January and then you make your offers in May; but realistically, you are selecting for people to start not in the coming September, but in 18 months' time. So normally, we're recruiting 18 months ahead. And that is like most sets of chambers. Most sets of chambers that use Gateway are not doing it in order to recruit for the coming September; but they're doing it to recruit for the September in just over a year's time. (Chambers, practising barrister count over 50)

Those pupillage providers who recruited 18 months in advance believed that this enabled them to recruit the best and the brightest pupils, sometimes recruiting applicants before they had completed the Bar Course and in advance of them having been awarded an undergraduate degree. Some of the pupillage providers not recruiting in advance highlighted that recruiting at this stage further baked disadvantage into the pupillage recruitment process, as the approach was thought to ensure reliance upon A level grades to assess intellectual ability.

Others would argue that this approach enabled some successful applicants, potentially from more diverse backgrounds, to 'draw down' some of their pupillage award to help with the cost of the Bar Course.

6.3 Use of the Pupillage Gateway

Across the sample there was a mix of pupillage providers who did and did not invite applications via the Pupillage Gateway. Amongst those pupillage providers who chose to use the Gateway for applications, it was perceived as a fairer system that reduced administration for both pupillage providers and applicants. Pupillage providers also welcomed the inclusion of EDI data collection and monitoring, several stated that it was more cost effective than developing a bespoke inhouse system.

One of the advantages of using the Gateway is [that] the Gateway does all that E&D data collection for you, because it asks all of their applicants for E&D information and so it can give you quite a readily available cut of the data at each stage in the process. (Chambers, practising barrister count over 50)

Yet those pupillage providers who chose not to use the Gateway were generally more vocal and highlighted one or a combination of the Gateway's perceived failings:

- A belief that the Gateway application questions were too rigid and didn't allow pupillage providers to get a true read of applicants.
 - Several were unaware that questions could be added/tailored.



We, I wasn't aware you could add your own, actually. That's one of the things I outsourced to one of our admin members of staff and I was given a list of pre-set questions, so I chose from the list; but I hadn't appreciated that I could draft on our own. Oh, well, that's useful information that I wasn't aware of! (Chambers, practising barrister count over 50)

- However, others were aware that they could add their own questions but still believed that the system was too formulaic.

The problem I have with the Gateway is: people can get taught the answers to the Gateway questions, so you end up with the same answer from 70 different candidates: 'I want to be a barrister because X, Y, Z.' 'I think I will be a good barrister because X, Y, Z.' And it's formulaic. So what we do is, we say: 'Right, CV and cover letter.' Because it's amazing how poor some of the cover letters we get are. People just don't know how to write them because they're taught the Gateway style. (Chambers, practising barrister count under 50)

- Some technical issues with the Gateway that had severely undermined pupillage providers' confidence in the system and impacted on the already tight timings for the recruitment process.
 - One of two pupillage providers who chose to stay with the Gateway raised similar issues.

There have been technical problems about not asking everyone the same question, weirdly. But, it's probably better for us to be doing what most people are doing, you know: not making people fill in bespoke forms... not trying to poach by being clever or different; we just want to make it as easy as possible for applicants and we think this is probably the best of maybe not very good options. (Chambers, practising barrister count under 50)

However, the choice not to use the Gateway was not always driven by the system itself but rather pupillage providers' preference for receiving CVs and, more importantly, covering letters. While the Fair Recruitment Guide highly recommends using an application form rather than asking for a CV and covering letter, a number of pupillage providers believed that a covering letter was a better approach for assessing the communication skills of applicants and that a covering letter prevented applicants taking a 'scattergun' approach: they needed to work harder to tailor a covering letter than they did to tailor a Gateway application. Some pupillage providers believed this approach further resulted in a more manageable number of applications.

If somebody asks you to go that extra mile and do it handwritten, then from a chambers perspective, it flushes out those who are just doing it as a numbers game – let's throw it in – and those that really want it, that they're willing to go that little bit extra. So it kind of whittles down, almost, those that really want



our chambers, rather than: 'Let's throw it out there and throw as many seeds as possible.' (Chambers, practising barrister count under 50)

Example practice from the self-employed Bar

Setting a problem question via the Gateway

One provider set a problem question via the Gateway which they believed helped mitigate against 'cut and paste' responses and helped to assess competencies.

Finally, amongst both users and some current rejectors of the Gateway, there was interest in the possible addition of contextual recruitment to the Gateway, with a number of pupillage providers interested to find out more about the additional benefits this could bring to those who could not afford to individually invest in such systems (See section 6.8).

6.4 Commonalities across selection criteria

There was, perhaps, more commonality across the selection criteria used rather than the recruitment processes employed. Generally, the criteria used most frequently by pupillage providers included, but was by no means limited to:

Figure 3 – Common selection criteria



The first is intellectual achievement to date and we ask for at least a 2.1 at degree level when we look at that particular criteria. The second is effective communication and that's written, at that stage. And that's why we're quite keen on a little bit more narrative and you have to go through a lot of bits of information that aren't, strictly speaking, going to inform the view of the screeners, about backgrounds and clubs and things like that, which *are* important, but not as important as how well they write when they answer the questions. Motivation and resilience is the third and that's looking at commitment to a career as a barrister, demonstration of understanding of what being a barrister is all about. (Chambers, practising barrister count over 50)



As discussed in Section 4.7, these criteria are similar to those used by the Inns for awarding scholarships and are often listed on the websites of individual pupillage providers, examples of which are highlighted below:

Figure 4 – Example criteria taken from websites

<p>Example 1</p> <ul style="list-style-type: none"> • Academic qualifications • Intellectual achievements and advocacy potential • Legal-related experience • Other life experience • Affinity with our core values and practice areas • Mitigating circumstances • Other special circumstances • Presentation of the application 	<p>Example 2</p> <ul style="list-style-type: none"> • A high level of academic ability, generally 2:1 or above but a 2:2 would be considered • Impressive written and oral communication skills. • A genuine desire and determination to work as a Barrister. • A capacity for hard work and the resilience to meet the demands of practice at the Bar. • An understanding of the challenges of developing a practice at the Bar. • An ability to work both alone under pressure and to contribute to a team.
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6.5 Weighting of academic achievements

The role of academic achievement within the selection criteria was much discussed and a number of views and practices emerged, in relation to encouraging more diverse outcomes:

- Most pupillage providers said they looked for applicants with a 2:1 or above at degree level, with the exception of one or two providers from the Criminal Bar who specified 2:2 and above.
 - A number of pupillage providers, less so at the Chancery and Commercial Bar, said that they would consider a 2:2 if there were mitigating circumstances such as a family bereavement. The initial application mechanism was often designed to gather this information.
- Some pupillage providers had made changes to the weighting of academic achievement within the overall process to ensure that applicants could make up sufficient marks elsewhere in the application, rather than academic achievement being the determining factor. For example:
 - Some tinkered with the number of marks awarded for degree class so that an applicant with a lower degree class was not necessarily disadvantaged. This is in keeping with the Fair Recruitment Guide that also flags that a problem can arise where one criterion is so heavily weighted that it in effect trumps all the other criteria.

In our initial marking process, one of the biggest scores is to do with academics: academics at school, academics at university. And so if you don't do well in those, you're definitely not going to progress in our system. And we have been looking at this, trying to come up with ways that we can not make it



so important. And I think this year we actually downgraded the number of marks that we gave to that and tried to make it less significant. (Chambers, practising barrister count over 50)

- Several also combined the scores from a written assessment with the scores from the initial application, again helping to mitigate the impact of degree class amongst those who had made it through the initial sift.
- Some pupillage providers redacted the name of the university where the degree was obtained, so that all degrees were treated equally. Again, this was a recommendation in the Fair Recruitment Guide to help to reduce the risk of unconscious bias.

But we also take off the university as well. So I think that was a really good thing to do, so it doesn't matter where you got your first from; you get eight points for that and it's very transparent. So you go to Cambridge, you get eight points; you go to the Open University, you get eight points... I think that helps the process. (Chambers, practising barrister count over 50)

- Some pupillage providers were keen to stress that A levels should not be included within any scoring of academic achievement/intellectual ability. They believed A level grades were inherently biased as those attending private schools or top state schools were 'hot housed' for success in comparison to those attending schools in more deprived areas. Contextual recruitment was used by some pupillage providers as a way of addressing this issue (see Section 6.8).

I took certain steps, right from day one. I chucked out A levels. It does mean that we can't recruit as early on as some of the top sets do. I *personally* think that's an issue with the top sets, that they recruit straight from university, because you can only then rely on A-levels. (Chambers, practising barrister count over 50)

But we have a system in place, where to be frank, it doesn't matter what university you went to. We don't look at A-levels, because we think the disparity in the quality of your school can give people false results at A-level. Your degree is much more reflective of your ability. (Chambers, practising barrister count under 50)

Not all pupillage providers were keen to change the way that academic qualifications were viewed and scored. One pupillage provider explained that some members of chambers felt quite strongly about people having been to certain universities and another pupillage provider reported that they looked at the university when scoring as there is a 'big, big' difference between getting a first class degree from one university versus another. Another pupillage provider did not redact the name of the university so they could potentially upweight applicants from lower universities if they showed sufficient 'grit and determination' elsewhere in their application,



recognising that Oxbridge candidates might sail through the process on academics but not have the resilience required for the role.

Finally, one pupillage provider who had redacted the name of the university explained that they had received more push back from applicants, who had worked hard to get into top universities, than barristers within chambers.

General findings from the Employed Bar

- Generally, these were large entities that believed they were already well established as diverse employers, often supported by robust data.

I think that's one of the major advantages I would hope for pupils coming in is that we're already a very well-established diversity employer, and an inclusive employer. (Organisation within the employed Bar)

- In contrast to many chambers, these entities could call on the support of Human Resources teams and external agencies to help facilitate some of their recruitment processes and act as a sounding board.

So advertising for the role and we designed the advert and we have a recruitment advisor who helps us design the advertisements and they're really, really helpful because they have specific training in you know how to attract the right candidate for the right role. (Organisation within the employed Bar)

- Some of the 5 entities interviewed had applied for a waiver that allowed them to recruit outside of the mandatory timetable, therefore felt less constrained by timings.
- Some, but not all, use situational judgement tests, and verbal and critical reasoning to reduce bias in recruitment processes and promote diversity.
 - That said, legal exercises may be set at the final stages.
- Unlike chambers, many of these entities also recruited pupils internally as well as externally. Internal recruitment was seen as one way of encouraging diverse outcomes, as applicants had often taken a less traditional route to the Bar.
 - Some factors, such as academic achievement and whether they had completed a mini pupillage, were potentially less important where the applicant could already demonstrate a commitment to the organisation.

Example process from the self-employed Bar

Relatively small chambers in Family Law

- Invites one page CV and covering letter.
- Undertakes a paper sift conducted by a practising junior barrister and a non-legal member of the senior leadership team.



- Appreciate having a non-legal perspective
- Both will have read Fair Recruitment Guide and one will have undertaken Fair Recruitment Training
- Select 16 applicants out of 100-200 to attend a 15-20 minute face to face interview (unless they request online).
 - Candidates will be told in advance the types of questions that will be asked.
 - There will be 2 people on the panel who will have been involved in the initial sift.
- Take 8 applicants through to second round interview of 45 minutes and provide individual feedback to the 8 that have not been selected.
- The 8 successful applicants will be sent an information pack and an advocacy exercise based on a topical subject, 7 days in advance of the second interview.
 - For the second interview with a panel of 3, they are not informed what the interview questions will be, but they do get told that each panel member will ask them 2-3 questions and that they should also have questions ready to ask the panel.
 - Try to create a more relaxed environment by specifying smart dress but requesting no suits.
 - All candidates are met by a junior clerk and a current pupil, to put them at ease. These 'greeters' will also be asked to provide feedback on the applicant from the meet and greet.
 - Organisational 'fit' is important so applicants will be asked questions to try and find more about personality, as well as having advocacy skills tested etc.
- Interviews are immediately followed by a thank you email and the offers are made as soon as they can be under the Gateway timetable.
- 2 applicants are generally awarded pupillage but all unsuccessful applicants are offered feedback and the opportunity to stay in touch.

6.6 Shortlisting - 'Paper sift'

All pupillage providers performed some form of paper sift. The main variations between them were:

- The number of practising barristers involved in this initial sift, and consequently whether applications were single, double or even triple marked.
 - This was generally driven by the size of chambers and the number of available volunteers.
- The amount of information redacted from the applications and the extent to which applications were scored blind.

Those involved in this initial sift had almost always been asked to read the Fair Recruitment guide in preparation and some had been taken through the in-house marking scheme and given guidance on how to apply it. One pupillage provider asked those involved to complete a test run and mark dummy applications which



were reviewed for fairness and consistency in the application of the marking scheme.

To further ensure consistency in the application of marking schemes, scores were generally moderated and/or calibrated¹⁹. Moderation of scores involved remarking any applications where scores awarded by two or more markers deviated significantly. Calibrating involved double marking a subset of applications to check for consistency.

There was some discussion about the rigidity of the scoring system at this stage, with several pupillage providers concerned that being overly prescriptive could potentially disadvantage applicants from more diverse backgrounds.

Because the more narrowly you try to define them, the more you end up people putting things into boxes. You've got to be flexible; your system's got to be a little bit flexible: it's got to have flexibility built in. (Chambers, practising barrister count over 50)

Section 6.8 on contextual recruitment will further look at how pupillage providers sometimes like to be able to adjust scores based on context.

Example process from the self-employed Bar

A large chambers with several practice areas

- Receive applications via the Gateway and information about school and university is redacted.
- All applications are double marked, each pair will mark 30-40 applications.
- In advance of marking all volunteers attend an online training session taking them through an application: a template, an application form which has been anonymised and a copy of the written marking scheme
 - Each volunteer will complete 5 practice runs and receives feedback before they start (to check that scoring system is being fairly and consistently implemented).
- All scores are fed into a spreadsheet and if there is a difference of more than two between the markers it raises an alert so that the application is remarked by a moderator.
- Over 40 applicants are invited for a first stage interview of 25 mins. This takes place online and there are 3 people on the interview panel and 3 parts to the interview:
 - Those selected for interview are asked to send in a piece of their own written work before the interview (it can be on anything but needs to take no longer than 15 minutes to read). They will be asked questions about why

¹⁹ Fair Recruitment Guide sets out - Double marking applications has the benefit of increasing consistency. If chambers and BSB entities do not have the resources to double mark, then a calibration exercise is recommended.



they chose this work, how they selected it, what would they want to change or amend etc.

- They will be sent 2 non-legal topics in advance e.g. all schools should serve vegan food and will be asked to argue for or against.
- Finally, they will be asked set questions arising from the application form.
- Panel members are given 25 minutes between each interview to score applicants separately and then come together to complete a feedback form and provide comments (2 x positive, 2 x negative)
 - Applicants rejected at the first interview will be sent this feedback.
- Around 20 applicants will get through the second stage which is face to face and takes approximately 45 mins with 5 panel members. Applicants can claim back some of their travel costs.
- Over a week before the second interview applicants are sent a brief (instructions and papers) and asked for written advice, and a skeleton argument.
 - As part of the interview applicants then present an oral submission for 20 minutes.

6.7 Redacting information/blind recruitment

Pupillage providers redacted information to varying degrees: some took a stringent approach and completely removed all personal information, along with name of school and university; some removed nothing; some took the middle road and removed only personal details.

The main issue that pupillage providers had with blind recruitment (regardless if and how they used it) was that whilst it appeared fairer, it was not necessarily practicable and was not always thought to lead to more diverse outcomes. Pupillage providers put forward numerous examples of how applicants would reveal their age, socio-economic backgrounds, ethnicity, university etc within the narrative of the application form or covering letter, therefore negating the effectiveness of redacting information. Even those who religiously redacted all key information were not always convinced of the benefits.

I can always tell – nearly always tell – if somebody's male or female, I can tell what age they are, just looking at the dates, what sort of exams they've done, I can usually tell what ethnicity they are. Because one of the questions is about what languages people speak, so that's a real giveaway. So you see Punjabi, Gujarati and well, you know it's somebody who's Asian. So even though they do the best to try to anonymise as much as you can, it is very easy [to tell].
(Chambers, practising barrister count over 50)

Some pupillage providers also explained that by redacting some information they had less flexibility in how they assessed an applicant's achievement, in effect they



felt they were unable to contextualise the information in front of them. In addition to this, one provider explained how redacting information had led to a gender bias and fewer females were getting through the sift. They believed that female markers may have previously been (un)consciously biased towards women.

6.8 Views/use of contextual recruitment within the process

A number of pupillage providers, generally larger sets and/or wealthier sets, had been or were currently using contextual recruitment systems. One pupillage provider explained that the adoption of contextual recruitment was, to some extent, solicitor led, as they want to award work to chambers who were increasingly able to demonstrate diverse approaches. Pupillage providers not using contextual recruitment cited cost and a lack of confidence in its benefits (especially if A levels were not part of the recruitment process) as key barriers. One or two pupillage providers currently using the contextual recruitment systems also questioned its benefits and whether or not they were using it to its full potential.

The main reason that we haven't used them is that it's quite expensive, to be honest. It's sort of £20,000 or something, so it's a lot of money to spend on it. So unless you're one of the bigger sets, you're not going to be wanting to spend that kind of money on contextualised recruiting. And it's not that easy to do it yourself. It's quite hard to do that without getting somebody who's got experience. (Chambers, practising barrister count over 50)

I'd be interested to know, for example, what chambers have used contextualised recruitment and then see who they've taken on as a result, to see, actually, whether it makes a difference or are these more sort of box-ticking exercises that we do and we don't actually effect any change whatsoever? (Stakeholder 2)

Figure 5 – Description on contextual recruitment system

Contextual Recruitment System - Rare

Rare developed a system which aims to allow recruiters to calibrate disadvantage and to measure outperformance. This Contextual Recruitment System or CRS has a system which aims to identify the most disadvantaged candidates and the candidates who have outperformed their schools by the greatest amounts.

It has flags to measure disadvantage (i.e. qualifying for Free School Meals, or a combination of measures indicative of coming from a low income background) Performance Index (PI) to measure outperformance against students at the same school. It takes raw achievements - for example, AAB at A Level - and puts them in context - for example, AAB from a school where the average is DDE.



The two systems used by pupillage providers were operated by Rare and Upreach. Those pupillage providers that used such systems expressed mixed feelings towards them. Those that welcomed a contextualised recruitment system explained how it had made them take a second look at applicants at each stage of the recruitment process, and ensured that flagged candidates were pushed through, even if they had originally scored below the cut-off line for interview. For one provider, it had also caused them to reconsider an applicant who was not one of the top candidates after final interview.

We have seen, every year, at least one person – if not, two or three – move up and into first round interview status because of the Rare additional marks. (Chambers, practising barrister count over 50)

Those that had more mixed feelings toward contextual recruitment systems were less certain that they were using the systems to maximum effect (only at the sift stage) and they believed that any flagged candidates who had gained pupillage would likely have done so regardless. There were also specific issues with how to account for international qualifications.

We used them for a number of years; but as a general rule, we found it didn't really have much influence on the end result. So even though some people with flags may have gotten to first round interview, we generally found they didn't progress by the time we got to final round interview, even those that had the Real Recruitment flags were seldom in the process. (Chambers, practising barrister count over 50)

It's not that we formally offer them extra marks or whatever, but if, for example, we have a range of marks between 100 and 0 and our normal cut-off, if we've got, say, 20 places at the next stage, if our normal cut off is 80, the Rare contextual analysis becomes particularly useful, where you've got people who are potentially around the cut-off, or just below. We may allow them through to the next stage, even though they would not otherwise, on a pure application of our cut-off, otherwise make it through. (Chambers, practising barrister count over 50)

Pupillage providers did, however, often speak of a quasi-contextualised recruitment approach when sifting initial applications and some appeared to have the scope to add additional points for applicants that were considered to have achieved against the odds. One or two pupillage providers believed that this allowed for a more nuanced approach than any algorithm could account for.

There's every chance you would think rather more about the application of the person that's not been to very good schools throughout their academic career. (Chambers, practising barrister count over 50)



That's why we have the policy that each application is read by three people, because the three people that will read it are all from different places, and they've all come from different backgrounds, so each one that is read will be read from a slightly different perspective and it's actually quite an interesting exercise in itself. Because somebody will give a 9 and somebody will give a 3. So they are reading it from their perspective, which I think is way more useful than a tool that will root out automatically and doesn't take the nuance. (Chambers, practising barrister count over 50)

That said, an external consultant pointed out to one pupillage provider that using this kind of quasi-contextualised recruitment was unfair:

'That's not fair recruitment. You're positively discriminating and you're doing it on a subjective basis.' You have a feeling that that school is not very good and so you're bumping up their marks. You don't know. You don't know if they have private tutors; you have no idea. So that's why we *don't* do that, because it's not objective; but a huge part of me *wants* to do that. It feels like the right thing. (Chambers, practising barrister count under 50)

There is also perhaps, a wider question, in relation to this approach, in terms of how personal assumptions may influence other aspects of scoring, beyond academics.

6.9 Views/ use of positive discrimination within the recruitment process

Pupillage providers often raised the topic of positive discrimination within discussions and the extent to which it should, or rather should not, be considered by the profession. Most pupillage providers expressed concern about its potential use and the impact it would have on applicants, who may feel they have not acquired the pupillage on merit.

Sometimes those two things don't work, because if you want the best to be at the Bar, then you want the best to be at the Bar and you can't have... I think it's the Rooney rule in American football, where it's positive discrimination. It's like, 'Well, what do you want?' (Chambers, practising barrister count under 50)

Pupillage providers also pointed out that positive discrimination in terms of ethnicity could impact on candidates from lower socio-economic backgrounds, where data is thought to be less reliable.

The: 'If we had two people at the final analysis, who are *absolutely* equal, we would take the black person,' type thing, which I think one of them actually *did* say. And I'm going: 'OK, so you will take the Nigerian billionaire's son, who went to XXXX above the girl from XXXX who's fought her way through a ghastly comprehensive school and still managed to get a first class degree?' (Chambers, practising barrister count over 50)



While positive discrimination was generally believed to be best avoided, one provider did have an equal merit provision. This required the EDI officer to actively monitor the chamber's data so they knew if and when it could be applied. If the chambers has evidence that they are below average in relation to specific ethnicities in their intake, they are able to make an equal merit provision. This means that with two equally good candidates, they could make an offer to the one from a specific minority ethnic group.

6.10 Interview preparation

Number of applicants interviewed

Pupillage providers had to balance the number of interviews with the time available from volunteers. Some suggested that they were unable to take more applicants through to interview as volunteers simply did not have the capacity to conduct more interviews. There was some concern about the extent to which this lack of capacity might disadvantage applicants who expressed themselves marginally less well in the written application but could actually excel in person.

We whittled ourselves down to 15 initially and then we went to 10, because we realised we just couldn't find the time to interview 15. (Chambers, practising barrister count under 50)

One or two larger chambers had deliberately extended the number of applicants they took through to interview to allow them to meet those applicants who would generally fall below the cut. One pupillage provider used a contextualised recruitment system to help identify additional applicants that may be on the periphery and another reviewed applications again by hand.

Me and [named individual] look at the ones that are on the periphery, to see if those people come from any particular type of background, to try and spot trends and things like that. And the consultant said, if people are on the periphery, we should err on the side of caution and put those people through, because it may be language that they had used, that just meant that they didn't quite hit the mark, things like that. So that was another way we encouraged. So we expanded our first round interviews to include people that were just on the periphery of getting an interview, in the hope that that would increase diversity. (Chambers, practising barrister count over 50)

Information provided

A point of variation amongst pupillage providers was the amount of information about the interview process sent out in advance. Several advocated for full disclosure about who would be on the panel, the kinds of questions applicants would be asked and the scoring system. Alongside this, on their website there might be hints and tips for a successful interview or a specific webinar on how to approach the written assessments that form part of the selection process.



We have a brochure online; it tells you what you can get points for; it tells you the sections. So it's really, really transparent to every candidate as to what we're looking for. It gives examples in our brochure about what we're looking for, so we have academic achievement, intellectual and advocacy experience, life experience, for those that may have not come through the traditional route. (Chambers, practising barrister count over 50)

Format and timing of the interview

Across the research, pupillage providers generally followed one of three routes for interviews:

- Two interviews: First interview of 15-20 minutes, followed by a longer second interview of up to an hour.

To a lesser extent:

- One longer interview: Of up to an hour.
- Assessment days or weekends.

Since the pandemic, some pupillage providers reported that first round interviews had remained online. Those who offered online interviews as a matter of course explained that it:

- Was more inclusive of all applicants as they did not incur travel costs.
- Allowed applicants to schedule in more interviews (as the mandatory timetable resulted in interviews often taking place over the same days).
- Allowed for more applicants to be interviewed (as online interviews are more convenient if barristers work from home and are therefore more likely to attract volunteers).

There was generally very little flexibility with the interview times offered by most of the pupillage providers, as volunteers set aside specific days and reconvening the same panel for the convenience of the applicant was simply not feasible.

Most recognised that this inflexibility could pose difficulties for applicants, who may have to fit in a number of interviews during the recruitment window and/or may have work or caring commitments, and therefore some tried to do what they could to make the process fairer to applicants:

- Including the interview dates within their pupillage advert so that applicants could plan ahead and those who knew in advance that they would not be able to attend did not waste their time applying.

The second round is worse, because every chambers is nearly booking the same interview slots on the same days. So this year, we highlighted our interview days; we said: 'These are our interview days. The first round will be on this day, this is our second round. If you want to come to us, we'd love you



to apply, but we're not going to change our interview dates unless they've got mitigating circumstances. Because to get the fairness in, we've got to have the same panel for everybody, sort of thing, so that was key. (Chambers, practising barrister count under 50)

- Offering what flexibility they could by allowing participants to select their own interview time on the allocated days, via a Google form. This was on a first come first served basis.
- Offering interviews on Sunday as well as Saturday to give applicants more choice, and on the assumption that other pupillage providers were less likely to offer Sunday.

Example process from the self-employed Bar

A large chambers with several practice areas

- Recruit via the Gateway, they have not tailored the questions but don't feel the need to.
- Receive hundreds of applications and select 40 to take part in a pupillage weekend.
- 3 or 4 days before this weekend successful applicants are sent a written exercise. This is a mock brief and applicants need to answer 5-6 questions. They have an hour to complete it before they need to send it back. This is marked in advance of the pupillage weekend. As well as completing this written exercise applicants are asked to prepare a 3-4 minute talk on a subject of their choice.
- On the Saturday of the pupillage weekend, applicants are shown around chambers by current pupils. Then in the afternoon they present their 4-minute talk to a panel of 2. They also get to interview one of the other pupillage applicants and present back why this applicant would make a good pupil.
- Applicants are marked on all aspects (written exercise, talk, interview) and the scoring is collated.
- From the Saturday 10 are invited back for an interview on the Sunday. Here questioning appears less structured, and it is more about getting to know the applicant. Applicants may be asked for their view on a particular issue and/or more about themselves i.e. what is your favourite book.
- All 40 applicants who made it through to the weekend are offered feedback.

The interview panel

The number of people on an interview panel ranged from 2 to 6, with most pupillage providers opting for around 3, as advised in the Fair Recruitment Guide. Some had made changes in recent years in recognition that 5 or more panel members could be intimidating for applicants, however, some larger chambers have continued with higher numbers because they want a range of barristers and support staff on the panel and believed that to narrow it down further would possibly result in losing the



representation of more junior or administrative members of staff. One or two smaller chambers also kept the panel large so that the whole pupillage committee could input into the interview process. Both approaches potentially reflect the pressure that pupillage providers can feel to make the right decision when selecting a pupil.

While most pupillage providers reported aiming for a diverse interview panel in terms of age, gender, practice area (if relevant) and ethnicity, they consistently raised the point that the diversity of the panel was ultimately dependent on who was prepared to volunteer their time.

Fortunately, we do tend to be able to produce a diverse panel. Some of the younger members are quite keen to be involved and that's good. And of course, as you've seen, we're female at the bottom end. But yes, I have no difficulty personally. I mean, if the panel are all middle-aged, white men, then they're all middle-aged, white men, because they're the people who have volunteered. (Chambers, practising barrister count over 50)

You can't force diversity onto the panel; you get people that are willing to do it. So for our panel this year, it was four men and one woman. That's because that's who wanted to do it. In previous years, we've had three women, two men, you know: mixing it up. But we do try and keep an eye on it. (Chambers, practising barrister count under 50)

Example practice from the self-employed Bar

In terms of keeping the panel 'fresh' providers gave the following examples:

- If running multiple panels, mixing up the panels part way through the day to avoid group think.
- Not allowing first round panel members to take part in second round of interviews so panel members can't make allowances for previously preferred applicants.

Interview environment

There was some discussion about the interview environment and how it might impact on potential applicants, with several stakeholders referring to the messages created by portraits of eminent white males and, some providers more broadly speaking about the desire to put applicants at ease by arranging for them to be greeted by current pupils. Increasingly, since the introduction of the mandatory timetable and resulting competition for pupils in some practice areas, pupillage providers were seeing the interview as an opportunity to sell themselves to applicants during the recruitment process.



6.11 Use of written assessments and oral advocacy exercises

The Fair Recruitment Guide advises chambers to use work samples as part of their assessment process, and almost all were doing this in various iterations within the interview process. That said, there were also several pupillage providers who looked to include an additional form of written assessment as part of the initial application i.e. they set a problem question or invited an essay on a particular topic. In one or two instances, pupillage providers ran a separate written assessment after shortlisting applicants and before selecting them for interview. Scores from the written exercise were combined with the scores for the application and those with the highest scores across both were invited for interview. This approach was believed to promote diverse outcomes as it was moving the focus away from an applicant's prior experience.

Content of exercises

Pupillage providers recognised that applicants' legal knowledge varied according to where they were in their journey to the Bar i.e. just completed a law degree, currently on the Bar Course, working as a paralegal etc. and took this into account when assessing written tasks. Often any necessary information to complete the task was sent in addition or tasks were designed so that little additional information was required to complete a written task.

Three or four days before, we send them out a written exercise. And all the written exercises, it's not about knowing the law; it's about how they deal with a brief. And it's just common sense and how you would deal with something and we send them out a mock brief and then we ask them to read it and then there are five or six questions they've got to answer and they've got to do it within an hour. And our chambers manager sends it out to them on the dot of, say it's 6 o'clock, at 6 o'clock and it has to be back with her by 7 o'clock. (Chambers, practising barrister count over 50)

Whilst oral advocacy exercises, like written exercises, were often focussed on aspects of the law, there were a handful of pupillage providers who, with recruiting for diverse outcomes in mind, looked to set exercises that were more topical than legal. They believed that overly focussing on legal topics could advantage applicants who benefited from more exposure to legal arguments/the courtroom through mini-pupillage and/or work experience. One or two pupillage providers deliberately gave applicants a choice of topics to choose from so they could select the one that resonated most strongly, as they had found in the past that in previous years not all applicants had been familiar with the topic set.

But it's not legal, as such, where they come in about 20 minutes before the interview and they're just given something more broad in content, where it *doesn't* require legal knowledge, but it requires you to think. So I think last year, for example, it was about the question of online safety and the regulation



of social media. So it *doesn't* require legal content, but the idea is to see how they react with 20 minutes. (Chambers, practising barrister count over 50)

Timing of exercises

Other discussions relating to written assessments and oral advocacy when recruiting for diverse outcomes focussed on the timing of such exercises. A number of pupillage providers wanted to test an applicant's ability to 'think on their feet' and use oral advocacy, and to a lesser extent written exercises were often only shared with applicants just prior to the interview.

On the second one, they only get two hours before their interview to do it. That's testing their ability to think on their feet. But yes, it's a pretty rigid process, but it's also very transparent. (Chambers, practising barrister count over 50)

However, several pupillage providers argued against this approach and explained that it was both unrealistic and unfair on those potentially less confident but equally able applicants. Typically, these pupillage providers sent out information about an exercise up to a week in advance.

They're under enough pressure anyway, so you want people to perform to their best and have the best opportunity to give their best, so dropping something on them 20 minutes before the interview, I don't like it when it happens to me in work, so, I just think it would be unfair. (Chambers, practising barrister count under 50)

I know loads of people just throw things at them at the last minute, but how often, seriously, does anyone go: 'Oh, you've got half an hour to go in and make this argument?' It's absolute rubbish! That tests the people who've done debating at Oxford or Cambridge, people who've had to do the Aristotelian learning processes, the people who have grown up being challenged like that. It *totally* wipes out anybody who lacks self-confidence, or who has, perhaps, ADHD, or is just unable to switch state that quickly. I mean, we don't have to do it that much, in practice; it's a completely false test. (Chambers, practising barrister count over 50)

One pupillage provider at the Family Bar questioned the idea of using oral advocacy exercises at all given that they rarely resulted in being able to assess applicants at their best.

6.12 Use of mini pupillage within the application process

Section 4.3 highlights how mini pupillages are often considered key to applicants being able to demonstrate a commitment to a career at the Bar. However, in several instances they were used, or pupillage providers were considering using them as an integral component of the pupillage recruitment process:



- One pupillage provider invited applicants who had made it through the interview process to complete a mini pupillage just to reassure themselves that they had made the right choice.
- For another it was used as part of the selection process, applicants had to complete a successful mini pupillage with the chambers before they could actually apply for pupillage.
- One pupillage provider ran a 2-day mini pupillage that included a written assessment. Selection for final interview was then solely based on that written assessment.
- Finally, one pupillage provider was considering introducing a mini pupillage as a final stage of the recruitment process to ensure that pupils could handle the research and administrative aspects of the role.

What I'm thinking, now, is that I may introduce a final stage to the selection process, whereby I get the final eight or six or whatever into chambers, get them to do an assessed mini pupillage and see how they cope with a heavier piece of work, to try and assess for that. Because what's happening at the moment is, the pupils we're getting are definitely fine in terms of going to court and their oral skills and their presentation and that ability to argue on their feet, which is effectively what we're testing for. (Chambers, practising barrister count over 50)

While the majority were not using mini pupillages as part of the selection process, most recognised that they did play a less direct role in the recruitment process.

6.13 Interview questions

To varying degrees pupillage providers reported using a combination of questions intended to:

- Explore set exercises.
- Assess competencies.
- Explore application form/CV in more depth.
- Gauge how well the applicant will 'fit' within the team.
 - This was particularly important for smaller chambers.

In terms of recruiting for diverse outcomes, a number of pupillage providers advocated the use of competency-based questions with several having received advice from external HR consultants. In connection to this, it was mentioned that this form of question required a STAR²⁰ based response and that not all applicants would necessarily be aware of this. Indeed, one of the Inns had published guidance on their website, outlining the need for a STAR based response to questions. Pupillage providers using a competency-based approach emphasised that they took

²⁰ [The STAR method | National Careers Service](#)



into account that applicants would not all have the same range of experiences and that they did not expect all applicants to have done amazing things.

I do employment law and I know a lot of HR consultants; we've introduced the STAR type questions. So: 'Tell me about a time when you did this.' And so we're actually looking for trying to get people to give us objective, real life examples, to try and assess their ability of doing something. (Chambers, practising barrister count over 50)

They explained that testing applicants based on the requirements of the role was fairer than CV based questions which could encourage affinity bias and potentially disadvantage applicants who had not had the means or opportunity to undertake unpaid internships, multiple mini pupillages etc. That said, competency-based questions were generally used for the initial application and first round interview and were less relied upon for the final interview.

Another piece of advice that we had from the E&D trainers was: don't ask about anything that's irrelevant to your competencies. Don't ask the questions about things like their hobbies or what they do at the Inns of Court or whatever, because you're running the risk of affinity bias if you start asking questions of that sort and selecting for people who are like you. (Chambers, practising barrister count over 50)

While many pupillage providers used some form of competency-based questions, there were also numerous examples of providers having CV based questions as well as more general questions aimed at uncovering how well the applicant would 'fit' within chambers. Often these questions were used within the final stage of interviewing.

And at the end of it, anybody could ask any question they felt was going to help them to tell us a bit more about who they were and what they were doing. (Chambers, practising barrister count under 50)

We're a very sort of, collegiate chambers, we're very friendly, so we want somebody who's going to fit in. And so we ask them questions about what's their favourite book, what's their favourite film? (Chambers, practising barrister count over 50)

Another key difference across pupillage providers was the extent to which questions remained consistent across the interviews, particularly the first stage interviews. Pupillage providers recognised that consistency was vital to ensure that the interview process was fair to all but the degree to which they adhered to asking exactly the same questions ranged from absolute adherence through to selecting questions at random from a pre-agreed list. Some pupillage providers had set follow up prompts to questions, while others gave panel members more leeway to follow their own line



of questioning having asked the initial set question. One or two pupillage providers recognised that some interviewers could go 'off piste'.

You've got to stick to the questions that are on the sheet, because we need consistency across the interview panels. And we also don't want people asking rogue questions, that could potentially be perceived as inappropriate. So we try very hard not to give too much latitude to our interview panels. (Chambers, practising barrister count over 50)

We don't deviate; just five questions. I nearly killed one of our tenants once, because she had asked a supplemental question to the first person, which then meant we had to ask the supplemental question to all the other candidates. (Chambers, practising barrister count under 50)

One pupillage provider had taken and adapted questions from one of the Inns, where they also volunteered on the interview panel for scholarships. This again highlights the similarities between the two processes.

It is standard across all interviews. I think originally, we started with the standard ones, maybe from XXXX Inn? We picked them up from somewhere, we picked them up from somewhere and we adapted them for ourselves. And then each year, we looked at them again and discussed them between ourselves. And then, we will delegate who will ask which questions in any particular interview. (Chambers, practising barrister count under 50)

6.14 'Polish' or affinity bias?

A recurring theme throughout the interview was the extent to which success at the final interview was dependent upon applicants displaying a certain amount of 'polish'. Discussions highlighted how this 'polish' was more likely to be displayed by applicants who had enjoyed the benefits of a 'middle-class' education, top university and, to a lesser extent, mentoring schemes. While several pupillage providers referred directly to polish, one linked it to affinity bias (recognising that interview panel members were often drawn to applicants from similar backgrounds).

Some pupillage providers noted that while applicants from diverse backgrounds were making it through the initial application and potentially the first interview, for the final interview it became more difficult to ignore the influence of polish. It was often in interview that applicants from more diverse backgrounds failed to flourish.

Example practice from the self-employed Bar

Interview coaching

One provider mentioned a chambers that offered interview coaching to all applicants who had secured a second round interview.



Section 8 will explore barriers to recruiting for more diverse outcomes, but in short displaying 'polish' meant that the applicant was perceived as a 'safe bet' for some chambers.

There is a polish with some applicants that come from private schools and a confidence that other candidates haven't benefited from. (Chambers, practising barrister count over 50)

I think the reality is, half this job is presentation. And actually, as much as you put into this unconscious bias training and you account for nerds and you account for the rest of it, there is an element to which people who've come through certain educational backgrounds, certain familial backgrounds, feel very comfortable in certain situations. (Chambers, practising barrister count over 50)

Some pupillage providers reported struggling to understand how they could overcome this hurdle and that it could be difficult to convince all members of chambers that the best applicant now might not necessarily be the best applicant in 3 years-time.

That said, the fierce competition for pupils resulting from the mandatory timetable and the significant pupillage awards offered by some sets of chambers (which others can't compete with) had encouraged a handful of pupillage providers to look beyond this polish to varying degrees. They focussed on spotting potential that others might have missed and challenged panel members who were taking 'polish' too much into account.

We don't look for perfect pupils; we look for really excellent and awesome people, who can grow. And some of them will not have perhaps the strength that others will have; but we consider it's important to be flexible about strengths and... if somebody has a weakness and you think: 'Well, you're in pupillage; we can work on that'. (Chambers, practising barrister count over 50)

However, 'polish' is still a prevailing factor, reflected in the establishment of numerous mentoring schemes.

6.15 Notifying candidates and providing feedback

Pupillage providers rarely gave feedback on application forms. The majority explained that they simply did not have the capacity and some asserted that, as they were marked blind, it would not be possible. However, several pupillage providers did write to all applicants and attached generic feedback based on all the applications they had received i.e., applicants would have scored higher if they gave a more specific example in this question etc. Only two pupillage providers fed back the scores at this stage alongside a more substantive comment that those involved in the paper sift had to make note of at the time of scoring:



At the sifting stage, I will send people their marks, so their total marks for each of the sections, so they can see where they've dropped marks, so they can look at next year, improving whatever section may have dropped marks.
(Chambers, practising barrister count under 50)

In contrast, many more pupillage providers were only giving feedback at the interview stage, some only if requested and others as a matter of course. Pupillage providers recognised that pupils making multiple applications and getting as far as interview, needed to be able to learn from their mistakes so as not to repeat them. Furthermore, one stakeholder highlighted that a lack of feedback gives the impression that the Bar is a 'closed shop'.

Pupillage providers fed back after interview in a number of ways, some simply offered a brief email with key points, others called applicants personally. A call was more likely to take place after the final interview. Some pupillage providers reported it was difficult to feedback to applicants due to a lack of capacity and would be reluctant to offer any more feedback than they already did.

Several pupillage providers invested quite a lot of time in the feedback process at the final stage, with one of two providers offering to keep in touch with applicants who had just missed out on pupillage, acting as unofficial mentors. They explained that sometimes these applicants were excellent but that they had simply been 'pipped at the post' and deserved to get pupillage somewhere.

So we ring them, every one of them and we explain if they haven't been successful. We're very encouraging to them and tell them to apply again; but we also ask them if they want written feedback and we always send them written feedback. And the people who are in the 40, I think we say, at the end of the day: 'If you want feedback, let us know.' And some people want it and some people don't, but we will always write to people who want feedback. But we don't give feedback before that, so it's only the last 40 and the last 10. (Chambers, practising barrister count over 50)

Inviting feedback from applicants

Most would ask successful applicants for feedback on their recruitment and also the processes experience at other chambers they may have applied to, however, less is done in terms of learning from unsuccessful applicants. Some pupillage providers explained that this would not necessarily secure an honest view as applicants may avoid being critical, as they may wish to reapply for pupillage in a subsequent year.

Example practice from the self-employed Bar

Anonymous feedback form

One pupillage provider sent out an anonymous feedback form at each stage of the application process to try and elicit honest feedback from applicants.



7. Data, monitoring and evaluation

Section summary

Various issues were identified in relation to data completeness and accuracy of the data collected, in addition to how it is used:

- Applicants are not required to provide a response to specific questions which results in incomplete sets of data.
- Social mobility is difficult to reliably monitor, with problems with most of the proxy measures.
- Stakeholders questioned the extent to which pre-application activities are measured for impact and whether the intersectionality of ethnicity and socio-economic group was monitored and understood, in addition to whether analysis by ethnicity is conducted at too high a level.
- It was apparent that there was variability in the extent to which pupillage providers analysed the collected data.

7.1 Incomplete data sets

One of the key issues identified by both pupillage providers and stakeholders in relation to data collection was that data sets were often incomplete, as applicants were not required to provide a response to specific questions, if they did not wish to do so. Some explained that applicants did not always want to provide EDI data for fear it might count against them.

I think candidates don't put their educational background into application forms because they're not sure whether it's going to play for or against them. Which means that we have a complete data hole on the educational background of candidates. They don't know whether being from a state school is a good thing or a bad thing, or being from a private school is a good thing or a bad thing. And so we find that candidates don't complete the socio-economic background questions because they think if they *are* from a privileged background, it's going to count against them and if they're from a *non*-privileged background they think it's going to count against them. (Stakeholder 1)

The problem is that the Gateway has been – and it might be changing in the next couple of years – pretty *awful* about the social mobility data. Even if they ask the right questions, they don't get enough answers for it to be meaningful. (Chambers, practising barrister count under 50)



Some suggested that applicants needed to be encouraged to complete the questions and be made more aware of why providing this data was important i.e., the role it played in ensuring a more diverse profession.

7.2 Social mobility questions

Some stakeholders and pupillage providers questioned the reliability of social mobility questions. They highlighted that first generation to attend university did not necessarily give a true measure: with some applicants who were privately educated in renowned institutions being in this category alongside those who parents may have returned to university later in life to obtain a specific qualification, having previously worked in a relatively low paid role.

Using free school meals as an indicator was also thought to be too binary, with pupillage providers and stakeholders explaining that this did not take into account those applicants from low income families who struggled but did not meet the criteria. Finally, some questioned the use of state and fee-paying schools, explaining that a top state school can often be on a par with some fee-paying schools and that not all state school applicants can be considered disadvantaged.

I mean you can ask about parental education – that tends to be the one that people latch onto, ...that makes something complicated look binary, or you can ask about what sort of school they went to...Obviously, it's *something*, if you went to a private school, rather than a state funded school. But as we keep being told, the difference between the best state school and the worst state school is far bigger than the difference between a good private school and a good state school. (Chambers, practising barrister count under 50)

7.3 Lack of monitoring of pre-application activities

Some stakeholders questioned the extent to which pre-application activities were and should be monitored given that impact was difficult to measure and more nuanced than simply gaining pupillage. This was particularly the case in relation to mini pupillage and mentoring schemes that were intended to broaden access.

7.4 Analysing the recruitment data

Pupillage providers and stakeholders analysed the data they collected to varying degrees. Some pupillage providers took a granular look at where their processes potentially disadvantaged applicants and others took only a cursory look:

We *do* do that and that's reported to the Pupillage Committee at each different stage. So we can see in terms of the number of applicants we've got, in terms of gender, disability and ethnic background. And then, we look to see if those percentages stay roughly the same through the process – which they do (Chambers, practising barrister count over 50)



It is a back of a fag packet calculation, when we look at it. I mean, I can't say that we do anything incredibly sophisticated; but I think it gives us a reassurance. And I think that's as much as you can say for it. (Chambers, practising barrister count over 50)

Several providers and stakeholders questioned the extent to which, within wider sets of data for the profession as well as their own organisational level, the intersectionality of ethnicity and socio-economic group was monitored and understood. Furthermore, some stakeholders highlighted that some minority ethnic groups were less represented than others in the recruitment process and that headline statistics based on minority ethnic groups as a whole were not necessarily helpful.

I think what would be really impactful in terms of how to assess whether the profession is succeeding in its intentions to improve diversity is to look at class and race together and I don't really see that happening. (Stakeholder 10)

One of the key barriers to data analysis for many pupillage providers was that it was largely down to practising barristers (who were appointed EDI officers), and it was not their day job.

Finally, those recruiting via the Gateway welcomed the ready analysis that they seemed to receive as part of the package, with one or two pupillage providers explaining that they were provided with anonymised information on how their chambers was performing in comparison to others.



8. Perceived barriers to recruiting for more diverse outcomes

Section summary

The challenges of recruiting for more diverse outcomes were clearly articulated and include the following:

- Tackling issues at pupillage recruitment was felt to be only a small part of the equation with broader, more systemic factors that need to be addressed before meaningful change can happen.
 - Some advantages are felt to be 'baked into the system' much earlier than the recruitment process for pupillage and others are difficult to tackle (for instance, 'accentism' and the use of language impacting on interview stages).
- Most of the pupillage providers taking part in the research were recruiting pupils with a view to tenancy and, therefore, reluctant to take a risk on an appointment.
 - Not only were they making a significant investment in training pupils, but they were also looking to recruit someone who would commit a substantial part of their working life to chambers.
- It was flagged that it can be very difficult to attract diverse applicants to less diverse areas of law (and less diverse chambers).
- While culture was rarely seen as an outright barrier to recruiting for more diverse outcomes, several pupillage providers did recognise that there could be an issue with affinity bias within their recruitment process that perpetuated recruiting a 'type' that prevented the organisational culture evolving.
- Pupillage providers only recruited a small number of pupils each year (or alternative years) so any changes to recruitment processes were inevitably slow to make an impact.
 - Effort and resources applied to recruiting for more diverse outcomes may not necessarily translate into outcomes i.e. pupillage providers may make offers to applicants from minority ethnic groups and/or lower socio-economic groups but they may not be accepted, as outstanding applicants received multiple offers.
- The responsibility for pupillage recruitment was rarely anyone's day job (outside of larger, more affluent chambers and some employed organisations).
 - Meaning that they do not have the time or expertise to make wholesale changes to recruitment processes.



8.1 Pupillage recruitment processes have to be seen in a wider context

Many pupillage providers noted that tackling issues at pupillage recruitment was only a small part of the equation and there are broader, more systemic factors that need to be addressed before meaningful change can happen.

It was felt that recruiting for more diverse outcomes would only bring about sustained change, if pupils recruited from more diverse backgrounds went on to be retained and rewarded. This research had a fairly narrow focus on pupillage recruitment but we note that recommendations relating to this broader context are outlined in the Bar Council's Race at the Bar report²¹.

I think having a good retention framework is a very good recruitment tool and a very pro-diversity recruitment tool, because obviously, you don't see stereotypical, white, middle-class man leaving the profession at age 35; that's not what happens. (Chambers, practising barrister count under 50)

And I say that about the BSB: the drive of, 'Oh, we're going to get all these minorities and underprivileged people to the Bar.' Well, you're not, until you get to the core issues, which are stupidly expensive universities, stupidly expensive Bar courses and the fact that Legal Aid barristers, who the BSB are expecting to contribute to training the next generation, are still not getting properly remunerated. (Chambers, practising barrister count under 50)

The point was also made that what happens prior to pupillage recruitment (i.e. in schools and universities) also has a huge bearing on what is possible to achieve.

8.2 Pupillage recruitment processes believed to favour candidates from 'top' universities and/or private schools

Stakeholders and pupillage providers frequently highlighted the advantages that candidates from Oxbridge had in accessing the profession, due to 'amazing' careers services; 'tutorial' style teaching; and long-standing associations with the Bar that helped them with the interview stage, in particular.

They also explained that access to both Oxbridge and Russell group universities, via A level grades, inherently favoured higher socio-economic groups, and more specifically those that studied for A levels at fee-paying schools or top state schools, where they were thought to be 'hot housed' to achieve high grades. A level grades were still used as a measure of intellect by some pupillage providers (see Section 6.6).

One young woman in particular, who is from a deprived socio-economic background and also, an ethnic minority background and she's really struggled and I've noticed in mentoring her, that the way she writes and the way she

²¹ [Race at the Bar Report 2021 \(barcouncil.org.uk\)](https://www.barcouncil.org.uk/race-at-the-bar-report-2021)



speaks – or when we first started the mentoring process – wasn't at the same level as those candidates that I've seen from private schools and some of the more well-known universities. So that's my view on what the problem is. (Chambers, practising barrister count over 50)

Actually, we find that generally, those that go to private schools, that go on to Oxbridge universities, they have a lot more coaching for a process like this than you would have somebody who goes to a regular school and then lands up at some university that's not well renowned for producing lawyers and barristers. And so there is a disadvantage already, way back. And you can't really go back and change that. (Chambers, practising barrister count over 50)

As seen, stakeholders and pupillage providers were working to address this barrier through a range of pre-application and outreach activities as well as changes to their recruitment processes: discounting A levels, use of contextualised recruitment, redacting information on university, ensuring sufficient time is allowed for written and advocacy exercises etc. However, some still felt that more needed to be done and questioned the extent to which the Bar could rectify disadvantages that were baked into the system much earlier than the recruitment process for pupillage.

8.3 'Accentism' and use of language impacting on interview stages

A handful of pupillage providers referred to the issue of accents when sharing their thoughts on why minority ethnic groups were less likely to be awarded pupillage than their white counterparts, all other things being equal. They explained that an advocate, above all else, had to be able to clearly communicate and that applicants with heavy accents or who struggled to with their vocabulary were at a disadvantage. One stakeholder referred to a project being run by Nottingham Trent University to explore Accent Discrimination at the Bar²² but for the most part pupillage providers highlighted the issue of accents amongst some who spoke English as a second language.

We've taken on people with regional accents before; I don't consider that to be a barrier to recruitment. If somebody has an accent which makes them incredibly difficult to understand – and that might be the case, I suppose, if English is their second language – then that is a problem. Because part of our job – and in fact, in certain areas of practice, the core part of the job – is to stand up and to be persuasive and if you can't be understood, you cannot be persuasive. (Chambers, practising barrister count over 50)

There are speech defects, which can be managed; there are heavily accented voices, which are going to rule you out and I don't know when somebody is honest enough to say that to people. Because if you can't bring yourself across

²² [Accent Discrimination and the Bar | Nottingham Trent University](#)



clearly to everybody – not to a specific *set* of individuals, but to *everybody* – you will have a limited role as a counsel. And I wonder where the honesty is to all these pupils in training. (Chambers, practising barrister count under 50)

Some providers called for potential Bar Course students to be made more aware of how their spoken and written English could impact their chances of success at the Bar as they felt that it was not possible or desirable to make allowances for poor communication skills with the recruitment process.

8.4 Pupillage providers being risk averse, to varying degrees

Most of the pupillage providers taking part in the research were recruiting pupils with a view to tenancy. Not only were they making a significant investment in training pupils, but they were also looking to recruit someone who would commit a substantial part of their working life to chambers. The pressure to get recruitment right was felt quite strongly by all involved, but particularly by those in smaller sets. Several of these believed that recruiting for diverse outcomes was more difficult when you potentially have fewer chances to get it right each time.

And some of the bigger sets – the Magic Circle sets – will employ five or six pupils and so they can afford to say: ‘OK, I’ll take four people from the traditional route and maybe two from a non-traditional route, give them an opportunity and see how it works out.’ But when you only have two pupils in a year, you can’t afford to lose one of them, because they’re costing you £80k a year, just for a pupil, so you can’t really afford to take that risk because we invested a lot of money in pupillage. (Chambers, practising barrister count over 50)

We’ve got to be sure that they are likely to come through. Although they haven’t wasted their time, but completing pupillage without getting a tenancy, is not like qualifying as a solicitor: it’s not as transferable a skill... I don’t want them having false hope, because it’s a hell of a commitment. Anyway, so it’s difficult, because that balance, between what’s best and what’s possible isn’t the same as it might be for a law firm. (Chambers, practising barrister count under 50)

8.5 Diverse applicants are drawn to already diverse organisations

The general perception (borne out in the BSB’s statistics) was that the Criminal Bar, and to a lesser extent, the Family Bar was more diverse than the Chancery Bar and the Commercial Bar. Several pupillage providers mooted the idea that applicants from diverse backgrounds were not necessarily attracted to the Chancery and Commercial Bar as they preferred to make a difference to individual lives rather than work for institutions and ‘move money’. Several pupillage providers at the Criminal Bar expressed the view that higher socio-economic groups may be less attracted to the Criminal Bar due to the working environment and levels of pay.



It's a unique area of law, because it attracts different people and also, the money is different, so your pay is different. So those who are from a higher socio-economic group, who went to a smart university, etc. tend not to apply to do crime in the first place. So it's a very, very different dynamic to the majority of pupillages that are on offer and therefore, you will always have a greater breadth of background when it comes to our applications. (Chambers, practising barrister count over 50)

We are moving rich people's money around. And I think that's something, potentially, more appealing to public white school boys. So yes, I think it's potentially, a reputational problem, to a certain extent. (Chambers, practising barrister count under 50)

However, individual interviews with pupillage providers at the Chancery and Commercial Bar highlighted that much work is being undertaken in terms of recruiting for more diverse outcomes, with some success. Therefore, perhaps the less divisive view, which was also widely shared, was that diverse applicants are more likely to be attracted to organisations that are already diverse.

Finally, one organisation outside of a main city also explained that that some locations were able attract more diverse candidates than others.

And that comes back down to the difficult thing, that obviously, in XXXX, the number of diverse backgrounds isn't as high as perhaps the bigger cities and that's obviously difficult when we select people and they come down and they try and find a community to integrate into and their options are quite limited. (Chambers, practising barrister count over 50)

Example practice from the self-employed Bar

Making themselves more attractive to diverse candidates

Some pupillage providers highlighted the onus on providers to ensure that they appeared attractive to more diverse candidates and mentioned actions to change the reputation or image of their practice area and/or initiatives to try to ensure that their organisation is more appealing. These included:

- Creating videos/blogs about what it is like working at their chambers (often from the perspective of a barrister from a diverse background)
- Producing a series of webinars which run through the application process and give examples of pupils who come to the Chambers through different routes.

You want to go somewhere where you feel that you're going to have some sort of connection with those who are there, so we want to demonstrate that there are people from all walks of life in our chambers. And so that's the current thought process. If we have some videos that people can click on, can hear some of our barristers talk about their route to the Bar and see themselves in those barristers,



we hope that that might also complement what we're trying to do with the contextual recruitment software. (Chambers, practising barrister count over 50)

8.6 Cultural factors

Where cultural resistance to recruiting for more diverse outcomes was mentioned, it was identified in pockets, with one or two mentions of older generations of barristers and 'clerks' being most resistant to change. That said, several pupillage providers questioned the extent to which some chambers were committed to recruiting for more diverse outcomes versus the extent to which they *wanted to be seen* to be committed to recruiting for more diverse outcomes.

I think sometimes, the drive for the publicity is actually, people are more focused on *saying* that we're doing good things, rather than actually *doing* them. So it's like, 'Oh look, we've got this and we've got a shiny new wellness thing, blah, blah.' And you're like, 'Well, that's fine; but other places have been quietly just getting on with it and doing it and not looking for the pat on the back for it.' (Chambers, practising barrister count under 50)

One pupillage provider also highlighted that identifying some groups as 'other', also had cultural implications.

And some of the bigger XXXX Inn sets have got what they call diversity programs and I just put my head in my hands when I look at them, because they are still treating people who are not the same as them as 'other'. And that's the *big* problem that you've got. (Chambers, practising barrister count over 50)

While culture was rarely seen as an outright barrier to recruiting for more diverse outcomes, several pupillage providers did recognise that there could be an issue with affinity bias within their recruitment process that perpetuated recruiting a 'type' that prevented the organisational culture evolving.

I don't think the old boys club exists like it used to, I really don't; but probably, there is an element of that and recruiting people who, maybe, you feel familiar with, if you see what I mean. (Chambers, practising barrister count over 50)

So my own background is I went to state school myself, I then find people boasting – right? – in effect, that they've been to a state school, as if that makes them deprived; but that's most people in the country, right? So it's weird. There's something a little bit odd about that. (Chambers, practising barrister count over 50)

A final point in connection to culture, was the often-shared view that the Bar was a meritocracy. Some pupillage providers were keen to emphasise that the profession



had always focussed on recruiting the 'best and brightest' regardless of background. A view that at least one stakeholder predicted would emerge and went on to cite as a barrier to potential change.

I would say many would still say the system works, it's a meritocracy. I'm smiling because we know that meritocracy is not necessarily what it is, you know. Yes, you have to be talented to achieve; but you also have to have had luck and opportunity and be in the right place at the right time. So I think it is a really challenging environment, in which to change practices. (Stakeholder 1)

8.7 Changes cannot be implemented at pace or scale

While all those interviewed were supportive of recruiting for more diverse outcomes and were generally trying to ensure their processes were fair, they highlighted that as pupillage providers only recruited a small number of pupils each year any changes to recruitment processes were inevitably slow to make an impact. The pace of change was exacerbated by:

- Providers not necessarily recruiting pupils every year - as pupillage providers taking part in the research recruited with a view to offering tenancy, they were not recruiting each year unless they knew they would be in a position to offer tenancy to their pupils.

We do it on the basis that our clerks tell us that there is enough work coming through at their level, which would give them a reasonable income to expect when they become tenants. And so they can do so, again, knowing that there is a reasonable prospect of a career and probably even a greater prospect of a career with us than if they're having to fight for a tenancy within any other organisation that is offering pupillage. (Chambers, practising barrister count under 50)

- Effort and resources applied to recruiting for more diverse outcomes not necessarily translating into outcomes i.e. pupillage providers may make offers to applicants from minority ethnic groups and/or lower socio-economic groups but they may not be accepted, as outstanding applicants received multiple offers.

In terms of our diversity, we're in the hands of the applicants, actually. As I say, we're 100% female this year. That's the way it shook out from those handful of people; those are the ones who took us. And we will be 100% male, as it happens: we'll have two men starting in a couple of weeks' time, in September. Again, that's not because we didn't offer to women, or offer to various people from all sorts of places across the world; but we didn't win the fight for them. (Chambers, practising barrister count over 50)

- The responsibility for pupillage recruitment rarely being anyone's day job (outside of larger, more affluent chambers and some employed organisations).



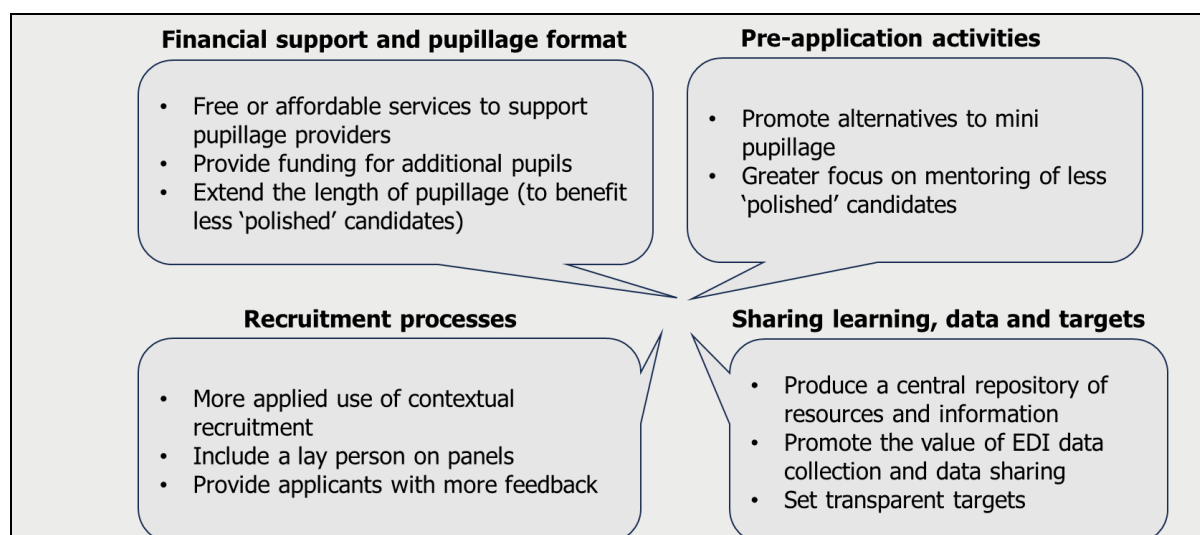
- Means that it is difficult to make substantial changes to recruitment processes and therefore many, without the resources to employ an external HR consultant, are limited to 'tinkering' with existing processes.

Finally, some pupillage providers believed that some chambers may have decided against offering pupillage in recent years because of the administrative burden of the reauthorisation process²³ – fewer places overall resulting in less diverse outcomes.

²³ As part of reforms to Bar training, organisations were required to reapply to be authorised to offer pupillage.



9. Participants' suggestions to encourage more diverse outcomes



This section looks at specific ideas put forward by pupillage providers and stakeholders in relation to pupillage recruitment, they are not to be read as recommendations made by the BSB on the basis of any findings from this report and are outlined in no particular order. It should also be noted that there was some debate about the merit of some of the recommendations.

9.1 Financial support

Free or affordable services to support pupillage providers

There was one specific mention of the possibility of establishing a way of being able to run through application and interview questions in advance with an independent specialist to check that they are fair, so that pupillage providers are not reliant on sense checking them with colleagues and potentially resulting in confirmation bias. Whilst it was recognised that such services were available, they were deemed costly and difficult to access in some cases.

Likewise, another pupillage provider raised the cost of Fair Recruitment training and that there was some push back from barristers who already paid the Bar representation fees and were reluctant to pay more.

I think one of the problems we're having is trying to get people to do the Fair Recruitment training, because the Bar Council's training courses are now so very expensive. Getting people to spend four hours of their time and £200 for their money, if they've paid the Bar representation fee, isn't as easy as I'd hoped it would be. And so having more accessible, cost-effective training for those we need to train to be on interview panels would also help. (Chambers, practising barrister count over 50)



Provide funding for additional pupils

Some pupillage providers at the Criminal Bar were in receipt of a pupillage grant from an Inn of Court to part fund the cost of providing pupillage. Another pupillage provider referred to a social mobility pupillage scheme run and potentially funded by one of the circuits but delivered by local chambers. Some felt that offering forms of financial support to pupillage providers offering pupillage to a specific group of applicants might support diverse outcomes by reducing the perceived financial risk to chambers.

That might be something that would be worthwhile. If everybody could submit say a maximum of three applications and then the Bar Standards Board could go through them and say: 'Right, we are prepared to part-fund five or ten or however many. I mean, they really must have lots of money and get it all from the barristers and that might be something where it's actually reducing the financial risk on chambers and they are giving their backing to an initiative that would help improve diversity. That might be something that would work. (Chambers, practising barrister count over 50)

We would love to take more pupils. We can't afford to, because that comes out of the barristers' pockets. If they were to fund it, and if they were to fund, specifically, candidates who they feel should be at the Bar, great. (Chambers, practising barrister count over 50)

9.2 Pupillage format

Extend the length of pupillage

Another suggestion put forward by one pupillage provider in relation to reducing perceived risk was the possibility of extending pupillage. They believed that this would mean that there was less focus on having adequate 'polish' at the point of recruitment.

This is not really recruitment into pupillage as such, but perhaps, from pupillage to membership, perhaps having a longer period of time to get up to where you need to be would be more helpful, because if you start a pupillage in October, most sets are making their judgments by June. That's not a year-long pupillage; that's like eight or nine months. And you've got to find your feet in the first three months, which then, really, only gives you five or six months to actually do what you need to do. And I think people who come in and are more polished have a lot less to learn; they just purely have to concentrate on the law; whereas somebody who is slightly less polished, it takes them longer to get up to speed. (Chambers, practising barrister count over 50)

9.3 Pre-application activity

Promote alternatives to mini pupillages



Several stakeholders were keen to see alternatives to mini pupillages more widely promoted. One was concerned, that on the Bar Council website under 'How to get work experience'²⁴ there was little mention of anything beyond mini pupillages. They called for more information about how aspiring applicants could visit a court, join LinkedIn and attend any free online lectures that chambers are convening etc. Indeed, several providers also highlighted that mini pupillages were not 'the be all and end all' for gaining insight into the profession and that they did take into account a range of experiences that applicants had participated in to ensure they fully understood what a career at Bar entailed.

Greater focus on mentoring

There was much discussion about the importance of mentoring activity in terms of ensuring that those from more disadvantaged backgrounds are better able to compete with more 'polished' applications, particularly at the interview stage. Many chambers mentioned that individual barristers were giving up time to mentor but also felt that more could be done in this respect by universities and during Bar training. Mentoring schemes where a number of chambers collaborate could be further encouraged and supported.

9.4 The pupillage recruitment process

Re-thinking the current process

One stakeholder called for a complete root and branch review of the recruitment process – a radical reset. They mooted the idea of a situational judgement test or other such processes designed to avoid over reliance on prior attainment at the self-employed Bar. They felt this needed to be considered by the profession as a whole rather than individual chambers.

I think in terms of the current process, how they look, having a sift, having rounds of interviews, having questions that are asked to each applicant, trying to ensure fairness, that sort of thing, we all know what best practice is because the Bar Council does a really good job of training us as to what best practice is; but whether it's worth unpicking it, to be like: 'Actually, maybe it needs a complete overhaul of the entire system; maybe we should do something completely different.' (Stakeholder 2)

Pupillage providers did not spontaneously call for a radical change; instead they called for the regulator to be mindful of the requirements placed on them in relation to pupillage recruitment processes – and to carefully consider anything that places any additional burden.

²⁴ <https://www.barcouncil.org.uk/becoming-a-barrister/school-students.html>



The stuff that goes through the pupillage – not just diversity, but data monitoring, awareness, anti-grievance policies, anti-bullying policies; all these policies we have to have in place and that people have to be informed of and have to sign up to and go through, it becomes a *massive* drain on the goodwill of volunteers at the Bar. And adding more requirements is going to drain that goodwill. (Chambers, practising barrister count over 50)

It was also stressed that chambers have different requirements and cultures and it is important to ensure that they retain some discretion over the recruitment process.

There's no perfect solution to that and I think every chambers has its own way of dealing with it, but every chambers has its own identity as well, so there are people that we turn down because we don't think that they would flourish with us, that go to another set and do really well... You can't have one size fits all. (Chambers, practising barrister count under 50)

It should be noted that a small number of chambers felt that there should be less direction in terms of pupillage recruitment, feeling that greater freedom in terms of when and how to recruit would result in greater experimentation and diversity.

Use of contextual recruitment

Many of the pupillage providers were interested in exploring contextual recruitment and its application in the recruitment process but were unsure how to implement it in practice. Costs of external consultants were prohibitively high for some chambers and there were also some concerns about how well their algorithms work, particularly for international students.

There was an evident appetite for further guidance on how to use contextual recruitment and the introduction of some form of contextualised recruitment system on the Pupillage Gateway was welcomed. In fact, some indicated that it was one of the reasons that their chambers decided to stay within the Gateway system.

One stakeholder commented that they question the extent to which contextual recruitment is routinely used throughout the recruitment process. There was a feeling that contextual recruitment may be applied only at the sifting stage rather than in later stages. There may be a possible link between this and the fact that some pupillage providers highlighted a specific issue at the interview phase in that candidates from diverse backgrounds tend to get through the sifting stage but do not progress further.

Include a lay person on panels

A number of pupillage providers had non practising barristers on their panels at some point during the interview process, drawing these from the clerks' rooms or from senior members of the practice management team. However, no pupillage provider taking part in the research spoke of using lay people on interview panels as



independent observers to ensure consistency of interviews and challenged entrenched ideas (as advocated by one stakeholder).

What I would really like to see would be – and what I’m used to using, would be – lay observers, who come in and sit in panels, who are not from the profession and are not making any judgment on any of the legal content or anything like that. It’s about consistency across panels. (Stakeholder 9)

Provide applicants with more feedback

Pupillage providers gave applicants feedback to varying degrees and not always as a matter of course. Some felt that capturing feedback during the interview process and automatically offering it to applicants helped make the process more transparent. For applicants attempting to gain pupillage in subsequent years, it was also deemed vital for them to be able to rectify any obvious weaknesses.

I just want to say on feedback, we started giving personalised feedback three years ago and once you have a structure in place, it’s straightforward. We ask for one sentence that deals with our competency, a key area that they can say. We do that at the point of interview and we have templates of how we can advise students that are borderline candidates and encourage them not to walk away from the profession and to give them context around the resilience and the rejection that’s inevitable in this profession, whether you get rejected at scholarship, or whether you get rejected at pupillage, the experience of most barristers is, that happens and if we, as a profession, don’t illuminate people that that’s a reality, then I think that’s really damaging. (Stakeholder 10)

9.5 Sharing learning, data and targets

A central repository of resources and information for pupillage providers

There was appetite for the sharing of information and resources available in relation to:

- Pre-application schemes – to both encourage pupillage providers to participate and to avoid duplication of effort.
- Pupillage recruitment processes – pupillage providers emphasised that the vast majority of recruitment processes were run by recruitment amateurs with limited time available to explore new ideas relating to good practice. They wanted information and resources made available that were specific to the Bar, and ideally their specific practice area:

Bar-centred, Fair Recruitment stuff, that’s been thought through by people who recruit barristers. And ideally, probably, people who recruit barristers for chancery, commercial, family, crime, because it’s all a bit different. (Chambers, practising barrister count under 50)



I've been out to the market this year, to find out: what is best practice on recruitment? And we have these debates, but we *can* have these debates. And I *can* spend that time doing that; but a lot of chambers can't. And so I think we need to spoon feed a little bit more. The other thing that I would suggest is, just a little bit more understanding about the various schemes, maybe a central repository for all the various schemes that are out there. (Chambers, practising barrister count over 50)

Promote the value of EDI data collection and data sharing

In common with the recommendations of the Specialist Commercial Bar's report on black inclusion (a report commissioned by The Commercial Bar Association, The Chancery Bar Association and The Technology and Construction Bar Association)²⁵, several providers and stakeholders were keen to see a greater degree of data sharing, with providers who do not administer recruitment via the Gateway still submitting their recruitment data to enable a more comprehensive data set to be developed. There was some question about the extent to which a more developed data set would add to the statistical significance of the data already held, but it was generally agreed that if pupillage providers were holding this data at an organisational level it would be useful to analyse it.

I think data gathering is important. A big gap that we've got at the moment is, you know pupillage Gateway varies. There are some chambers that use the pupillage Gateway all the way through, they advertise, the applications come through the Gateway, the data analysis in terms of who's applying and who gets through is done on the Gateway; but there are other chambers that don't use the gateway in the same way. They use it to advertise because they have to and they use the deadlines because they have to, but they deal with their own applications within their own chambers, which means their data is with them. And that's, again, from a place of knowledge. My chambers doesn't use the Gateway, other than to advertise and for their deadline. I know that we gather a huge amount of data that we analyse every year; but it would be really good if someone put all that data together so that we got, actually, a thorough view as to what's going on at the recruitment stage. (Stakeholder 2)

I do think the Bar Council could probably ask Chambers to give them that information, because we still record it all; we've still got it all, but nobody ever asks us for it and they could probably get a more rounded picture if they were to ask sets what they wanted to know, basically. (Chambers, practising barrister count over 50)

²⁵ [black-inclusion-group-final-report \(chba.org.uk\)](https://www.chba.org.uk/black-inclusion-group-final-report)



At the same time, providers stressed that the Bar Council and BSB should not ask providers for the same data to be submitted and they needed to 'talk to each other'. There were obvious concerns about adding to the burden placed on chambers.

As mentioned in Section 7.1, there is also some scope to promote the value of collecting EDI data to applicants themselves and encourage them to fill out the EDI questions in order to achieve a more complete data set to work with.

Transparent target setting

Some stakeholders felt strongly that there was value of transparent target setting in relation to diversity, (as is recommended in Race at the Bar²⁶ and a report commissioned by the Commercial Bar Association, the Chancery Bar Association and the Technology and Construction Bar Association²⁷). However, there were evident concerns from the majority of chambers about this possibility:

- Applicants might feel they had obtained pupillage so targets could be met rather than because of merit.
- Pupillage providers also believed that recruiting for diverse outcomes should be seen as adding value to chambers not simply a means of meeting targets.
- Pupillage providers believed they had very little control over targets, as they could offer to applicants from diverse backgrounds and not be accepted.
- The number of pupillages awarded each year by providers is deemed to be very small and, therefore, targets would have to be set for the longer term. Even then, data was not deemed to be reliable enough to draw robust conclusions.
- Providers were concerned that they would be required to publish this data which could then be misinterpreted or misused by the legal press.

We may find that if we have to report it, or certainly, if we have certainly to publish it, we're now going to have to spend time answering questions. Not, probably, from the BSB, because they'll hopefully be happy that we're trying to do something; but from the legal press in particular, from university students themselves and I think it can send the wrong messages. (Chambers, practising barrister count over 50)

- However, while rejecting formal targets several providers spoke about setting themselves, 'soft' unpublished targets that the pupillage committee was working towards.

²⁶ Race at the Bar Report 2021.pdf

²⁷ 220427-BIG-Final-Report.pdf (combar.com)



10. Conclusions

This report has a fairly narrow focus i.e. exploring experiences of organisations who have adopted various approaches to pupillage recruitment, in particular those which are aimed at promoting fairer and more inclusive outcomes. However, pupillage recruitment is only a small part of the equation and is not really something that can be considered in isolation. As many participants pointed out, the reputation of particular areas of the Bar and the retention of people from diverse backgrounds once recruited (both outside our area of focus) have a huge bearing on the ability of pupillage providers to recruit people from diverse backgrounds. They believed that to attract diverse candidates, pupillage providers needed to be able to demonstrate that they were diverse organisations (see section 8.5).

There was a call for wider action in relation to ensuring that certain parts of the Bar are attractive to those from diverse backgrounds (i.e. changing perceptions of certain areas of law) as well as ensuring that those from diverse backgrounds are supported to stay in the profession.

It was also noted that discrimination is a hugely complex issue and that tackling differential outcomes at pupillage recruitment is only one small part of the narrative. There are wider issues at play that need to be tackled.

In terms of the pupillage recruitment process, the findings of this report lay bare the challenges associated with encouraging greater diversity. Chambers are typically recruiting small numbers of people each year and the people responsible for recruitment tend to have their own day-jobs and limited time to dedicate to the process. Furthermore, they have to be certain that the pupil represents a good investment for their organisation – they can't afford to take risks on an individual that they are not sure about.

In this context, there was much debate around the possible tension between recruiting the 'best' candidate regardless of background and the need to actively recruit for more diverse outcomes. Whilst there were some initiatives that were targeted at specific groups and some limited use of Equal Merit Provisions in recruitment, there was widespread unease about any notion of positive discrimination.

There were some references to processes which do not appear to meet fair practice guidance (for example access to work experience is still easier if you know someone who works at the chambers) or processes which have been adopted as good practice by providers with seemingly little evidence. Some pupillage providers also noted that while applicants from diverse backgrounds were making it through the initial application and potentially the first interview, for the final interview it became more difficult to ignore the 'polish' of more advantaged candidates. There was a



strong call for further initiatives to support the mentoring of less 'polished' candidates to try to address this.

Several providers also emphasised that students from all backgrounds needed to be developing their CV from at least the second year of university, which may potentially disadvantage students from more diverse backgrounds. However, it is evident from our conversations that pupillage providers are working hard to ensure that their pupillage recruitment processes are fair. There were many mentions of those responsible reflecting on how they do things and changing elements of their process in light of new thinking or input from experts. However, there were few initiatives or actions that they could point to that they felt really made a tangible difference to outcomes. Many pointed to long lead times and the fact that these things take time to change.

There was an evident desire for more support and guidance in this area, as well as an appetite for more collaboration with their peers.

Finally, many of those taking part in the research stressed that it was important to consider the positioning of any recommendations in relation to recruiting for more diverse outcomes, to ensure that they are ultimately accepted. They need to ensure that they make sense in the context in which pupillage providers are operating.

Most stakeholder and pupillage providers were aware of recommendations published in other reports in relation to recruiting for diverse outcomes and wished to see some consistency. Pupillage providers and stakeholders were also keen to emphasise that recruitment processes were undertaken by volunteers, in the main, and that if the process of selecting pupils was made too cumbersome and the requirements too rigid, the outcome would likely be fewer providers offering pupillage. Linked to this, there was a call for successes to be celebrated.



11. Appendices

11.1 Actual sample versus targets

The table below highlights the number of interviews achieved against the target number of interviews set at the beginning of the research.

Table 2: Number of interviews achieved by category vs target

Location	Achieved	Target
London	19	Min. 15
Outside of London (including Wales)	11	Min. 10
Employed v Self-Employed		
Self-employed	25	Min. 20
Employed	5	Min. 4
Size of organisation (by primary barrister count)		
Under 50	12	Min. 10
51-100	13	Min. 10
101+	5	Min. 6
Main practice area		
Crime	7	5
Family – Children	8	5
Commercial and Financial	5	3
Personal injury	2	3
Chancery Contentious	2	2
Immigration	0	2
Other	6	4
Recruit processes used (not mutually exclusive)		
Blind applications	14	Min. 6
Contextual recruitment	5	Min. 6
Do not use blind or contextual recruitment	10	Min. 6
Use Pupillage Gateway for recruitment	14	Min. 6
Do not use Pupillage Gateway for recruitment	12	Min. 6
Mini pupillage required	2	Min. 1
No. of pupils recruited in May 2023		
0	7	
1	5	Min. 5
2	8	Min. 5
3+	10	Min. 5

