

## **Is a place on the Bench for you? The Basics of Becoming a Bencher ....**

Several BACFI members are Benchers of their respective Inns. As such we thought that BACFI members, employed and self-employed barristers alike, might like to know a little more about the historic origins of this process, and how the modern day Bencher Application process works at each Inn of Court.

The Inns are generally very supportive of nominations and applications from Employed Barristers. As a result of this article we hope that Employed Barristers in particular wish to be Benchers.

### **What is a Bencher?**

Benchers provide the governance of each of the separate Inns of Court. They are primarily comprised of Judges, QCs and Barristers, self-employed and employed, and are individuals of significant standing and/or who have made a major contribution to the work and life of their Inn. The name comes from when the most senior barristers were permitted to sit on the bench at moots. This class of barristers became known as "Benchers" or "Masters of the Bench".

Currently, after being successfully elected, a Bencher receives "voice and vote" meaning that they can both speak at the highest level of meetings of Benchers and also vote and receive papers on matters that need to be decided by the Inn.

### **What do Benchers do?**

Benchers, as part of the decision making structure of the Inns of Court, will be involved in the governance of the Inn (which includes all issues related to the Inn including education, training, the library, finances, admittance of student members, election of other Benchers, dining and social occasions and other issues, such as advertising). The Inns hold regular meetings for Benchers throughout the year.

### **What's the selection process and each Inns of Court's requirements?**

#### **Gray's Inn**

The Inn contacts those who fulfil the criteria:

- a) self-employed QC of 3 – 5 full years of seniority,
- b) employed barristers of comparable standing,
- c) juniors who have given great service to the Inn and employed barristers who are also eligible under this criteria
- d) self employed QCs of more than 6 years seniority who may have been overlooked previously

They are then sent a questionnaire seeking detail on their legal achievements and a description of what they have done for the Inn. By returning the questionnaire the candidate is informed that they have opted to be considered by the Election Information Committee (EIC) which then puts forward individuals for election to Pension on the basis of two candidates for every space available within various categories, including the Employed Bar.

The criteria considered by the EIC includes:

- a) service to the Inn (past and prospective)
- b) service to the profession
- c) merit
- d) standing at the Bar
- e) circuit and
- f) speciality

Equality and diversity are monitored and Gray's Inn seeks to promote both but does not positively discriminate. No information on social status or educational background is sought or provided as part of the election process.

Patrick Rappo, BACFI Senior Vice Chair, is the Secretary of the Employed Bar Working Group which is contributing to the review of the Bench election process at the Inn and also looking at issues relating to the Employed Bar Members and their relationship with the Inn. Current number of employed benchers is 13. This includes BACFI committee members Patrick Rappo and Gaynor Wood and BACFI Vice President Tricia Howse.

On being a Bencher Patrick says "Gray's has taken significant steps in recent years to reach out to the Employed Bar, to increase its roster of Employed Barrister benchers. The annual Employed Bar Dinner has become a favourite at the Inn, with luminaries attending from across government, the CPS, the SFO, and the legal industry. Gray's Inn also has a working group on the Employed Bar, for which I am the Secretary, which is creating a video aimed at students, publicising opportunities available across the Bar, and at the Employed Bar in particular. Being a Bencher helps you input into these initiatives and help to set the direction for the future".

Tricia Howse adds, "Being a Bencher is more than just eating on the top table in Hall ! It is so important for students and young barristers to see the real diversity to which a career at the Bar can introduce them. We help with Moots, training and mentoring and we meet parents and families at Call Nights; often finding that our non traditional lives at the Employed Bar can be immensely reassuring. Our commercial and management experience can also be valuable to the various committees through which the Inn is managed. The Inns are changing fast and we are part of that change".

Gray's are reviewing their process and procedures and changes may take place later in 2020.

For more details please contact: Tony Harking, Under Treasurer: [Tony.Harking@graysinn.org.uk](mailto:Tony.Harking@graysinn.org.uk) .

### **Middle Temple**

In order to be considered as a Candidate for election to the Bench as an Ordinary Bencher, candidates must have been called to the Bar for at least 15 years. In considering candidates the Bench Selection Advisory Committee (BSAC) looks at all the following factors:

- a) The candidate's high reputation in their relevant area of practice or work and their commitment to support the Inn once elected; and/or
- b) Any significant contribution to the Inn which they will continue once elected; and/or
- c) Any significant contribution to the profession made by the candidate, and commitment to support the Inn once elected.

Subject to the above, the Inn will seek to elect Masters from the most diverse pool in terms of sex, ethnicity, age, background and area of practice or work.

Self nominations can be made (with the support of a Master of the Bench) or Masters of the Bench can make nominations. The Bench Selection Advisory Committee (who select the shortlist of candidates to go forward to Parliament) are always very keen to put forward Employed barristers who meet the criteria, as they generally receive less nominations from the Employed Bar.

Currently there are 33 Benchers that are recorded by the Inn as being currently employed or formerly employed but now retired. This number includes BACFI Vice Presidents Christiane Valansot, Ros Wright and Austin Allison.

Ros gave the following insight. "To be elected a bencher of one's Inn of Court is a huge honour and one that brings with it feelings of both pride and shame – pride in that you have joined the ranks of the senior members of the Inn that you revered in your youth and never thought to be able to reach; and shame in that you realise you haven't set foot inside the Inn since Call. To assuage the shame, you immediately volunteer for all the Inn committees, including ones you have never heard of. You start dining again, assiduously; you greet faintly familiar faces in the Inn corridors with happy familiarity, saying to yourself, "Who is that?" You tell all your friends about "My Inn", as if you have been frequenting it continuously for years. You apply to spend weekends in Cumberland Lodge, teaching the students advocacy, which you haven't used for 30 years, or more. You find that the techniques you were taught to employ in your pupillage are now completely outdated. You retire, shamefaced into the background and offer to preside over moots ("First rounds only, please"). After a few years, you become quite an old hand at this bencher malarkey and start encouraging friends to agree to have their names put forward for the Inn Bench. The porters know you by name – this is the ultimate accolade."

Austin commented that "becoming a Bencher was once described by a very senior Queen's Counsel as "the only honour in the law worth having". Perhaps a slight exaggeration, but it is indeed a great honour. It is also a wonderful opportunity to contribute to the affairs of the Inn and thereby to strengthen the profile of the employed Bar."

For further details please contact: Lauren McHardy: [L.McHardy@middletemple.org.uk](mailto:L.McHardy@middletemple.org.uk)

## **Lincoln's Inn**

A member of Lincoln's Inn is eligible if in practice as a self-employed barrister or as an employed barrister (as defined in the Bar Standards Board Handbook), a judge or a legal academic and a member of at least 15 years call. The Advisory (Benchers) Committee (A(B)C) have recently amended the criteria for selection to provide a more transparent system for those applying and to enable the Committee to apply an auditable marking process.

The primary criteria are:

- a) Standing in legal profession
- b) Promotion of diversity
- c) Past contribution to the Inn/ legal profession

Secondary Criteria are:

- a) Experience demonstrating suitability to be a Bencher
- b) Ability and willingness to serve the Inn

To make an application the online Bench Register form needs to be completed and candidates are assessed on evidence provided on this form. There are two Bench elections per year.

At present 5 benchers are at the employed bar including BACFI Vice President Stephen Collier who says, "For me, being a bencher is a mix of Lincoln's recognition of my professional achievements - assessed on the same basis as those in self-employed practice; my being a tangible representative to the Inn of the employed bar; and the opportunity to put something back into my Inn, which has been supportive and nurturing during the whole of my professional practice. It is something of a privilege to have the opportunity to make that contribution".

Lincoln's Inn recognises the skill-set and knowledge that members of the employed bar can bring to the governance of the Inn and encourage employed bar members to submit a bench register form to help ensure that members of the employed bar are better represented on the bench.

The Inn is seeking to ensure that there is representation of the employed bar on the A(B)C who consider and select candidates and are looking at ways to improve how in-house achievement is recognised and assessed, including in commercial practice and government. Employed bar members of Lincoln's Inn who would be interested in getting involved in a working group looking at how this is best achieved are asked to contact Amy Higgins, Manager of Bench Administration [amy.higgins@lincolnsinn.org.uk](mailto:amy.higgins@lincolnsinn.org.uk).

### **Inner Temple**

There is no fixed rule on the number of years of Call nor do barrister candidates need to have taken Silk. The committee responsible for considering candidates take into account the following as criteria for election:

- a) Any specific need(s) that the Inn may have at that time for Benchers who possess the skills and interests necessary to perform one or more of its functions;
- b) The extent to which the candidate appears to possess skills and interests required by the Inn either generally or in relation to any specific need(s) identified under (a) above;
- c) The extent to which the candidate has demonstrated a strong likelihood that, as a Barrister Governing Bencher, they will make an active and positive contribution to the affairs of the Inn;
- d) The extent to which the candidate has taken, or is taking, any significant part in the affairs of the Inn or, more generally in the affairs of the legal profession, whether on the Bar Council, on circuit, in a specialist Bar association or otherwise.

To make a nomination/application, all barrister candidates must provide a statement of candidacy, a CV and a signed undertaking to participate fully in the management and affairs of the Inn. A nomination/application must also be supported in writing by three existing Governing Benchers (at least two of whom must be Barrister Governing Benchers).

In 2018, the new Bench Table Orders (the governance rules of the Inn) were introduced which included a provision for the recommendation of a certain number of employed barristers and those

on circuit for direct election as Barrister Governing Benchers without the need for their names to be entered into a ballot of existing Benchers.

Once the nominations/applications have been reviewed and those considered to meet the criteria approved, the Bencher Nomination Committee will confirm the number of vacancies. The committee will then determine whether an election by ballot of the existing Governing Benchers is required and which candidates from the employed Bar (and circuits) will be recommended for direct election without the need to be entered into the ballot.

Currently there are 5 employed Barrister Governing Benchers at Inner Temple.

For further details please contact: [jcollisprice@innertemple.org.uk](mailto:jcollisprice@innertemple.org.uk)

We hope that this piques your interest- feel free to contact BACFI benchers via Sandra for more information about becoming a bencher or doing more work for your inn and your profession.