



## **Response from BACFI to the Bar Standards Board Aptitude Test Consultation**

### **Introduction**

The Bar Association for Commerce, Finance and Industry was founded in 1965 to promote the interests and professional status of barristers employed in commerce, finance and industry. BACFI is a Specialist Bar Association, affiliated to the Bar Council but operating independently to represent employed and non-practising barristers practising principally in the commercial private sector.

BACFI is keen to play its part as a representative organisation in helping shape the development of the Bar of England and Wales, by bringing forward the views of its members and pressing for appropriate change. Education is a key aspect of the association's work.

BACFI welcomes the proposals put forward in the Consultation Paper to introduce an aptitude test for students wishing to undertake the BPTC. BACFI shares the Bar Standards Board's concerns about the decreasing number of pupillages, the high costs of the BPTC course and the adverse impact on fellow students and tutors of allowing students who are struggling with the course to slow down classroom activity. This limits the potential learning experience of the more able students undertaking the BPTC.

There is also anecdotal evidence that some BPTC course providers are anxious to maximise earnings by recruiting as many students as possible for their courses, regardless of the lack of career prospects for the less academically and intellectually gifted. Certainly BACFI believes individual students should be discouraged from spending in excess of £12,000 on course fees in addition to living costs when there is little or no prospect of a career as a practising barrister.

As previously indicated in relation to the pilot, we do not believe there are any competition issues arising from the introduction of this test.

In response to the specific Consultation Questions:

### **1. Do you consider that the current entry requirements on the BPTC need to be changed?**

We do believe the entry requirements need to be changed, to help the able students and to minimise disappointment to and expenditure by students who have no realistic prospect of a career as a practising barrister.

**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)?**

We believe that introducing a test to evaluate critical reading and reasoning skills and also research skills, (not just looking things up on the internet, but being able to extract the relevant information and explain why it is relevant), as well as the ability to take concise accurate notes, would be a very positive step. Sadly, many students with degrees lack a command of spelling and grammar and, as the BSB proposes, it will be very helpful to test these as well, in a separate test.

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

We do.

**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?**

It is not possible to answer this without knowing the difficulty of passing the BPTC in any particular year and whether the standard of difficulty will vary from year to year. The experience of teachers on the various legal professional courses is that the exams have been significantly "dumbed down" over the last 15 years, and this is a continuing trend. The easier the exams become, and the more advance notice of the questions the students are given, together with crib sheets to guide them in answering questions, the less likely they are to fail, with or without a BCAT. We believe that the views of all tutors on the BPTC courses should be sought on this point.

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

Again, this is a question that we believe the tutors on the BPTC courses are best placed to answer.

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

We consider that a maximum of two resits would be appropriate. Any student who has failed twice but still wishes to take the BPTC should be interviewed to assess why the student failed and still wishes to take the course, and why that student believes he or she will be able to cope with the course.

**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?**

We see no evidence of disproportionate effect. It would be useful to know if tests of this type have been introduced in other common law jurisdictions, and whether there is any evidence that such tests have had a disproportionate effect on any particular group.

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

Not that we are aware of.

**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.**

We believe it would be very helpful for tutors to interview potential students and ask them to submit a piece of research they have conducted on a legal topic of their choice. We believe this would help the tutors to assess whether the student has the necessary motivation to study on the course, whether the student has an enquiring mind, or indeed any understanding of or interest in the law. It will also indicate whether the potential student can evaluate information and summarise it. Students who have these qualities will be an asset in class and will work well with their fellow students.

**10. Please insert any other comments on this Consultation document here.**

As suggested by the Wood report, the BPTC providers need to develop a much closer relationship and ongoing dialogue with barristers in practice at the employed and self employed bar. We believe this would enable the effectiveness of the BCAT to be monitored on an ongoing basis and the test could be adjusted regularly once there is some practical experience of its impact, without the need for a lot of expensive statistical analysis and the delays inherent in collecting and evaluating the information.

BACFI  
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