

The Honourable Society of the Inner Temple

Response to BSB Aptitude Test Consultation

Question 1: Do you consider that current entry requirements on the BPTC need to be changed?

Yes. BTR 3(a) states that “the general objective of these Regulations is to ensure that any person who becomes qualified to practise as a barrister is a fit and proper person and competent to do so.” It is unfair, therefore, to encourage and allow students to undertake the BPTC who (i) do not have the necessary aptitude to pass the course and (ii) who are not, on exiting the course, of a high enough standard to begin a pupillage at the Bar of England and Wales. It is also telling that only 64% of students passed all Bar Vocational Course modules on the first attempt between 2003 and 2009.

Not only will those students incur considerable debt with little prospect of success on the course but their presence on the course impacts upon the quality of training for, and potentially the results of, other students due to the interactive nature of the course. As stated in the consultation paper, “49% of respondents stated that their experience on the course was adversely affected by the learning needs of other students”. This is likely due to the interactive nature of the course, given that students work together in discussion groups, negotiation exercises and interactive advocacy sessions.

The proposed BCAT would not assess English language skills. Allowing a student with insufficient English languages skills to undertake the BPTC not only impacts upon the student’s ability to pass the course successfully but also impacts upon the quality of training for other students for the reasons given above. The existing system requires students to sign a declaration confirming that they consider they have met the required standard. This is inadequate. We note that the BSB is attempting to address this issue and would encourage them to do so.

Question 2: Do you agree with the rationale for implementing an additional entry requirement for the BPTC in the form of a Universal Aptitude Test (BCAT)?

Yes. See above.

Question 3: Do you consider that the introduction of the BCAT is justified by the data presented in this report?

Yes. However, we feel that more analysis should have been carried out on the score's prediction of a student's progression to pupillage. While it was noted that the BCAT "predicts better than A-levels and degree information combined" by a relatively modest 9%, this means little if those attempting to secure pupillage are not successful and does not consider other factors such as degree subject.

Question 4: After looking at the results of the pilot tests, do you consider that the BCAT will reliably identify students who are likely to fail the BPTC?

No. We note from table 3.3 that 77% of those who were graded Outstanding were in the top two test bands and that 70% of the students who failed the course were identified in the bottom two test bands. However, we also note from table 3.3 that the pilot test identified 13.6% of those who went on to gain an Outstanding in the bottom two test bands (16 of the 117 students). Furthermore, 27.3% of those who went on to gain a Very Competent were identified by the pilot test in the bottom two test bands (180 of 661 students). We consider this to be rather more than the "small percentage" stated on page 15 of the consultation report. We do acknowledge that some of these students may not have invested as much effort in the pilot test as they would have done for a "real" test upon which their future depended. However, we would suggest that further research is undertaken now into ensuring that the test, if provided, more accurately identifies those likely to fail or pass the course.

Question 5: From looking at the evidence in this report, what cut score would you consider to be most appropriate?

We agree with the recommendation to introduce a conservative cut score of between -1.34 and -1.25. We recommend that the test's performance be continually and closely monitored.

Question 6: Do you agree that an unlimited number of re-sits for the BCAT should be available (subject to anti-fraud monitoring)? If not, how many do you consider to be appropriate?

No. We believe re-sits should be limited to one, therefore two attempts at the test in total, in line with the number of re-sits permissible on the BPTC. The purpose of the proposed test is to ensure that students likely to fail the course are prevented from undertaking it. We believe it is unlikely that students who fail to pass the test after two attempts will have the necessary aptitude to pass the course. We accept that there may be exceptions to this rule in the event of extenuating circumstances, for example, illness where a medical certificate is produced.

We also feel that allowing for unlimited re-sits could give preference to those who can afford the £67 required for each test. This would therefore prejudice those from disadvantaged backgrounds where cost could be an immediate impediment.

Question 7: After looking at the results of the pilot tests, do you consider that the introduction of the proposed BCAT would have a disproportionate effect (either positive or negative) on any particular group compared with others?

No although we refer you again to our answer to question 4. However, we also note that the BSB acknowledges that samples for some groups were not large enough to draw undeniable conclusions. We therefore stress the importance of continual close monitoring.

Question 8: Are there any negative impacts that have not been identified in the equality impact assessment?

The report acknowledges that socio-economic data was not collected for comparison with Test and Examination scores but that the BSB is continuing to explore ways to collect this data and compare it. We would encourage the BSB to do so. We would also note that allowing for unlimited re-sits would disproportionately benefit those from more affluent backgrounds, as noted above.

Question 9: Do you consider that entry standards on the BPTC could be made more rigorous in a way other than what is suggested in this paper? If yes, please expand.

Yes.

- i. Please refer to our answer to question 4 – the need for more accuracy in outcome predictions.
- ii. Please refer to our answer to question 1 – the need for English language skills to be assessed before students embark upon the course.
- iii. We have already referred to BTR 3(a) which states that “the general objective of these Regulations is to ensure that any person who becomes qualified to practise as a barrister is a fit and proper person and competent to do so.” The current degree requirement for entry on to the BPTC course is a lower second-class honours degree. Whilst the report states that the BCAT is a better predictor of BPTC outcome than degree class, the reality is that the vast majority of those students who pass the course but do not have at least an upper second-class honours degree, indicating high academic achievement, will not secure a pupillage. Inner Temple’s monitoring of its pupils over the past three years indicates that 93% obtained an upper second-class honours degree or above. Those obtaining a pupillage with anything less than an upper second-class honours degree tended to be mature candidates. We would recommend the introduction of an upper second-class honours degree requirement from which the BSB may permit exemption in exceptional circumstances. We would recommend the BCAT be introduced alongside this requirement.

Question 10: Please insert any other comments on this consultation document here.

- i. In response to 3.4.2 on the predictive value of the BCAT, we note that the BSB will request consent of candidates before providing their scores to the Providers. We believe that all candidates must consent to release their full test scores. This will allow BPTC providers to choose those candidates that they

- ii. The timetable of the BCAT needs to be carefully considered in relation to Inns of Court scholarships. The Inner Temple seeks to interview all applicants that apply for the course. We do so in mid-March every year and, given the enormous resources required to do so, would want to ensure that candidates had successfully completed the BCAT by that time. Discussions between the BSB and Inns should ensure that these timelines are recognised and scheduled for.

Inner Temple

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