

## **BVC COURSE SPECIFICATION REQUIREMENTS AND GUIDANCE**

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## **PRINCIPLES OF VALIDATION**

### **The Bar Standards Board's Approach to Validation**

1. The Bar Standards Board has a statutory obligation to maintain and enhance standards in respect of the education and training of those seeking to practice as barristers. In relation to the vocational stage, it decided that this could best be achieved by validating rather than franchising institutions to run the course. It considered that the freedom permitted to institutions by validation would enhance commitment among course teams and encourages greater creativity and diversity between courses. Therefore, provided an institution satisfies the Council that the course it offers is appropriately resourced and enables students to achieve the outcomes the Council has specified, the Council devolves a considerable degree of autonomy to the institution and aims to work with it in a spirit of partnership and co-operation. The Council believes this approach to be the most effective in assuring the quality of delivery of the BVC and in stimulating its development and enhancement.

### **Principles of Validation**

2. The principles set out below underlie the relationship that the Council is seeking to achieve with the BVC providers.

#### **Autonomy**

Validation respects the autonomy of the institution to organise the administration, delivery, assessment and resourcing of the BVC insofar as that is consistent with satisfying the minimum requirements designed to ensure that anyone qualifying will meet the requirement of readiness for pupillage.

#### **Accountability**

To ensure that the minimum standards are being satisfied and to safeguard the benefits of autonomy, institutions are required to be accountable to the Bar Standards Board for the way in which the course is organised and delivered and for ensuring that there are appropriate mechanisms for collating and analysing course information, ensuring the quality of the course, and for dealing with student concerns, complaints and appeals.

#### **Identification**

Institutions are required to identify to the satisfaction of the Bar Standards Board how and where the minimum requirements are satisfied. This will include the identification of, for example: where practitioners are used within the course; staff development activities; the treatment of pervasive subjects and professional conduct issues; how many contact hours are allocated to each skill and knowledge area, and the delivery of outcomes in summative assessments.

#### **Explanation**

Institutions are required to be able to explain why they have designed and delivered the course in the way they have. This will include, for example, why certain teaching methods have been adopted, how the structure of the course was developed and the rationale for the timing of the assessments. In particular, the institutions will be expected to justify any departure from the original validation course specification or subsequent good practice guidelines.

## **Dissemination of Good Practice**

3. The motivation behind these principles is not simply to ensure minimum standards but to encourage, identify and disseminate good practice for the benefit of the BVC as a whole. The quality of delivery by the BVC Providers to date has enabled the Bar Standards Board to focus more on the latter objective than the former.

## **AIMS, ETHOS AND PRINCIPLES OF THE BVC**

1. The Bar is a demanding profession. Barristers must evidence qualities justifying the responsibility and trust placed in them by members of the public and by other qualified professionals from whom work is referred. The public is entitled to expect standards of excellence from barristers in the execution of their duties. The BVC must reflect these standards in the training it provides to students.

### **Aims**

2. The aim of the BVC is to enable students, building on their prior learning, to acquire and develop the skills, knowledge and values to become an effective member of the Bar. In particular, the course will:
  - (a) Bridge the gap between the academic study of law and the practice of law
  - (b) Inculcate a professional and ethical approach to practice as a barrister
  - (c) Prepare students for practice in a culturally diverse society
  - (d) Prepare students for the further training to be given in pupillage
  - (e) Equip students to perform competently in matters in which they are likely to be briefed during the second six months of pupillage
  - (f) Lay the foundation for future practice, whether in chambers or as an employed barrister, and
  - (g) Encourage students to take responsibility for their own professional development

### **Ethos**

3. The ethos of the course demands a mode of delivery that:
  - (a) Provides students with opportunities for learning by doing, and requires students to apply their knowledge in practical work
  - (b) Requires students to play an active role in the course and to take responsibility for their own learning
  - (c) Requires students to reflect on their own learning
  - (d) Seeks to inculcate a professional approach to work and to develop in students a respect for the principles of professional ethics, and
  - (e) Seeks to provide students with an informed view of a barrister's working life.

### **Award**

4. The course must be designed and delivered in a way that will enable it to be recognised, as a minimum, as a postgraduate certificate according to the QAA Framework for Higher Education Qualifications. At least a third of the course (or 40 of 120 credits) must be QAA Level HE4.

## **COURSE CONTENT AND DELIVERY (SPECIFICATIONS AND GUIDANCE)**

### **Introduction**

1. In this section and sections 5, 6 and 7 the document sets out what are requirements and what is guidance. The requirements are imperative and must be satisfied at revalidation and maintained thereafter. The guidance is indicative and represents the Bar Standards Board's view of best practice. Where providers depart from the practice expressed in the guidance they should be prepared to defend that departure.

### **Equality of Opportunity**

#### **Requirement**

2. Providers must ensure that all students have equality of opportunity on the course, and in particular take account of differences in gender, ethnicity and disability.

### **Duration**

#### **Requirements:**

3. The course shall be of at least 32 weeks' duration, excluding vacations. The course may be delivered in any of the three following modes:
  - (1) Full-time over one year
  - (2) Part-time over two years
  - (3) Integrated as part of a qualifying law degree
4. Providers must demonstrate a minimum notional study time of 1200 hours. "Notional study time" includes all scheduled lessons and associated course activity, placement days or weeks, revision time and assessments, and private study time calculated as appropriate to the task for which the student is preparing. It is expected that teaching on the full-time and integrated degree modes would take place on at least four out of five days of the working week.
5. Study time must be evenly and sensibly distributed across the duration of the course.

### **Delivery: General**

#### **Requirements:**

6. The preponderance of teaching must be delivered by small group lessons.
7. Small group sessions must be designed for delivery to no more than 12 students.
8. Teaching and learning must focus on what happens in practice.
9. Providers must demonstrate the appropriateness of their chosen teaching formats, and of their content, throughout the course.

#### **Guidelines:**

10. The following matters are relevant to the determination of the preponderance of teaching: the learning outcomes for the session in which the particular skill, knowledge or values figure, the stage of the course at which the lesson is to be delivered, the nature of the pre-session preparation required of students, the nature of any learning activities to be conducted in the lesson, and the number of practice sessions that the student is to be afforded

## **Large Group Sessions**

### **Guidance**

11. Large groups are those above 12 and range from combined group teaching in multiples of 12 or lectures to the whole cohort.
12. Providers must be able to justify the inclusion of large group sessions within the course severally and individually. The Bar Standards Board would require strong justification for any ratio of large to small group sessions that favoured large group sessions at more than 35% of contact hours. Justification for large group sessions may include:
  - Introducing and providing an overview of a new area;
  - Elucidating difficult issues;
  - Providing demonstrations;
  - Providing a synthesis or summary of learning and testing understanding;
  - Providing a forum for debate after small group sessions.
13. Wherever possible large group sessions should be interactive, encourage questions and answers from the floor and make full use of visual aids.
14. Large group sessions should not be used merely to deliver or dictate material that is available in a similar format in commercially available texts, or that otherwise is or could be delivered in printed form.

### **Materials**

#### **Requirements:**

15. Students shall be expected to make frequent and regular use of an appropriate variety of practitioner and original source material.
16. Providers must demonstrate how requirement 15 is achieved within their course.
17. The course materials used by providers must reflect the need to prepare students for practice in a culturally diverse society.

#### **Guidelines:**

18. Course materials include not only materials prepared for or used in teaching and assessment, but also materials such as student handbooks and other explanatory documents intended for student use. Where they rely on commercially published teaching manuals, providers will be expected to demonstrate their appropriateness to the lesson or other activity in which they are used.

## **Content: Curriculum Requirements**

19. The BVC shall comprise four elements:
  - (a) Professional ethics and conduct;
  - (b) The knowledge areas, which comprise:
    - > Civil litigation and remedies,
    - > Criminal litigation and sentencing, and
    - > Evidence;
  - (c) The skills areas, which comprise:
    - > Casework skills:
      - Fact management,
      - Legal research
    - > Written word skills:
      - Opinion writing
      - Drafting
    - > Interpersonal skills:
      - Advocacy
      - Conference skills
      - Negotiation; and
  - (d) The options.
20. The outcome specifications for each of elements (a)-(c) are set out in Section 8.

### **Requirements:**

21. Providers must demonstrate how the content of their course reflects the practical focus required by requirement 8.
22. Providers will be required to give skills, taken as a whole, a 60% weighting in the case of the content and delivery of elements (a)-(c), and a 50% weighting in the case of element (d).

### **Guidelines:**

23. In emphasising the practical focus of the course, providers are expected to ensure that students have a sound understanding of the way in which civil and criminal proceedings develop from commencement to trials, of the centrality of the trial to an understanding of procedural and evidential rules, and of the overall structure of a trial.
24. The context of the BVC includes the practical application of knowledge of law and legal procedure within the development and practice of the skills. The application and manipulation of legal knowledge is regarded as part of the successful performance of the skill.

## **Professional Ethics and Conduct**

### **Requirements**

25. Students will be expected to display and to develop a professional and responsible approach to the course and to their obligations to staff and other students.
26. Students will be expected to demonstrate a sound working knowledge of the Code of Conduct for the Bar of England and Wales.
27. Teaching and learning must be designed to enable students to appreciate the core principles which underpin the Code.

28. Professional ethics must be introduced through discrete lessons. Thereafter, professional ethics issues must be incorporated into small group lessons, assessments and other course activities.
29. Providers must ensure the participation of full-time practitioners in the design and delivery of professional ethics issues within the course.
30. Providers must demonstrate that professional ethics pervade all aspects of their course.
31. Students must be assessed and be judged competent in professional ethics and conduct.

### **Guidelines**

32. The core principles underpinning the Code shall include:
  - The principle of professional independence;
  - The principle of integrity;
  - The principle of loyalty to the lay client;
  - The principle of non-discrimination on grounds of gender, race, ethnicity or sexual orientation, and
  - Commitments to maintaining the highest professional standards of work, to the proper and efficient administration of justice and to the Rule of Law.
33. Students should, on a regular basis, be required to make explicit use of the Code in timetabled lessons. The tutor notes accompanying the lessons should clearly indicate the nature of the issue(s) and possible responses. Students will be expected to submit, during their year of study, a reflective journal based on their courtroom observation. See further requirements 57 and 58.
34. For the purpose of assessing competence in professional ethics, providers should refer to Section 4, paragraph 5.

### **The Skills Areas**

#### **Requirements: General**

35. The skills must be introduced through discrete lessons. Thereafter, they must be developed through small group lessons, workshops, practice sessions, formative assessments and other course activities.
36. Providers must demonstrate that their lessons' format and progression are appropriate to the skill being taught, and, that when taken as a whole and in conjunction with other course activity, provide a coherent framework for the development of that skill.
37. The development and practice of the skills must be done in the context of the application of legal knowledge.
38. Students must be provided with at least the following opportunities to practise and receive feedback on each skill in small group sessions across a range of scenarios likely to be encountered by a barrister in the early years of practice:

Advocacy:	the equivalent of 12, 15-minute practice exercises (see 54)
Conferencing:	4 complete, tutor observed conferences
Negotiation:	4 complete, tutor observed negotiations
Opinion Writing:	6 assignments
Drafting:	6 assignments

39. Students must on occasion practise each skill in unfamiliar student groupings.

40. Students must be provided with training in the skills necessary to support peer review, self-evaluation, and reflective learning.
41. Providers must ensure that students routinely receive feedback on their practice of each skill, consistent with the learning outcomes set for the session in which the practice took place.
42. Providers must ensure that students receive formal individual tutor feedback following, at least, one formative assessment before each summative assessment.
43. Students must be provided with exemplars of good practice in respect of each skill.

#### **Guidelines: General**

44. The range of scenarios used for skills practice should reflect the learning outcomes and ensure an appropriate mix of civil and criminal work. Providers should use the scenarios to integrate pervasive subjects.

#### **Casework Skills**

##### **Requirements**

45. Fact management and legal research must be introduced in discrete sessions.
46. Providers must demonstrate how the skills of fact management and legal research pervade their course.
47. Providers are not required to assess fact management discretely, but must include fact management skills in the assessment criteria for all of the assessed skills.
48. Students must be discretely assessed and judged competent in legal research on at least two occasions.

##### **Guidelines**

49. Fact management and legal research are the fundamental enabling skills of the specialist advocate. They should be given due prominence in the course and be closely integrated with other skills.
50. In the assessment of Legal Research, both formative and summative, providers are advised to use a range of assessment exercises to reduce pressure on resources and the likelihood of collusion and/or plagiarism.

## **Advocacy**

### **Requirements**

51. Advocacy skills are defined as the skills necessary to prepare, manage and present a case or legal argument, both orally and in writing, before a court or other tribunal, whether formal or informal.
52. An aim of the advocacy element of the BVC is to prepare students for the advocacy training methods they shall be exposed to in pupillage and thereafter. Tuition methods on the BVC should therefore introduce students to the advocacy training methods approved by the Inns Advocacy Training Committee.
53. Providers must include legal submissions in advocacy lessons.
54. Students must demonstrate advocacy skills in a range of civil and criminal scenarios, in applications and in trial(s), and before a range of tribunals, in settings appropriate to the forum. Each student should undertake at least 12 advocacy exercises in class and under the supervision of a tutor.
55. The diet of advocacy assessments must contain the following elements:
  - (a) Submission of written argument;
  - (b) Interventions from the bench;
  - (c) Witness handling, including examination in chief and cross examination; and
  - (d) Knowledge and application of legal principle.

### **Guidelines**

56. Requirement 36 requires providers to demonstrate that their lessons' format and progression are appropriate to the skill being taught, and, that when taken as a whole and in conjunction with other course activity, provide a coherent framework for the development of that skill. In the case of advocacy, this means that the course should begin in the context of unopposed, followed by opposed, submissions. Legal submissions may be dealt with by means of mooting. Witness handling should be dealt with in the latter part of the course.

### **Court Visits**

57. Students must attend court to observe cases for four full sitting days or the equivalent in half days. Two of those days may be undertaken at the discretion of the student. Two days must be supported by the BVC provider. Providers may wish to arrange their students' attendance at court by means of scheduled placement days or weeks. Providers must ensure:
  - (a) That students attend to the minimum number of sitting days;
  - (b) That the attendance takes place during the period of study;
  - (c) That there is authentication that the student did attend; and
  - (d) That the student submits the reflective report by the date set (see Section 4, para. 5)
58. The reflective report should require the student to record details of the case(s) observed in court, consider the procedures and events observed in court and relate how they informed what they had learnt on the course. The report shall be submitted for evaluation.

## **Guidance**

59. The supported court visits should be attended by a group and ideally by a member of staff from the provider. Students should be briefed and debriefed on the cases they observe and to have, ideally, the opportunity to be addressed by the judge or counsel. The observation of court cases should be directly fed back into formal tuition.

## **Conference Skills**

### **Requirements**

60. Students must be introduced to the theory underpinning the application of the skills of a conference.
61. Students must be sensitive to issues of client care.
62. Students must be aware of professional ethics and conduct issues that may arise within the context of a conference.
63. Students must be given the opportunity to practise conducting a conference on at least four occasions across a broad range of scenarios involving lay and professional clients. Each of the four conferences must be observed by a tutor and the tutor must provide feedback to the student. Each conference should, wherever possible, be video recorded.

## **Negotiation Skills**

### **Requirements**

64. Students must be introduced to the theory underpinning the application of the skills of a negotiation.
65. Students must be introduced to a range of tactics and strategies for use as basic tools in negotiation.
66. Students must be aware of professional ethics and conduct issues that may arise within the context of a negotiation.
67. Students must be given the opportunity to practise conducting a negotiation on at least four occasions across a broad range of scenarios. Each of the four negotiations must be observed by a tutor and the tutor must provide feedback to the student. Each negotiation should, wherever possible, be video recorded.

## **Guidance**

68. Following each conference or negotiation exercise students should be offered the opportunity to reflect on the conduct of the exercise and to critique their own performance, including how, with hindsight, they might have done it differently.

## **Opinion Writing and Drafting**

### **Requirements**

69. The student should be given the opportunity to work on at least six opinions and six drafting exercises covering a broad range of scenarios. Each exercise must require the application of legal research and legal knowledge.
70. On each of the six occasions in each skill the student should receive individual feedback from the tutor.

### **Guidance**

71. Opinions and drafting exercises may be used as a basis for an ongoing case scenario in any of the skills.

## **Knowledge Areas**

### **Requirements**

72. The knowledge areas comprise  
  
Civil Litigation and Remedies  
Criminal Litigation and Sentencing  
Evidence
73. The knowledge areas should be introduced discretely. Small group sessions should be Socratic in nature and be centred upon the exploration of a prepared problem or case. As the course progresses the knowledge areas should be increasingly integrated into the practice of the skills.
74. The Human Rights Act and its implications should be included within the delivery of the knowledge areas.
75. The knowledge areas are assessed through discrete papers and pervasively through the skills assessments. The form of those assessments is for providers to decide subject to the conditions set out in the Assessment Framework. However, the discrete assessment must be such that any part of the syllabus may be assessed and that a broad range of the syllabus is assessed. No indication must be given to students as to which parts of the syllabus will or will not be assessed.

## **Options**

### **Requirements**

76. There should be a minimum number of six options.
77. The options must offer a broad range of areas from which the students may make their choice.
78. Students must choose two single options or one double option.
79. Taught single options should be delivered over no less than sixteen hours. All other options, such as clinical options and double options should be equivalent in the nature of the contact time provided.
80. No less than 50% of the duration of the option must be directed to the practice of skill(s) learnt in the core of the course.

81. Options must build upon the development of the skills delivered in the core of the course.
82. Options must be taught in a vocational style.
83. The assessment of the options must include a skills exercise.
84. Options may be delivered during terms two and three, or three only, but must not be delivered in term one.

## **THE BVC ASSESSMENT FRAMEWORK SPECIFICATION**

### **Assessments Specification**

1. The BVC assessment regulations of each of the validated institutions shall conform to the assessment framework set out below.
2. Students shall be assessed in accordance with the assessment regulations in force at the time of their first registration on the course. Students must consent in writing to any changes to the assessment regulations made after their registration.
3. Students shall be assessed in accordance with the regulations and methods published by the institution at which they are registered.
4. Assessments shall be provided, and overall performance calculated, according to the details set out in the table at Annex 1.

### **Assessment of Professional Ethics and Conduct**

5. Professional Ethics and Conduct shall be assessed by two methods both of which must be fulfilled:
  - (a) As a component within four other skills assessments. The marks from each component shall be additional and separate to the marks allocated to the main assessment i.e. the main assessment shall be marked out of 100%. The marks allocated to each of the components of Professional Ethics shall be weighted equally. Students must not be told which assessment exercises contain a professional ethics and conduct problem, nor should the professional ethics and conduct problem be identified as such within the exercise.
  - (b) The completion of an evidence file demonstrating:
    - (i) Fulfilment of the attendance requirement, i.e. that the student has maintained full attendance or that where classes have been missed, reasons accepted by the provider have been forthcoming and the missed outcomes covered in the student's own time, and that the minimum attendance requirement of 90% has been met. This should usually be calculated on a termly basis. See Annex 3 for more details of the attendance requirement.
    - (ii) Engagement in at least the minimum number of supervised skills practice opportunities required by the Bar Standards Board and made available during the course. Evidence might include videotapes of performance and tutor feedback, or written feedback sheets, in the oral skills, and submitted drafts with written feedback in the written skills. The file should demonstrate coverage of as wide a range of the outcomes as practicable.
    - (iii) Completion of a reflective and analytical report covering the four days of court visits.

Failure to complete and present on request, the evidence file will result in the failure of Professional Ethics and Conduct.

### **Assessment of the Knowledge Areas**

6. The setting and marking of the assessments in the Knowledge Areas shall be such as to enable candidates' marks to be clearly separated into the areas of
  - (a) Civil Litigation and Evidence, and

## (b) Criminal Litigation, Sentencing and Evidence

and to identify whether a candidate has passed or failed in each area. The discreet assessment exercise in each Knowledge Area must be in the form of either; a closed book, multiple-choice test, or a short answer examination, or a combination of both. Standard practitioner works may be used for the short answer tests<sup>1</sup>. Each of the two discrete Knowledge Area examinations may be in two parts. Each discrete Knowledge Area examination shall be of at least three hours' duration in total and held under invigilated conditions.

7. The examinations shall be designed to test that the student has understood the main principles of Litigation, Evidence and Sentencing in all areas of the syllabus; and that the student has the level of knowledge to be expected of a person ready for pupillage. The institutions shall not provide any indication to students about which areas of the syllabus will or will not be examined. Knowledge shall also be assessed through the skills as set out in 8 and 9 below.

### **Assessment of Skills**

8. The overall design of the skills assessments shall, in addition to the particular skill being directly assessed, take into account candidates' competence in the skills of Case Preparation, Case Analysis, Fact Management, Legal Research and Professional Ethics and their knowledge and comprehension of Evidence, Civil Litigation, Criminal Litigation and Sentencing, and any other matter which has been taught or set for study on the course.
9. The skills assessments shall require students to demonstrate knowledge and comprehension of the law together with the ability to manipulate and utilise that knowledge in the analysis and preparation of the case employed for assessment. Inadequate demonstration of such knowledge and comprehension, or inadequate case analysis and preparation shall result in the candidate being failed in that assessment, irrespective of the marks achieved in other components of the assessment. Please see the note on the 'Red Light Rule' at Annex 7.
10. The assessments shall be made up of a mixture of seen and unseen problems. A seen paper, in the case of a written assessment, is taken away and completed by a specified date. In the context of oral assessments it means a paper that students can take away and prepare prior to the assessment. An unseen assessment means a paper first seen at the time of the assessment.
11. The assessment of Advocacy shall include:
  - the preparation of a skeleton argument and its use within a submission;
  - examination in chief;
  - cross examination;
  - judicial intervention within the submission.
12. Legal Research shall be assessed explicitly once in addition to its presence in the assessments specified under paragraph 8, above. The assessment shall take the form of a practical exercise and should draw strongly on the student's ability to analyse a case.
13. Options. The assessment of the options shall be through a skills exercise of sufficient scope to draw upon a range of the specialist knowledge developed by the student during the option. Alternatively, the option may be assessed by a skills exercise augmented by a more traditional written exercise.

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<sup>1</sup> i.e. Blackstone's Civil and Criminal Practice, Archbold and the White Book.

14. Arrangements shall be made to allow students to use permitted materials e.g. practitioner works, notes made by the student (typed or hand-written) and numerical calculators.

### Grading and Pass Marks

15. All assessments shall be graded as “Outstanding”, “Very Competent”, “Competent” or “Fail”. In order to pass an assessment a student must achieve a grade of “Competent” or above.
16. Arrangements shall be made to assess all skills against written criteria and to ensure that all teachers and assessors are trained to use such criteria.
17. Arrangements shall also be made to ensure that marking is moderated so that individual assessors work without deviating too far from the norm. Such arrangements shall provide for re-marking where a student’s performance is being moderated from “Competent” (or above) to “Fail” without being re-marked.
18. The grading boundaries for all assessments, with the exception of Professional Ethics and Conduct and multiple choice tests are as follows:

Outstanding	-	85-100
Very Competent	-	70-84
Competent	-	50-69
Not Competent	-	below 50

19. The grading boundaries for multiple choice tests are as follows:

Outstanding	-	88 - 100
Very Competent	-	76 - 87
Competent	-	60 - 75
Not Competent	-	below 60

20. The grading of Professional Ethics and Conduct shall follow the marks and grades set out in 18 above but shall also require the satisfactory completion and submission of the evidence file.

21. Students successfully completing the course may be awarded the overall grade of “Outstanding”, “Very Competent” or “Competent”.

- (a) To gain the award of “Outstanding” a candidate must have passed all assessments at the first attempt **and** must achieve **either** an overall mark of 85% or above, **or** six or more grades in the outstanding category.
- (b) To gain the award of “Very Competent” a candidate must have failed no more than one assessment at the first attempt **and** must achieve **either** an overall mark 70% **or** eight or more grades in the very competent or outstanding categories.
- (c) To gain the award of “Competent” a candidate must pass each assessment subject to the rules governing the opportunity to re-sit (see below).

## Re-sits

21. Failure in any assessment gives the right to two opportunities to retake the failed assessment(s); one of which may be within the duration of the course. The timings of these assessments shall be at the discretion of the institution.

## Marking of Re-sits

22. Where a student has passed a re-sit of an assessment the mark awarded shall be no more than 50%, except for an MCT assessment, which shall receive 60%

## Mitigating Circumstances

23. Where a student provides evidence of mitigating circumstances that have, in the opinion of the board of examiners, affected his or her performance in one or more assessments the board of examiners has the discretion to disregard those results and offer the student the opportunity to sit the assessment(s) as a first attempt of that sitting.

## Discretion

24. The Bar Standards Board gives no discretion to the boards of examiners to amend the grades of students in the light of circumstances affecting performance. This is to help achieve consistency between boards of examiners, equality of treatment to students at different institutions and to ensure that the principle of the demonstration of minimum competence is rigorously observed to protect the profession and the public.

25. However, the Bar Standards Board recognises that circumstances might arise to which the application of the Framework is **wholly inappropriate**. In such circumstances the Framework may be set aside providing that all members of the board of examiners present agree:

(a) that the circumstances justify the setting aside of the Framework;

and

(b) to the action to be taken in relation to the circumstances.

Those members not present may submit their views to the Board for consideration during the discussion of the case, but may not vote having not been privy to the discussion.

26. The board of examiners must record in detail and report to the Bar Standards Board the circumstances in which the Framework was set aside.

## Matters of Principle

27. On all issues within the board of examiners deemed as matters of principle by the external examiners, other than those that fall under 25 above, the view of the majority of the external examiners shall prevail.

## Appeals

28. Each institution shall have a published appeals procedure, which facilitates the proper conduct of the investigation and resolution by the institution of students' appeals. All such appeals procedures shall observe this assessment framework.

## BVC ASSESSMENT FRAMEWORK: SUMMARY TABLE

Subject	Assessment	Weighting	% of Total Marks
Criminal & Civil Lit, Evid. & Sent. (Knowledge Areas)	2 x written unseen 2	2 x 7.5	15
Advocacy	1 Written and Oral 2 Oral	1 x 9 (4 + 5) 2 x 8	25
Conference Skills	1 Oral	7.5	7.5
Negotiation	1 Oral	7.5	7.5
Opinion Writing	1 Written	7.5	7.5
Drafting	1 Written	7.5	7.5
Options	Written or Oral Or 1 x double option within a single subject Or completion of a clinical programme	2 x 7.5	15
Legal Research	1 Practical exercise	7.5	7.5
Professional Ethics	Pervasive Components in four skills assessments, plus submission of a satisfactory Evidence File	7.5	7.5
<b>Total</b>	<b>Max of 13</b>	<b>100</b>	<b>100</b>

## **BVC RESOURCES REQUIREMENTS AT REVALIDATION**

### **STAFFING**

#### **Staff to student ratio**

##### **Requirements**

1. The current staff to student ratio (SSR) of 1:12.5 will remain for the first 125 validated student places. Thereafter, a full-time equivalent member of staff must be appointed for every group, or part group, of 16 students. A part-time student should be calculated as 0.5 of a full-time equivalent student (FTE) when calculating the staff student ratio.

##### **Guidance**

2. There should be a sufficient number of full-time staff who are entirely or largely dedicated to the BVC.
3. Staff drawn from undergraduate teaching should be fully inducted to the ethos of the BVC.
4. A long tail of marginal staff (below 0.25 full-time equivalent) will require specific justification.

#### **Support Staff**

##### **Requirements**

5. In addition to the course team there should be:
  - a dedicated course administrator
  - an on-site IT/AV technician
  - a professionally qualified law librarian responsible for maintaining the BVC book-stock and services
  - sufficient library staff trained to support the BVC.

#### **Staff Development**

##### **Requirements**

6. In order to teach and assess advocacy, staff must be accredited by the BSB on the recommendation of the ATC. Prior to seeking accreditation, they must have received adequate in-house training in the principles and application of the Hampel Method of advocacy teaching.

Staff appointed for the teaching and assessment of advocacy must be accredited at the date of being first employed to teach advocacy on the BVC/BTPC. In exceptional circumstances (for example where an appointment is made at short notice due to the sudden departure of an existing member of staff, or to cover for illness or maternity leave etc) staff who are not accredited must gain accreditation within ten weeks of having first started to teach advocacy.

During this ten week period unaccredited staff may teach but not assess advocacy, and must be monitored and receive guidance and support from a nominated accredited advocacy trainer.

Where a candidate fails to be recommended for accreditation, he or she will receive written feedback on their performance from the ATC examiners, and may seek accreditation on another occasion. Such candidates may not teach or assess advocacy until such time as they do become recommended for BSB accreditation by the ATC.

**Note:** *Additional guidance on the process is provided by the ATC. There will be no exemptions to the above policy, since it is difficult to define the circumstances under which a trainer has qualified, and to distinguish between the standards of accreditation in other countries. It is unlikely to be onerous for those accredited in other jurisdictions to undergo the BSB/ATC accreditation process as a form of staff development, which is likely to be beneficial in any circumstances.*

7. Each full-time member of the BVC team must undertake at least 5 days of staff development each year. The course leader will decide what is considered legitimate staff development. The monitoring panel will review his or her decisions. Proportionate training must be undertaken by staff on fractional appointments to a minimum of one day per year.

## Guidance

8. Staff development may be carried over for up to three years where an individual member of staff plans to, or has taken part in, an approved, extensive staff development activity. But, in such a case, the member of staff would be expected to complete at least one day of staff development in each of the intervening years.
9. Under normal circumstances the staff development activities should address:
  - delivery skills
  - professional practice experience
  - changes in the law and legal process
  - the ability to relate to a cultural and ethnically diverse student body
  - facility with IT equipment and software
  - management skills
  - engagement in developments in education within the wider academic community
10. Examples of activities that would fulfil these requirements are:
  - enrolment on a teaching qualification
  - in-house designed and delivered courses
  - externally delivered courses
  - conferences (Bar, BVC, LPC, ALT, SPTL, etc)
  - professional practice as a door tenant or on a release basis
  - marshalling
  - engagement in external working parties and projects
  - delivering legal training to other professional bodies e.g. the police and solicitors
11. This list is not intended to be complete or exclusive. However, the spirit of the requirement is that the development needs of staff are identified honestly and that they are exposed to a range of development activities from which their involvement on the BVC will benefit. In this regard it would be usual to see staff engage in professional updating and delivery skills courses on a regular basis. A notional budget of £500 per staff member should be agreed.

## ACCOMMODATION

12. Accommodation must be appropriate to professional training in specification and presentation.
13. Institutions will be expected to ensure that all reasonable efforts are made to accommodate disabled candidates.
14. Lecture theatres must contain (or have easy and quick access to) modern presentational tools (videotape, PowerPoint, CD-ROM, Internet, OHP). The acoustics and sight lines of the lecture theatre must be satisfactory. The layout should facilitate an interactive approach to teaching in large group sessions and the seating ideally should be raked.
15. Seminar Rooms:
  - must be of sufficient size to conduct oral skills in groups of twelve comfortably
  - furniture, the size of the room and type must be sufficiently flexible to be able to conduct advocacy exercises that facilitate behaviour in court (stance, voice projection, position of court officers, witnesses, defendants etc) and in the judge's chambers, with other students being well sighted to observe comfortably
  - court room furniture, whether demountable or permanent, must be available in a sufficient number of seminar rooms to enable advocacy exercises to take place in a court room setting regularly
  - a permanent, mock court room should be available
  - a video camera/player and TV in each room

- core practitioner works must be readily available for reference within seminar rooms on all occasions

### **Collaborative study**

16. There must be a common, social or base room to provide a place for study and discussion. The room must have access to refreshment facilities.

### **Library Facilities**

17. Each provider shall have a dedicated law library. Where this is part of an undergraduate provision or is not close to and readily accessible to BVC accommodation a practitioners' library must be provided that houses the book-stock listed in Annex A and meets the other requirements set out below and elsewhere in this paper relevant to the provision of a library.
18. The library should be open at least 11 hours a day from Monday to Friday and 7 on Saturday. Opening times must adequately address the support needs of part-time students.
19. The library must contain the book stock set out in Annex A. This must be up to date with loose-leaf works regularly updated, sufficient multiple copies provided, and alternative and specialist works available where the syllabus requires.
20. The Library must provide study spaces at a ratio of 1 study space to 3 students. This ratio excludes spaces for use with PCs unless there is adequate space around the PC for workbooks to be laid flat.

### **Budget**

21. The board takes the view that pupil barristers should display equal competence in the use of paper and electronic research sources. Providers should ensure that their policies for access to research sources and the provision of library collections reflect this requirement. Providers should also ensure that in the allocation of time to training, practice and assessment in legal research a reasonable balance is maintained between the two formats. Evidence of the maintenance of a satisfactory balance should be made available to and will be sought by Monitoring panels
22. The library budget per student will be at or above £225. This is exclusive of capital expenditure for set-up costs; back runs of material, staff books and personal copies of manuals to students.

### **Services**

23. The library must provide a book loan service.

### **Information Technology**

#### **Hardware**

24. The following specifications must be met:
  - Providers must meet a ratio of 1 IBM compatible PC to every 5 students.
  - One printer will be required for every 10 PCs.
  - CPUs and the operating system must be to current or immediately previous industry standard.
  - 95% of PCs must be networked and capable of supporting the software outlined below

## **Software**

25. The following software should be available to staff and students:
- a word processing package to current or immediately previous industry standard.
  - a keyboard skills package to current or immediately previous industry standard.
  - a spreadsheet package to current or immediately previous industry standard.
  - a presentation package – PowerPoint
  - full internet access
  - an up to date internet browser
  - legal research databases (CD and Internet) providing access to statutes, law reports, law encyclopaedias and practitioner works
  - an e-mail service
  - a shared network drive or dedicated web site to the BVC
26. In addition providers will be expected to be investing in the provision of computer aided learning packages.

## **Training**

27. Providers will be required to audit the IT skills of all students and provide support classes.

## **Audio –Visual**

28. In addition to the audio-visual equipment mentioned under accommodation and the technical support mentioned under staffing, institutions must provide sufficient audio-visual recording and playback equipment and appropriate accommodation to enable students to practice their oral skills outside of class time.

## **STUDENT ADMISSIONS AND SUPPORT**

### **Requirements:**

1. Providers will abide by the minimum requirements for admission to the BVC, as set down and amended from time to time by the Bar Standards Board. Please see Annex 3.
2. Providers will operate an admissions policy that is fair, based on merit and non-discriminatory.
3. Providers will be expected to act in accordance with the Charter for Higher Education, and the requirements of the Quality Assurance Agency for Higher Education.
4. Providers will be required to publish a student charter setting out the rights and duties of staff and students.
5. Each applicant must be made aware of the Bar Standards Board's attendance requirement and the level of ability in English language that is expected. (additional Guidance is available separately)
6. Each student must agree to abide by the attendance requirement. The attendance requirement must state that full attendance on the course is expected but that with reasons acceptable for the purposes of any internal mitigating circumstances procedure the student may be absent for up to 10% of classes or other timetabled activities. Students who fall between 80% - 89% attendance may exceptionally be allowed these absences, where there are exceptional documented medical or other circumstances and missed work has been made up. A student falling below 80% attendance should be failed on the basis that it is not possible to meet the learning outcomes nor to demonstrate that they have been met through assessment.
7. Every student must be provided with a copy of the course handbook containing, inter alia, staffing list, accommodation and learning resources (dedicated and shared), the course structure, course timetable, assessment timetable, course regulations, assessment regulations, equal opportunities policy and appeals procedure.
8. Each student must have a personal tutor for pastoral purposes.
9. Provision must be made to collect students' views on the course through questionnaires and for student representation on the course committee or similar body.
10. Provision must be made for student counselling services.
11. Procedures must be put in place to identify and evaluate the needs of disabled students. The provider must agree a learning contract with any disabled student that requires special accommodation in which the duties and obligations on each side are clearly set out.

### **Guidance**

12. Providers should have in place a transparent system for scoring candidates' application to the BVC.
13. Providers are advised to include within the student charter an attendance requirement that sets out what is expected of students and makes clear the interactive and participative demands of the course and, in this respect, their obligations to the learning experience of their fellow students.

14. Providers are advised to make applicants aware of what will be expected of them on the course and how they should prepare. The document set out at Annex 3 is offered as a model. It includes reference to the attendance requirement and the standard of English language required.

## **COURSE REVIEW**

### **Introduction**

1. The Bar Standards Board regards the requirements set out below as critical to providers' ability to demonstrate that they are:
  - (a) Meeting all the course specification and delivery requirements given above
  - (b) Following the guidance or, where they have departed from the guidance, demonstrate sound reasons for doing so that meet the aims and ethos of the course.

### **Requirements**

2. Providers will be required to produce clear course review procedures which link in to the institution's wider academic quality assurance and review procedures.
3. Providers will be required to produce annual reports<sup>3</sup> and action plans for submission to the Bar Standards Board by 31<sup>st</sup> October each year. The report should include commentary on the feedback received from students, monitors and external examiners, enrolment and results statistics (as per the statistics protocol), and the action plan should highlight where the comments have been addressed.
4. Providers will be required to review the effectiveness of their equal opportunity strategies in course delivery and to collect and maintain statistical information on students' results by gender and ethnic origin.
5. Providers will be required to maintain documentation to show where and how the learning outcomes of the course are met and where the salient learning outcomes are assessed.
6. Providers will be required to allow free access to the course for inspection and review purposes by the Bar Standards Board's Senior Education Officer, monitoring panel and external examiners.
7. Providers will be required to nominate external examiners, where there are vacancies, prior to the start of the academic year to which they are appointed. External Examiners must be approved and appointed by the Bar Standards Board.

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<sup>3</sup> Please see guidance notes in Annex 6

## **OUTCOME SPECIFICATIONS**

### **1 SKILLS**

#### **1.1 Legal Research**

The student should approach legal research in a practical rather than academic manner and be selective, precise and efficient in the identification and utilisation of resources.

The student should be able to:

- (a) Analyse the issues raised by the case and identify which questions of law have to be answered;
- (b) Develop relevant keywords;
- (c) Demonstrate an understanding of the structure of legal literature and the media through which it is made available;
- (d) Locate and use a law library and the catalogues and indexes it contains;
- (e) Use IT skills to locate and retrieve relevant information;
- (f) Select relevant original material, commentary, opinion and guidance;
- (g) Use indexes within legal materials to find relevant information;
- (h) Use and interpret legal citations and abbreviations;
- (i) Check the currency of information;
- (j) Keep up to date with legal developments generally;
- (k) Organise the written response into a logical structure;
- (l) Concisely and accurately summarise or paraphrase relevant material;
- (m) Apply the law to the facts of the problem so as to produce satisfactory answers to the problem posed;
- (n) Provide clear advice;
- (o) Acknowledge the use of all sources and materials cited;
- (p) Devise a research trail to show how the answers have been reached;
- (q) Use IT skills to present the results of research.

#### **1.2 Fact Management**

The student should be able to examine facts in detail, look at all the possible interpretations of the facts, identify which facts are in dispute, which vital information is missing, how the facts can be linked together to prove a case and how the facts can be assembled to construct a persuasive argument.

The student should be able to:

- (a) Understand data presented in a variety of ways;
- (b) identify gaps, ambiguities and contradictions in information;
- (c) identify and prioritise the objectives of the client both in terms of practical outcomes and legal remedies;
- (d) place the information in context;
- (e) identify and prioritise the factual issues;
- (f) identify and prioritise the legal issues raised by the facts;
- (g) select possible solutions to the client's problem;
- (h) recognise the interaction between law and fact;
- (i) assess the strengths and weaknesses of a case;

- (j) organise information in a variety of ways, e.g.:
  - to aid understanding,
  - to prove propositions of law,
  - to assist at trial;
- (k) distinguish between relevant and irrelevant facts;
- (l) distinguish between fact and inference;
- (m) construct an argument from the facts to support the client's case:
  - by developing a theory of the case,
  - by selecting a theme or themes to fit that theory;
- (n) evaluate the issues in response to new information and in the light of tactical considerations.

### 1.3 **Opinion Writing**

The student should be able to write concise well-structured Opinions in a variety of cases and should be aware of the need to adopt a practical approach to the needs and objectives of the client.

A student should be able to write an Opinion which:

- (a) is written in clear grammatical English, correctly spelt and appropriately punctuated;
- (b) is written fluently and concisely in language appropriate to an Opinion;
- (c) identifies and addresses the needs and objectives of the client and seeks to solve the client's problems;
- (d) accurately identifies and shows a thorough grasp of all the material facts, the relevant law, the real issues, the relevant procedure and evidence;
- (e) distinguishes one issue from another;
- (f) is properly headed, laid out, makes sensible use of sub-headings where appropriate, is signed and written in a style appropriate to an Opinion;
- (g) has a clear and appropriate structure in that it deals with each issue in a logical order and separates issues into paragraphs in a sensible way, dealing with one issue at a time and giving each its due weight and significance;
- (h) is complete in that it covers everything that needs to be covered, is fully reasoned and follows a clear line of reasoning;
- (i) is concise, contains no irrelevancies, and is no longer than is reasonably necessary;
- (j) adopts a practical approach, avoiding an academic discussion of the law;
- (k) answers all the questions expressly or implicitly raised in the instructions by expressing clear conclusions where appropriate, alternatively explaining why there can be no clear conclusions, gives a whole answer to every question, explains any legal and factual alternatives, sets the conclusions out clearly and prominently and gives full advice;
- (l) identifies and asks for relevant further information/evidence, explaining where appropriate why the further information is needed;
- (m) gives clear, identifiable, appropriate, sound, practical advice on the matters identified in the instructions and implicit in the instructions and advises on any practical steps to be taken.

## 1.4 Drafting

The student should be able to demonstrate a sound understanding of the nature, function and value of pleadings and learn to draft a full range of pleadings and other documents from simple to complex in civil and criminal proceedings using precedent appropriately.

### A. Range

The student should be able to draft a variety of documents, for example:

- (a) Particulars of Claim in a Claim Form;
- (b) Any Statement of Case;
- (c) Order;
- (d) Witness Statement;
- (e) Indictment;
- (f) Grounds of Appeal and Advice on Appeal in a criminal case.
- (g) Part 8 Claim Form;
- (h) Settlement. Agreement.

### B. Accuracy and Form

The student should be able to draft documents which:

- (a) are written in clear grammatical English, correctly spelt and appropriately punctuated;
- (b) are written fluently and concisely in language and style appropriate to the document;
- (c) are properly headed and laid out, are neat on the page, contain all necessary formalities and are appropriately structured;
- (d) are accurate and contain correct figures and sums;
- (e) are in compliance with the requirements of practice, sound in law, settled in the appropriate court and drafted to achieve the objectives agreed with the client;
- (f) are drafted precisely and unambiguously in terms that are appropriate;
- (g) make a critical use of the appropriate precedents;
- (h) relate structurally to other documents and are consistent with any accompanying advice;
- (i) set out the material facts and tell a clear story, identifying the material issues and omitting all immaterial matters;
- (j) accurately state the client's case, and identify the relief sought.

## 1.5 Conference Skills

The student should be able to:

### A. General

- (a) demonstrate an understanding of the objectives of a conference;
- (b) demonstrate an understanding of the factual, legal, procedural and evidential issues that should be raised in a conference;
- (c) conduct the conference in a structured and efficient way, follow an agenda as far as possible and cover all relevant issues in a logical sequence;
- (d) communicate effectively with the client and respond appropriately to the client's concerns and questions by putting the client at ease and using appropriate language;
- (e) advise the client appropriately by explaining the legal, procedural and evidential issues in clear and unambiguous language;
- (f) demonstrate an understanding of the need to observe professional ethics when conducting and concluding a conference.

## **B. Conducting**

When conducting a conference the student should be able to:

- (a) ensure the client understands the objectives of the conference;
- (b) listen to what the client says;
- (c) permit the client to raise concerns;
- (d) listen to the client in a non-judgmental manner, empathising with and reassuring the client when appropriate;
- (e) clarify the relevant gaps and any ambiguities;
- (f) select and use appropriate questioning techniques;
- (g) elicit the information required to advise the client;
- (h) Demonstrate a clear understanding of the client's account of the case/facts.

## **C. Advising**

When advising a client the student should:

- (a) Set out the strengths and weaknesses of the case;
- (b) advise on the consequences of any course of action taken;
- (c) advise on what further action should be taken;
- (d) ensure the client understands what has been discussed;
- (e) obtain the client's full instructions;
- (f) adhere to the instructions;
- (g) not invent facts;
- (h) not mislead the client as to the facts or the law;
- (i) explain fully and frankly when required;
- (j) Observe the rules of professional conduct.

## **1.6 Negotiation**

### **A Overall aims**

The student should be able to:

- (a) Demonstrate an understanding of the importance of negotiation as a means of settling a case;
- (b) demonstrate an understanding of the importance of planning a negotiation;
- (c) Select strategies and methods for conducting a negotiation that further the client's best interests;
- (d) Demonstrate an understanding of the need to observe professional ethics when conducting and concluding a negotiation.

### **B Planning**

When planning a negotiation the student should be able to:

- (a) Identify the factual and legal issues and how they relate to each other;
- (b) identify the objectives of the client and of the other side;
- (c) identify any conflict in the objectives of both sides and identify means of resolving such conflicts;
- (d) prioritise objectives;
- (e) identify the strengths and weaknesses of each side;
- (f) counteract the perceived weakness of his/her own case, undermine the strengths of the other side's case, and exploit weaknesses of the other side's case;
- (g) identify the best alternative to a negotiated settlement (BATNA) and bottom line as appropriate.

## **C Conducting**

When conducting a negotiation the student should be able to:

- (a) choose and implement a strategy or strategies for achieving the realistic objectives of the client;
- (b) modify and/or change the chosen strategy or strategies as appropriate;
- (c) construct and work within a structure that allows the negotiation to proceed in a clear, logical and coherent fashion;
- (d) present arguments clearly and in a confident and persuasive manner;
- (e) present the case in a favourable light by emphasising its strengths and mitigating its weaknesses and in a way that is likely to achieve its desired ends;
- (f) pick up points made by the opponent and reply in a way that progresses the client's case;
- (g) respond to offers made and make concessions where it is in the client's best interests to do so, but not otherwise;
- (h) seek to protect the client's position against the arguments of the opponent and respond in a way that is likely to achieve the desired ends;
- (i) demonstrate an understanding of the need to observe professional ethics, when conducting and concluding a negotiation.

### **1.7 Advocacy**

#### **A Overall aims**

The student should be able to prepare and deliver each of the following:

- (a) an opening speech;
- (b) a closing speech;
- (c) an unopposed submission; and
- (d) an opposed submission.

The student should be able to examine, cross-examine and re-examine witnesses.

In relation to each of these tasks, the student should be able to prepare the case effectively, understanding the relevant law, facts and principles, observing the rules of professional conduct and planning the advocacy task in question.

#### **B Preparation**

The student should be able to:

- (a) formulate and use a theory of the case;
- (b) outline the facts in a clear narrative form;
- (c) indicate the relevant legal principles to the court as concisely as possible;
- (d) cite cases and statutes as appropriate, giving full citations to the court when necessary;
- (e) relate legal authorities to propositions of law;
- (f) relate evidence to legal principles;
- (g) make suitable use of witness statements or affidavits;
- (h) structure the speech or submission in a clear logical and coherent manner;
- (i) adhere to instructions from the client.

## **C Presentation**

The student should be able to:

- (a) speak at a suitable pace;
- (b) adopt a suitable stance for addressing the court, with good eye contact and an absence of distracting gestures;
- (c) display confidence in the case and in his or her own performance;
- (d) explain the strong points in the client's case;
- (e) explain, excuse or justify the weak points in the client's case;
- (f) anticipate an opponent's points, where possible, and put forward cogent arguments to rebut them;
- (g) answer an opponent's points clearly and effectively;
- (h) respond appropriately to points raised by the court, or by an opponent;
- (i) rely in argument only on points with some merit;
- (j) concede points in argument, if appropriate.

## **D Examination-in-Chief**

The student should be able to:

- (a) demonstrate an understanding of the aims of examination-in-chief;
- (b) enable the witness to tell the story in his or her own words;
- (c) avoid the use of leading questions except on matters, which are not in dispute;
- (d) ask questions designed to cover the important parts of the testimony of a witness;
- (e) settle the witness, with simple introductory questions;
- (f) make appropriate use of open and closed questions;
- (g) ask the questions audibly and at a suitable pace;
- (h) ask questions in a sensible sequence;
- (i) make a smooth transition from one topic or series of questions to another.

## **E Cross Examination**

The student should be able to:

- (a) prepare for cross-examination with a clear approach to the objective, which is sought;
- (b) decide when it is and is not appropriate to cross-examine;
- (c) understand the need to be flexible by adapting the plan prepared for cross-examination to take account of the evidence given by the witness;
- (d) ask questions, which probe the evidence of a witness for ambiguities, or matters that reveal a lack of credibility;
- (e) ask questions which strengthen elements of the client's case;
- (f) put the client's case to the opponent's witness in cross-examination for explanation, agreement or contradiction;
- (g) make sensible use of leading questions in cross-examination;
- (h) Ask the witness questions audibly and at a suitable pace.

## **F Re-examination**

The student should be able to:

- (a) Decide when it is and is not appropriate to re-examine;
- (b) Confine re-examination to matters raised in cross-examination;
- (c) Avoid leading questions;
- (d) Ask the witness questions audibly and at a suitable pace.

## **2 KNOWLEDGE**

### **2.1 Evidence**

#### **A Preliminary Matters**

The student should be able to demonstrate knowledge and understanding of:

- (a) The basic terminology of the law of evidence;
- (b) The facts that are open to proof or disproof under English law;
- (c) The distinction between the concepts of relevance, admissibility and weight;
- (d) The division of functions between the judge and jury;
- (e) The discretion to exclude evidence (apart from evidence obtained by illegal or unfair means).

#### **B Burden and Standard of Proof and Presumptions**

The student should be able to:

- (a) Analyse the facts in issue in both civil and criminal cases and indicate who bears the legal burden of proof and who bears the evidential burden on each fact in issue;
- (b) decide who has the right to begin adducing evidence in a trial;
- (c) identify the standard of proof appropriate to a burden;
- (d) use properly the terminology applicable to both burdens and standards of proof;
- (e) decide when to apply a presumption to a given set of facts;
- (f) indicate correctly the effect that a presumption has on the incidence of the legal and evidential burdens.

#### **C Competence and Compellability of Witnesses**

The student should be able to:

- (a) identify when, during the course of a trial, the issue of competence is likely to arise;
- (b) demonstrate knowledge of the procedure for determining the competence of a witness;
- (c) identify whether a given witness in given circumstances will be competent;
- (d) identify whether a given witness in given circumstances will be compellable.

#### **D The Examination of Witnesses**

The student should be able to-

- (a) demonstrate knowledge and understanding of the procedural issues relating to witnesses and analyse the questioning of witnesses during the course of the trial;
- (b) apply the rules (and exceptions) relating to leading questions, refreshing memory, previous consistent or self-serving statements, unfavourable and hostile witnesses, cross-examination on documents, cross-examination as to credit, previous inconsistent statements and the finality of answers on collateral matters.

#### **E Evidence of the Character of the Accused**

The student should be able to demonstrate knowledge and understanding of:

- (a) the distinction between character relevant to a fact in issue and character relevant to credit;
- (b) the reasons for the general prohibition on cross-examination of the accused as to bad character (the accused's shield);
- (c) the nature of exceptions to this general prohibition;

- (d) the rationale for the exceptional admission of evidence of disposition and behaviour on other occasions to prove commission of the offence by the accused despite the general rule to the contrary;
- (e) the basis for the judge's directions on good character and the circumstances in which the direction should be given;
- (f) the tactical use of character evidence.

## **F The Hearsay Rule**

The student should be able to demonstrate knowledge and understanding of:

- (a) what constitutes hearsay;
- (b) the difference between hearsay and original evidence;
- (c) the difference between hearsay and real evidence (including statements produced by mechanical and other devices);
- (d) the particular problems associated with implied assertions and the non-existence of facts (or negative hearsay).

## **G Hearsay Exceptions**

The student should be able to:

- (a) demonstrate a sound understanding of the principles underlying exceptions to the hearsay rule;
- (b) identify the circumstances in which exceptions may apply;
- (c) identify which preliminary facts need to be proved and (when applicable) which procedural steps need to be taken;
- (d) raise and/or counter an objection to hearsay evidence.

## **H Confessions and Illegally or Improperly Obtained Evidence**

The student should be able to:

- (a) demonstrate a sound understanding of the principles governing the admissibility of confessions;
- (b) apply the principles to specific factual situations;
- (c) describe the procedural requirements when the admissibility of a confession is challenged;
- (d) demonstrate a sound understanding of the basis upon which a judge might exclude evidence other than confessions on the ground that it is illegally or improperly obtained (including any procedural requirements);
- (e) raise and/or counter an objection to the admissibility of confessions and illegally or improperly obtained evidence.

## **I Opinion Evidence and Evidence of Judgements**

The student should be able to:

- (a) demonstrate a sound understanding of the principles underlying the general exclusionary rule in relation to evidence of opinion and the main exceptions to that rule, i.e.
  - (i) where an opinion is a shorthand for several factual observations,
  - (ii) where it is necessary to seek the opinion of experts;
- (b) demonstrate a sound understanding of the special rules relating to the opinion evidence of experts - including the definition of an expert, the general form and content of expert evidence (secondary facts etc.), the status of such evidence, the requirements for advance notice (and the procedures to be complied with);
- (c) demonstrate a sound understanding of the general rule that judgements are inadmissible evidence of the facts on which they are based.

## **J Identification Evidence**

The student should be able to:

- (a) identify the circumstances in which a judge might withdraw from the jury a case based on identification evidence;
- (b) identify the circumstances in which a *Tumbull* warning should be given and display knowledge of the usual terms and content of such a warning;
- (c) display a sound understanding of the basis upon which a judge might exclude an item of identification evidence (including knowledge of the Code of Practice on Identification);
- (d) raise and/or counter an objection to identification evidence (including knowledge of appropriate procedural matters).

## **K Privilege and Public Policy**

The student should be able to show a sound understanding of the principles of privilege and the exclusion of evidence on public policy grounds and be able to apply them in a number of practical contexts.

## **L Inferences from the Accused's Conduct**

The student should be able to:

- (a) identify the general circumstances in which a party's evasive conduct can be put before the tribunal of fact as supporting an inference, which is adverse to the party in question;
- (b) as regards lies by the accused, recognise which factors affect the probative value of the lies as circumstantial evidence against the accused and say how a judge should direct the jury on such evidence;
- (c) as regards silence by the accused, recognise which factors affect:
  - (i) the probative value of such evidence,
  - (ii) the public policy aspects of permitting such evidence to support any inference against the accused and state when silence can support an adverse inference against the accused;
- (d) as regards a refusal to give body samples, demonstrate knowledge of the rules about the taking of such samples and state the evidential effect of a refusal without good cause to consent to the taking of such samples.

## **2.2 Civil Litigation**

### **A REMEDIES**

#### **Overall Aims**

A student should be able to identify a client's needs for a particular remedy, to give appropriate advice and to determine:

- (a) the cost of pursuing a remedy;
- (b) whether a self-help remedy is available;
- (c) whether alternative forms of resolving a dispute are available;
- (d) the capacity of the defendant to pay damages if awarded;
- (e) whether a range of remedies should be pursued;
- (f) whether interim remedies should be pursued; and
- (g) applicable time limits.

## **Contract**

The student should be able to demonstrate an understanding of:

- (a) the general principles underlying damages for breach of contract, including limitations on compensatory damages;
- (b) the availability of equitable remedies, including specific performance, injunctions, rescission and rectification;
- (c) remedies for misrepresentation.

## **Tort**

The student should be able to demonstrate an understanding of:

- (a) the general principles underlying the amount of damages, the calculation of quantum, the reduction of damages, exemplary damages and the availability of injunctions;
- (b) the principles according to which damages are quantified, the process by which a court would arrive at a final figure, and the practical steps to be taken in advising on quantum in cases of personal injury and fatal accident;
- (c) the impact of Social Security payments on the assessment of damages and the method by which the Inland Revenue approach issues of taxation of damages.

## **B Preliminary Matters**

The student should be able to demonstrate a sound understanding of:

- (a) the organisation of the High Court;
- (b) the organisation of the County Courts;
- (c) the allocation of business between the High and County Courts;
- (d) the overriding objective of the civil procedure rules;
- (e) The allocation of business between the small claims track, the fast track and the multi-track.

## **C Commencing Proceedings**

The student should be able to demonstrate a sound understanding of:

- (a) The procedures that must be observed in the conduct of a selected range of proceedings in the High Court and County Court;
- (b) How different types of proceedings are commenced;
- (c) the procedures that need to be observed in the conduct of a specialist range of proceedings e.g. interpleader, possession actions, judicial review;
- (d) how court documents are brought to the notice of other parties including outside the Jurisdiction;
- (e) the principles governing the renewal of claim forms;
- (f) the procedures that need to be observed in the conduct of an action in the Technology and Construction Court and in the Commercial Court;
- (g) the procedures for bringing proceedings by or against various classes of party.

## **D Statements of Case**

The student should be able to demonstrate a sound understanding of:

- (a) the manner in which parties are required to set out and verify the factual basis of their respective cases in statements of case;
- (b) the methods by which parties may respond to statements of case, defences, replies, counter-claims, amendments, requests for further information, striking out applications etc.

## **E Injunctions**

The student should:

- (a) have a sound understanding of the procedure for applying for an injunction;
- (b) be able to state the principles governing whether the court will grant or refuse an injunction in any given case;
- (c) be able to give reasons why and how those principles apply to the particular circumstances;
- (d) understand the meaning and effect of the usual undertakings and cross-undertakings given in injunction cases.

## **F Proceedings Involving Three or More Parties**

The student should have a sound knowledge of the rules and procedures relating to:

- (a) multiple causes of action and multiple parties;
- (b) Part 20 claims, including in particular:
  - (i) the various types of claims that can be raised in such proceedings,
  - (ii) the management of Part 20 claims, and
  - (iii) the effect on Part 20 claims of the main action being determined without trial.

## **G Disclosure and Inspection of Documents**

The student should be able to demonstrate a sound understanding of:

- (a) the law, principles and procedure regulating the disclosure and inspection of documents;
- (b) *Norwich Pharmacal* orders: pre-action discovery under SCA 1981 s.33 (2);
- (c) discovery against non-parties under SCA 1981 s.34 (2);
- (d) orders for the inspection of property including orders under SCA 1981 s.34 (b) and SCA 1981 s.33 (1);
- (e) interim delivery-up of goods.

## **H Case Management**

The student should be able to demonstrate a sound understanding of:

- (a) the procedure at the case management conference;
- (b) the principles governing case management and the giving of directions.

## **I Further Information**

The student should demonstrate a sound understanding of:

- (a) when it may be appropriate to seek to make a request for further information;
- (b) the principles on which requests for further information may be administered or are allowed;
- (c) how to respond to a request for further information.

## **J Freezing Injunctions and Search Orders**

The student should be able to demonstrate a sound understanding of:

- (a) Freezing injunctions, including:
  - (i) the procedure for obtaining such an injunction,
  - (ii) the terms to be incorporated in drafting such an injunction, and
  - (iii) the grounds upon which an application may be made to vary or discharge such an injunction;

- (b) Search orders, including:
  - (i) the procedure for obtaining such an order, and
  - (ii) How such orders are executed.

## **K Striking Out, Dismissal, Stays and Discontinuance**

The student should:

- (a) Be able to recognise whether, in any given case, an application should be made to dismiss for want of prosecution or to strike out;
- (b) have a sound understanding of the procedure for applying to strike out and for dismissal, and of the principles applied by the court;
- (c) have a sound understanding of the principles and procedures to be adopted relating to stays and discontinuing.

## **L Interlocutory Matters (including judgement without trial)**

The student should be able to demonstrate a sound understanding of:

- (a) default judgements;
- (b) summary judgements;
- (c) summary proceedings for the possession of land;
- (d) interim payments;
- (e) the practice and principles relating to applications for security costs;
- (f) the practice relating to claims for provisional damages;
- (g) the principles and procedures relating to Part 36 offers and Part 36 payments;

## **M Evidence**

The student should be able to demonstrate a sound understanding of:

- (a) the law and practice relating to the admission of hearsay evidence in civil trials;
- (b) the practice and procedure relating to the preparation and exchange of witnesses statements;
- (c) the principles underlying the general exclusionary rule in relation to evidence of opinion and the main exceptions to that rule;
- (d) the special rules relating to the opinion of experts - including the definition of an expert, the general form and content of expert evidence (secondary facts etc.), the status of such evidence, the requirements for leave and the procedures to be complied with.

## **N Preparation for Trial**

The student should have a sound understanding of:

- (a) the use of witness summonses;
- (b) the procedure on the trial of civil actions.

## **O Costs and Legal Aid**

The student should be able to:

- (a) distinguish between the different bases of assessment of costs;
- (b) know the various interim costs orders and their effects;
- (c) be aware of the situations where costs orders do not follow the event;
- (d) state, in any given case, the likely effect on the order for costs where:
  - (i) there is more than one cause of action and one party is not successful,
  - (ii) there is a joinder of defendants and the claimant succeeds against some but not all of them,
  - (iii) one or more parties is state funded,

- (iv) there has been a Part 36 offer or Part 36 payment;
- (e) understand the effects of state funding and the statutory charge on civil litigation and counsel's duty to the Legal Services Commission.

## **P Compromise**

The student should be able to demonstrate a sound understanding of the principles and procedures governing consent and Tomlin Orders.

## **Q Enforcement of Judgements and Appeals**

The student should demonstrate a sound working knowledge of.

- (a) The different methods of enforcing money and other judgements; and should have developed, where there is a choice, a tactical sense as to which method or combination of methods is appropriate to the particular circumstances of the judgment debtor in question;
- (b) The principles and procedures governing civil appeals;
- (c) The principles and procedures governing references to the European Court.

## **2.3 Criminal Litigation and Sentencing**

### **A Preliminary Matters**

The student should be able to demonstrate a sound understanding of:

- (a) Police powers of arrest;
- (b) The rights of the suspect at the police station;
- (c) The procedural provisions of the Codes of Practice issued under the Police and Criminal Evidence Act 1984;
- (d) The scope and implications of the concept of "serious arrestable offence";
- (e) The preconditions for, and consequences of, charging a suspect;
- (f) How process is issued in the magistrates' court;
- (g) The structure of the legal aid scheme for criminal cases;
- (h) The circumstances in which legal aid must, or may, be granted;
- (i) The procedure for applying for legal aid, and for challenging a refusal of legal aid;
- (j) The main costs orders, which the court may make, and the circumstances in which it is likely to make them.

### **B Remands and Bail**

The student should be able to demonstrate a sound understanding of:

- (a) The difference between a simple adjournment and a remand;
- (b) The situations in which the magistrates must use a remand;
- (c) The rules relating to the duration of remands;
- (d) The scope of, and the limits to, the defendant's general right to bail;
- (e) What constitutes a surrender to custody;
- (f) the conditions that may be attached to bail, and the circumstances in which they are likely to be attached;
- (g) the decision-making process, which the court ought to adopt in granting or refusing bail;
- (h) the limits that determine whether a defendant is entitled to apply for bail;
- (i) the arguments that can properly be used for granting or refusing bail in a given situation;
- (j) the procedure for appealing to the Crown Court or the High Court against the grant or refusal of bail, or a variation of conditions;
- (k) the rules relating to custody time limits.

## **C Modes of Trial**

The student should be able to demonstrate a sound understanding of:

- (a) the classification of offences into summary, triable-either-way, and indictable-only;
- (b) the procedure for determining mode of trial;
- (c) the factors that the magistrates should take into account in deciding whether to accept jurisdiction;
- (d) the factors which the defendant should be aware of in deciding whether to elect Crown Court trial;
- (e) the circumstances in which a decision as to mode of trial can be changed;
- (f) the special procedure applicable in criminal damage cases;
- (g) the rules relating to advance information;
- (h) the provision by which summary-only matters can be sent to the Crown Court for trial or for plea (ss.40 and 41 of the Criminal Justice Act 1988).

## **D Summary Trial**

The student should be able to demonstrate a sound understanding of:

- (a) the circumstances in which the magistrates can proceed to hear a case in the absence of the defendant;
- (b) the consequences of the absence of the prosecution in the magistrates' court;
- (c) the taking of a plea from the defendant, and the consequences of a plea that is equivocal or made under duress;
- (d) the procedural steps in a summary trial;
- (e) the test applicable to a submission of no case to answer;
- (f) the arguments that are appropriate for and against a submission of no case to answer;
- (g) the rules governing opening and closing speeches by the prosecution and the defence;
- (h) the verdicts open to the magistrates, and the procedure by which the verdict must be determined and announced;
- (i) the power of the magistrates to rectify mistakes in verdict or sentence;
- (j) The role of the clerk to the magistrates.

## **E Appeals from the Magistrates**

The student should be able to demonstrate a sound understanding of:

- (a) The procedure for appealing to the Crown Court against a decision of the magistrates' court;
- (b) The powers of the Crown Court in determining an appeal from the magistrates;
- (c) The procedure for appealing to the Divisional Court by way of case stated against a decision of the magistrates' court (or the Crown Court in its appellate capacity);
- (d) the procedure for appealing to the Divisional Court by way of judicial review against a decision of the magistrates' court (or the Crown Court in its appellate capacity);
- (e) the powers of the Divisional Court in hearing an appeal by way of case stated or judicial review;
- (f) the differences between the three forms of appeal from the magistrates' court, and the advantages of each to the prosecution and the defence;
- (g) the procedure for appealing against a decision of the Divisional Court to the House of Lords.

## **F Juveniles and the Criminal Courts**

The student should be able to demonstrate a sound understanding of:

- (a) the categories of "juvenile", "young person" and "child", and the legal consequences attaching to each category;
- (b) the procedural consequences of the *doli incapax* presumption;
- (c) the use of cautions by the police;
- (d) the jurisdiction and procedure of the youth court;
- (e) the restriction of publicity and public access to the youth court, and when a juvenile is a defendant or witness in the adult courts;
- (f) the circumstances in which a juvenile may appear in a court other than the youth court;
- (g) the rules applicable to juveniles who reach the age of 18 during proceedings in the youth court;
- (h) the limits placed on the youth court, the adult magistrates' court and the Crown Court in sentencing juveniles.

## **G Transfer Proceedings**

A student should be able to demonstrate a sound understanding of:

- (a) the procedure involved in the transfer for trial of a case by the magistrates to the Crown court;
- (b) the rules relating to an application for the dismissal of charges;
- (c) the effect of dismissing charges;
- (d) the restrictions relating to the reporting of transfer proceedings;
- (e) the requirement that the defendant be given an alibi warning;
- (f) the circumstances and the manner in which an application may be made for a voluntary bill of indictment;
- (g) the procedure relating to notices of transfer in serious fraud cases;
- (h) the procedure relating to notices of transfer in child witness cases;
- (i) the features (in outline only) of committal proceedings;
- (j) the matters dealt with at a plea and directions hearing.

## **H Indictments, Pleas and Crown Court Preliminaries**

The student should be able to demonstrate a sound understanding of:

- (a) the prosecution duty of disclosure;
- (b) the structure of an indictment, and the formalities with which it must comply;
- (c) the proper contents of an individual count in an indictment;
- (d) the rule against duplicity;
- (e) the rules relating to joinder of counts and/or defendants in one indictment;
- (f) the circumstances in which, and the procedure by which, an indictment can be amended;
- (g) the consequences attaching to defects in the indictment;
- (h) the use of alternative counts;
- (i) the rules attaching to the defendant's plea;
- (j) the procedure by which fitness to plead is determined;
- (k) the circumstances in which a change of plea can, or ought, to be permitted;
- (l) the circumstances in which the defendant can enter a plea of guilty to an alternative offence, and the consequences that follows;
- (m) the power of the court to prevent an abuse of its process.

## **I Jury Trials**

The student should be able to demonstrate a sound understanding of:

- (a) the procedural steps in a jury trial;
- (b) the consequences of the accused's absence from court;
- (c) the limits imposed upon counsel seeing the judge for an indication of sentence;
- (d) the procedure involved in empanelling a jury;
- (e) the rules relating to eligibility, disqualification and exemption of jurors;
- (f) the rules as to opening and closing speeches by the defence and the prosecution;
- (g) the procedure where admissibility of evidence is disputed;
- (h) the means by which a formal admission may be made;
- (i) the circumstances in which a witness' statement can be read;
- (j) the procedure for making a submission of no case to answer;
- (k) the test applied by the court in determining a submission of no case to answer;
- (l) the arguments likely to be relevant for and against a submission of no case to answer;
- (m) the provisions relating to alibi evidence;
- (n) the provisions relating to expert evidence;
- (o) the functions of judge and jury;
- (p) the contents of a summing up;
- (q) directions to the jury after their retirement;
- (r) the circumstances in which an individual juror, or the jury as a whole, may or ought to be discharged;
- (s) the way in which questions from the jury ought to be dealt with;
- (t) the rules relating to unanimous and majority verdicts;
- (u) the circumstances in which the jury is able to deliver a verdict of guilty of an alternative offence;
- (v) the prohibition of improper pressure upon the jury to reach a verdict.

## **J Appeals to the Court of Appeal**

The student should be able to demonstrate a sound understanding of:

- (a) the circumstances in which the leave of the Court of Appeal is required for an appeal;
- (b) the procedural steps involved in obtaining leave to appeal;
- (c) the powers of the single judge of the Court of Appeal;
- (d) the powers of the Registrar of Criminal Appeals;
- (e) the grounds of appeal against conviction;
- (f) the procedure for an appeal against sentence;
- (g) the powers of the Court of Appeal;
- (h) the circumstances under which the Court of Appeal may, or must, hear fresh evidence;
- (i) the circumstances in which the Court of Appeal may issue directions for loss of time.

## **K Sentencing**

The student should be able to demonstrate a sound understanding of:

- (a) the sentencing powers of the magistrates' court (including the youth court);
- (b) the sentencing powers of the Crown Court;
- (c) the procedure adopted for sentencing in the magistrates' court (including the youth court);
- (d) the procedure adopted for sentencing in the Crown Court;
- (e) the availability of the common types of sentence or order in respect of various offences and categories of offender;
- (f) the requirements that the court can attach to the common types of sentence or order;
- (g) the conditions necessary for the various different methods of committal for sentence;
- (h) the procedural steps involved in a committal for sentence;
- (i) the maxima and minima attaching to various types of sentence;

- (j) the decision-making process that the court ought to adopt when determining a sentence;
- (k) the common aggravating and mitigating features attaching to various offences;
- (l) the personal mitigation to which an offender may be entitled;
- (m) the role and duties of counsel for the prosecution and the defence in the sentencing process.

## **2.4 Professional Ethics and Conduct**

A student should be able to:

- (a) appreciate the core professional values which underpin practice at the Bar of England and Wales;
- (b) identify issues of professional ethics and conduct which appear in given situations likely to arise in a barrister's practice;
- (c) identify the provisions of the Code of Conduct of the Bar of England and Wales that apply in such situations;
- (d) identify means of regulating relationships with other people: opponents and colleagues; the tribunal; judiciary; instructing solicitors; clients (both lay and expert); court clerks;
- (e) reconcile the different duties owed to a professional client, lay client, the court, and the legal aid fund;
- (f) follow the spirit of the Code in situations where there is no provision that is directly applicable;
- (g) choose the course of action which is consistent with the provisions and principles of the Code.

## Annex 1

### QAA DESCRIPTOR FOR QUALIFICATIONS AT LEVEL HE4

#### **Descriptor for a qualification at level HE4: Masters degree ('M Level')**

Masters degrees are awarded to students who have demonstrated:

- (i) a systematic understanding of knowledge, and a critical awareness of current problems and/or new insights, much of which is at, or informed by, the forefront of their academic discipline, field of study, or area of professional practice;
- (ii) a comprehensive understanding of techniques applicable to their own research or advanced scholarship;
- (iii) originality in the application of knowledge, together with a practical understanding of how established techniques of research and enquiry are used to create and interpret knowledge in the discipline;
- (iv) conceptual understanding that enables the student:
  - to evaluate critically current research and advanced scholarship in the discipline; and
  - to evaluate methodologies and develop critiques of them and, where appropriate, to propose new hypotheses.

Typically, holders of the qualification will be able to:

- (a) deal with complex issues both systematically and creatively, make informed judgements in the absence of complete data, and communicate their conclusions clearly to specialist and non-specialist audiences;
- (b) demonstrate self-direction and originality in tackling and solving problems, and act autonomously in planning and implementing tasks at a professional or equivalent level;
- (c) continue to advance their knowledge and understanding, and to develop new skills to a high level; and will have:
- (d) the qualities and transferable skills necessary for employment requiring:
  - the exercise of initiative and personal responsibility,
  - decision making in complex and unpredictable situations, and
  - the independent learning ability required for continuing professional development.

## Annex 2

### **LIST OF LIBRARY HOLDINGS FOR THE BAR VOCATIONAL COURSE**

The list gives the titles of texts and materials in paper and electronic format. It is in five parts.

Section A lists general sources which it is compulsory for institutions to provide unless a particular title is marked "holding optional" in the list. The provision of general sources must be over and above that provided for use by undergraduates but, on condition that sufficient multiple copies are provided, may be shared with students following other courses of vocational study.

Sections B, C and E list titles which it is compulsory for institutions to provide for the study of, respectively, professional ethics and practice, the knowledge subjects and the skills areas. Such provision must be over and above that provided for use by undergraduates but, on condition that sufficient multiple copies are provided, may be shared with students following other courses of vocational study.

Section D is an indicative list of titles for a selection of options subjects, illustrative of the range of different types of publication (law reports, law journals, encyclopaedias and loose-leaf works, other practitioner works and finding tools) the Bar wishes to see provided by institutions for the use of BVC students.

Dates in brackets indicate:

for legislation and law reports - the period covered

for law journals and monographs - the period over which published.

This list was compiled during 2000. The latest editions of texts must be purchased. New titles, which are generally accepted to have succeeded any of the titles listed below, must be substituted.

#### **A GENERAL SOURCES**

##### **A1 Primary legislation**

Bills of current session of Parliament (HL & HC) either paper or electronic format

Either:

Public General Statutes (Queen's Printer's Copy) (1831-1870)

Public General Acts and General Synod Measures (1871-)

Public General Acts (Queen's Printer's Copy - loose issues)

Or:

Law Reports Statutes (1865-)

And:

Halsbury's Statutes of England, 4th ed. 1985- (paper format essential, electronic optional)

Current Law Statutes Annotated (1947-)

The treaties and secondary legislation of the European Communities are published officially by the Office for Official Publications of the European Communities. Other versions are available in a variety of sources such as the United Kingdom Treaty series (part of Command Papers), books of text and materials and in encyclopaedias. Treaties and secondary legislation relevant to the Bar Vocational Course must be available in paper format. Provision of these materials in electronic format is optional.

##### **A1.1 Finding tools**

Current Law Statute and Legislation Citators (set) paper format essential, electronic optional

Butterworths EC Legislation Implementator paper format essential, electronic optional

European Current Law + Yearbooks (1992-)

### **A1.2 Secondary legislation**

Selection of Statutory Instruments relevant to the course in paper or electronic format  
Halsbury's Statutory Instruments paper format essential, electronic optional

### **A1.3 Finding tool**

Current Law Statutory Instrument Citator (1993-) paper format essential, electronic optional

### **A1.4 Law reports**

#### **A1.4.1 General series**

English Reports (period covered 1220-1865) holding in either paper or electronic format optional  
All England Law Reports Reprint (1558-1935) holding optional  
Law Reports (1865-) paper format essential, electronic optional  
Weekly Law Reports (1953-) paper format essential, electronic optional  
All England Law Reports (1936-) paper format essential, electronic optional  
European Court of Human Rights; Judgements and Decisions (1960-) holding optional  
European Commission of Human Rights; Decisions (later Decisions and Reports) (1960) holding optional  
European Human Rights Reports (1978-) holding essential

Holdings of the following titles in paper format are essential, electronic optional:

All England Law Reports: European Cases (1995-)  
European Court Reports (1954-)  
Common Market Law Reports (1962-)

Current subscriptions to and at least one year's back run of the following newspaper law reports:

The Times Newspaper Law Reports paper format essential, electronic optional  
The Independent Law Reports paper format essential, electronic optional

#### **A1.4.2 Finding tools**

Butterworths EC Case Citator paper format essential, electronic optional  
Current Law Yearbooks and Monthly Digest (1947-) paper format essential, electronic optional  
Current Law Case Citators (set) paper format essential, electronic optional  
The Digest (green band edition) holding optional  
Law Reports: Digest of Cases (1865-)

### **A1.5 Law journals**

#### **A1.5.1 General titles**

Common Market Law Review (1963-)  
European Law Review (1975-)

Current subscriptions to and at least two years back run of the following titles:

Counsel  
Law Society's Gazette  
New Law Journal  
Solicitors' Journal

#### **A1.5.2 Finding tools**

European Legal Journals Index paper or electronic format  
Legal Journals Index paper or electronic format

### **A1.6 Encyclopaedias and practice books**

Halsbury's Law of England, 4th ed. (Butterworths, 1973-) paper format essential, electronic optional  
Atkin's Encyclopaedia of Court Forms in Civil Proceedings, 2nd ed. (Butterworths, 1962-)  
Supreme Court Practice (Sweet & Maxwell, bi-annual) paper format essential, electronic optional

County Court Practice (Butterworths, annual) paper format essential, electronic optional  
Stone's Justices Manual (Butterworths, annual)  
Civil Procedure Rules, Practice Directions, Pre-Action Protocols and Forms. (Stationery Office, monthly) paper format essential, electronic optional  
Civil Procedure: The Civil Procedure Rules 1998. (Sweet & Maxwell)  
The Civil Court Service. (Jordans) paper format essential, electronic optional  
Civil Procedure: the Civil Procedure Rules (Blackstone)  
Emmerson, B. & Simor, J. Human Rights Practice. (Sweet & Maxwell)  
The Data Protection Act 1998: An Introduction. (Data Protection Registrar)  
O'Malley, S. & Layton, A. European Civil Practice. (Sweet & Maxwell)

Either:

Carey, P. Blackstone's Guide to the Data Protection Act 1998. (Blackstone)

Or:

Lloyd, I. A Guide to the Data Protection Act 1998. (Butterworths)

Or:

Singleton, S. Data Protection - The New Law. (Jordans)

Either:

Encyclopaedia of European Community Law. (Sweet & Maxwell)

Or:

Common Market Reporter. (CCH)

### **A1.7 Dictionaries**

Jowitt's Dictionary of English Law. (Sweet & Maxwell)

Rutherford, L. & Bone, Shelia. Osborn's Concise Law Dictionary. (Sweet & Maxwell)

Stroud's Judicial Dictionary of Words and Phrases. (Sweet & Maxwell)

Words and Phrases Legally Defined. (Butterworths)

Shorter Oxford English Dictionary. (Oxford University Press)

### **A1.8 Directories**

At least one of the following titles:

Directory of Solicitors and Barristers. (Law Society, annual)

The Bar Directory. (General Council of the Bar)

Chambers & Partners' Directory. (annual)

Hazell's Guide to the Judiciary and the Courts. (Hazell, annual)

### **A1.9 Aids to finding legal information**

Raistrick, D. Index to Legal Citations and Abbreviations. (Bowker Saur)

## **B PROFESSIONAL ETHICS AND PRACTICE**

Code of Conduct of the Bar of England and Wales.

Alexander, J. Client Care. (Blackstone)

Spicer, E.E. & Pegler, E.C. Bookkeeping and Accounts. (Butterworths)

## **C KNOWLEDGE AREAS**

### **C1 Civil Litigation**

#### **C1.1 Law reports**

Personal Injuries and Quantum Reports (1990-)

#### **C1.2 Encyclopaedias and loose-leaf works**

Butterworths Costs Service

Butterworths County Court Precedents

Butterworths Personal Injury Litigation Service

Butterworths Road Traffic Service

County Court Litigation (Sweet & Maxwell)

Encyclopaedia of Forms & Precedents (Butterworths)

Encyclopaedia of Road Traffic (Sweet & Maxwell)

Kemp & Kemp. The Quantum of Damages (Sweet & Maxwell)

The Litigation Practice (Sweet & Maxwell)

Practical Civil Courts Precedents (Sweet & Maxwell)

#### **C1.3 Books**

Bullen, E., Leake, S.M., Jacob, Sir J.I.H. Bullen, Leake and Jacob's Precedents of Pleadings. (Sweet & Maxwell)

Charlesworth, J. & Percy, R.A. Charlesworth & Percy on Negligence. (Sweet & Maxwell)

Chitty, J. Law of Contract. (Sweet & Maxwell)

Chitty, T. & Jacob, I.H. Queen's Bench Forms. (Sweet & Maxwell)

Clerk J.F. & Lindsell, W.H. The Law of Torts. (Sweet & Maxwell)

Goff of Chieveley, Lord & Jones, G. The Law of Restitution. (Sweet & Maxwell)

Jackson, R. & Powell, J.L. Professional Negligence. (Sweet & Maxwell)

Legal Aid Handbook (Sweet & Maxwell, annual)

Matthewman, J. Social Security and State Benefits. (Tolley, annual)

McGregor, H. McGregor on Damages. (Butterworths)

Odgers, Sir C.E. Principles of pleading and practice in civil actions. (Sweet & Maxwell)

Wilkinson, G.S. Road Traffic Offences. (Sweet & Maxwell)

### **C2 Criminal Litigation**

#### **C2.1 Law reports**

Criminal Appeal Reports (1908-) paper format essential, electronic optional

Criminal Appeal Reports (Sentencing) (1979-) paper format essential, electronic optional

Criminal Law Review (1954-) paper format essential, electronic optional

Justice of the Peace Reports (1903-) paper format essential, electronic optional

Road Traffic Law Reports (1970-) paper format essential, electronic optional

#### **C2.2 Encyclopaedias and loose-leaf works etc.,**

Archbold's Criminal Pleading and Practice. (Sweet & Maxwell) paper format essential, electronic optional

Murphy, P. (ed.). Blackstone's Criminal Practice. (Blackstone Press, annual) paper format essential, electronic optional

Thomas, D.A. (ed.). Current Sentencing Practice. (Sweet & Maxwell)

#### **C2.3 Finding tools**

Anthony and Berryman. Magistrates' Court Guide. (Butterworths, annual)

### **C3 Evidence**

#### **C3.1 Encyclopaedias and loose-leaf works etc.,**

Phipson, S.L. Phipson on Evidence. (Sweet & Maxwell)

### **C3.2 Books**

Cross, R. & Tapper, C. On Evidence. (Butterworths)

Keane, A. Modern Law of Evidence. (Butterworths)

## **D OPTIONS**

Owing to the wide range of options which, subject to approval by the General Council of the Bar, may be offered by institutions, the following list focuses on a selection of the most popular and is indicative of the range of different types of publication an institution will be expected to hold. For serial publications, institutions will be expected to possess complete or substantially complete sets covering at least the last 10 years issues.

### **D1 Administrative Law**

#### **D1.1 Law Reports**

Administrative Law Reports (1989-)

Butterworths Local Government Law Reports (1999-) paper format essential, electronic optional

Crown Office Digest (1988-)

Knights Local Government Reports (1902-1998) continued as Butterworths Local Government Reports (1999-) paper format essential, electronic optional

#### **D1.2 Law Journals**

Public Law (1956-)

Statute Law Review (1980-)

#### **D1.3 Encyclopaedias and loose-leaf works**

Encyclopaedia of Local Government Law. (Sweet & Maxwell)

#### **D1.4 Books**

De Smith, S.A. et al. Judicial Review of Administrative Action. (Sweet & Maxwell)

Wade, H.W.R. and Forsyth, C.F. Administrative Law. (Clarendon Press)

### **D2 Arbitration**

#### **D2.1 Law reports**

Lloyd's Arbitration Reports (1985-)

#### **D2.2 Law journals**

Arbitration International (1985-)

#### **D2.3 Encyclopaedias and loose-leaf works**

International Handbook on Commercial Arbitration. (Kluwer)

Merkin, R. Arbitration Law. (Lloyd's)

#### **D2.4 Books**

Mustill, Sir M.J. & Boyd, S. Commercial Arbitration. (Butterworths)

### **D3 Company Law**

#### **D3.1 Law reports**

British Company Law Cases (1983-)

Butterworths Company Law Cases (1978-) paper format essential, electronic optional

Commercial Cases (1896-1941)

FT Law Reports (1981-) current subscription and at least one year's back run, paper format essential, electronic optional

Lloyd's Law Reports (1919-) paper format essential, electronic optional

### **D3.2 Law journals**

Company Lawyer (1980-)  
Industrial Law Journal (1972-)  
Journal of Business Law (1975-)  
Lloyd's Maritime and Commercial Law Quarterly (1974-)

### **D3.3 Encyclopaedias and loose-leaf works**

Butterworths Company Law Service  
Palmer, F.B. Company Law. (Sweet & Maxwell)  
Thomas, R. Company Law in Europe. (Butterworths)

## **D4 Competition Law**

### **D4.1 Law journals**

Journal of Business Law (1975-)

### **D4.2 Encyclopaedias and loose-leaf works**

Butterworths Competition Law  
Encyclopaedia of Competition Law. (Sweet & Maxwell)

### **D4.3 Books**

Bellamy, C. W. & Child, G. D. Common Market Law of Competition. (Sweet & Maxwell)  
Korah, V. An Introductory Guide to EC Competition Law and Practice. (Hart Publishing)  
Whish, R. Competition Law. (Butterworths)

## **D5 Employment Law**

### **D5.1 Law reports**

Industrial Cases Reports (1972-) paper format essential, electronic optional  
Industrial Relations Law Reports (1972-) paper format essential, electronic optional  
Industrial Tribunal Reports (1966-1978) paper format essential, electronic optional  
Knights Industrial and Commercial Reports (1966-1975) paper format essential, electronic optional  
Restrictive Practices Cases (1957-1972) paper format essential, electronic optional

### **D5.2 Law journals**

Equal Opportunities Review (1985-)  
European Industrial Relations Review (1974-)  
IDS Brief, Employment Law and Practice (1972-)  
Industrial Law Journal (1972-)  
Industrial Relations Legal Information Bulletin (1973-1992) continued as Industrial Relations Law Bulletin  
Industrial Relations Law Bulletin (1993-)  
Industrial Relations Review and Report (1971-1994) continued as IRS Employment Review  
IRS Employment Review (1995-)

### **D5.3 Encyclopaedias and loose-leaf works**

Encyclopaedia of Employment Law. (Sweet & Maxwell)  
Encyclopaedia of Health and Safety at Work: Law & Practice. (Sweet & Maxwell)  
Harvey on Industrial Relations and Employment Law. (Butterworths)

## **D6 Family Law**

### **D6.1 Law reports**

Family Court Reporter (1987-)  
Family Law (1971-) paper format essential, electronic optional  
Family Law Reports (1980-) paper format essential, electronic optional

## **D6.2 Law journals**

Child and Family Law Quarterly (1995-) continuation of Journal of Child Law (1988-1995)  
Childright: Journal of Child Law (1983-)  
Journal of Child Law (1988-1995) continued as Child and Family Law Quarterly  
Journal of Social Welfare and Family Law (1978-)

## **D6.3 Encyclopaedias and loose-leaf works**

Butterworths Family Law Service  
Children: Law and Practice. (Jordans)  
Clarke Hall, W. & Morrison A.C.L. Clarke Hall & Morrison on Children. (Butterworths)  
Family Law Manual. (Sweet & Maxwell)

## **D7 Housing Law**

### **D7.1 Law reports**

Housing Law Reports (1976-) paper format essential, electronic optional

### **D7.2 Law journals**

Legal Action (formerly LAG Bulletin) (1972-)

### **D7.3 Encyclopaedias and loose-leaf works**

Arden, A. & Partington, M. Housing Law. (Sweet & Maxwell)  
Encyclopaedia of Housing Law & Practice. (Sweet & Maxwell)  
Housing Law & Precedents. (Longman)

## **D8 Landlord and Tenant**

### **D8.1 Law reports**

Estates Gazette Law Reports (1902-) paper format essential, electronic optional  
Estates Gazette Case Summaries (1988-) paper format essential, electronic optional  
Estates Times Legal Supplement (1986-) paper format essential, electronic optional  
Property, Planning and Compensation Reports (1950-) paper format essential, electronic optional

### **D8.2 Law journals**

Conveyancer and Property Lawyer (1936-) paper format essential, electronic optional  
Estates Times (1968-) paper format essential, electronic optional

### **D8.3 Encyclopaedias, loose-leaf works and practice books**

Farrand, J.T. Emmet on Title. (Longman)  
Hill, H.A. & Redman, J.H. Law of Landlord & Tenant. (Butterworths)  
Woodfall, W. The Law of Landlord and Tenant. (Sweet & Maxwell)

## **D9 Planning Law**

### **D9.1 Law reports**

Estates Gazette Planning Law Reports (1987-)  
Journal of Planning and Environment Law (1948-) paper format essential, electronic optional  
Planning Appeals Decisions (1985-)  
Property, Planning and Compensation Reports (1950-) paper format essential, electronic optional

### **D9.2 Law journals**

Journal of Planning and Environment Law (1948-) paper format essential, electronic optional

### **D9.3 Encyclopaedias and loose-leaf works**

Encyclopaedia of Environmental Law. (Sweet & Maxwell)  
Encyclopaedia of Environmental Health Law & Practice. (Sweet & Maxwell)  
Encyclopaedia of Planning Law & Practice. (Sweet & Maxwell)  
Garner's Environmental Law. (Butterworths)  
Planning Law: Practice & Precedents. (Sweet & Maxwell)

## **D10 Sale of Goods and Consumer Law**

### **D10.1 Law reports**

Butterworths Trading Law Cases (1984-) paper format essential, electronic optional  
Trading Law (includes Trading Law Reports) (1984-) paper format essential, electronic optional

### **D10.2 Law journals**

Consumer Law Journal (1993-)

### **D10.3 Encyclopaedias and loose-leaf works**

Butterworths Trading and Consumer Law  
Encyclopaedia of Consumer Credit Law. (Sweet & Maxwell)  
Encyclopaedia of Consumer Law. (Sweet & Maxwell)  
Goode, R.M. Consumer Credit Legislation. (Butterworths)  
Miller, C.J. Product Liability and Safety Encyclopaedia. (Butterworths)  
O'Keefe, J.A. The Law of Weights and Measures. (Butterworths)

## **D11 Taxation**

### **D11.1 Law reports**

British Tax Cases (1982-)  
Reports of Tax Cases (1875-) paper format essential, electronic optional  
Simon's Tax Cases (1972-) paper format essential, electronic optional  
Value Added Tax Tribunal Reports (1973-) paper format essential, electronic optional

### **D11.2 Law journals**

British Tax Review (1979-)

### **D11.3 Encyclopaedias and loose-leaf works**

British Tax Encyclopaedia  
Butterworths Tax Treaties (included in Simon's Direct Tax Service)  
De Voil, P. Value Added Tax. (Butterworths)  
Encyclopaedia of Value Added Tax. (Sweet & Maxwell)  
Foster's Inheritance Tax. (Butterworths)  
Simon's Taxes. (Butterworths) continued in 1995 as Simon's Direct Tax Service  
Sumption, A. Capital Gains Tax. (Butterworths)  
Wakeford, A.H. Manual of Employee Taxation. (Butterworths)

## **E SKILLS AREAS**

### **E1 Casework skills**

A selection of at least three titles from the following:

Clinch, P. Using a Law Library. (Blackstone Press)  
Dane, J. & Thomas, P.A. How to Use a Law Library. (Sweet & Maxwell)  
Holborn, G. Butterworths Legal Research Guide. (Butterworths)  
McKie, S. Legal Research. (Cavendish)  
Stott, D. Legal Research. (Cavendish)  
Tunkel, V. Legal Research. (Blackstone Press)  
Warren, S. Legal Research in England and Wales. (Legal Information Resources)

### **E2 Written skills**

A selection of at least three titles from the following:

Constanzo, M. Legal Writing. (Cavendish)  
Doonan, E. Drafting. (Cavendish)  
Jacob, I.H.J., & Goldrein, I. Pleadings: principles and practice. (Sweet & Maxwell)  
National Consumer Council. Plain English for Lawyers. (NCC)  
Perrin, T. Better Writing for Lawyers. (Law Society of Upper Canada)  
Rose, W. Pleading Without Tears. (Blackstone)  
Rylance, P. Legal Writing and Drafting. (Blackstone)

### **E3 Interpersonal skills**

A balanced selection of titles from the following:

- Bevitt, A. & Stanton, L. Criminal Advocacy. (Cavendish)
- Boon, A. Advocacy. (Cavendish)
- Bourne, C., Popat, P., Gilliat, J. Civil Advocacy. (Cavendish)
- Chapman, J. Interviewing and Counselling. (Cavendish)
- Evans, K. Advocacy in Court. (Blackstone)
- Fisher, R. & Ury, W. Getting to Yes. (Business Books)
- Fowler, A. Negotiation Skills and Strategies. (Institute of Personnel Management)
- Halpern, A. Negotiating Skills. (Blackstone)
- King, A.G. Effective Communication. (Blackstone)
- Napley, D. The Technique of Persuasion. (Sweet & Maxwell)
- Murphy, P. Evidence and Advocacy. (Blackstone)
- Pascoe, N. & Gold, S. Successful Advocacy. (Butterworths)
- Shaw, N. Effective Advocacy. (Sweet & Maxwell)
- Sherr, A. Client Interviewing for Lawyers. (Sweet & Maxwell)
- Stone, M. Cross-examination in Criminal Trials. (Butterworths)
- Tribe, D. Negotiation. (Cavendish)
- Twist, H. Effective Interviewing. (Blackstone)

## Annex 3

### **PREPARATION FOR ENTRY TO THE BVC: GUIDANCE TO STUDENTS**

#### **Introduction**

The Bar Vocational Course is the bridge between the academic study of law and the practice of law. It aims to move the student from the classroom to the courtroom. It is, therefore, different in its culture and the nature of its demands from that of the academic stage of training, the qualifying law degree or CPE. Set out below is a description of the qualifications, knowledge, skills and attitudes that a student intending to embark on the BVC must bring with them to the course.

#### **Qualifications**

Students must have either a qualifying law degree (QLD) (i.e. that includes the seven foundations of legal knowledge) at 2.2 honours degree standard, or a 2.2 honours degree in a subject other than law (or its equivalent) and a pass in the CPE or GDL.

#### **Knowledge**

In most cases, as the majority of the seven foundations are taught in the first and second years of the QLD, students will have to refresh their knowledge before embarking on the BVC. Students should note that substantive and adjectival law is not taught on the BVC. Consequently, failure to refresh such knowledge before commencing the BVC will adversely affect the student's ability to progress on the course and may result in their being asked to withdraw.

#### **Language**

Practice at the Bar demands a high level of ability in the written and oral use of the English language. Consequently, students enrolling on the BVC are expected to be fluent in English, conversant with the rules of grammar and able to express themselves clearly and accurately both when they speak and when they write. Experience has shown that students who do not have sufficient ability in spoken and written English have great difficulty in following the course, and are likely to fail.

The Bar Standards Board policy<sup>4</sup> on proficiency in English is set out below and applies to all students.

1. Non EU/EEA nationals for whom English or Welsh is not their first language are required to verify that they have achieved a minimum score of 7.5 in all parts of the IELTS academic test. Certification must be current in terms of IELTS specifications.
2. EU/EEA nationals for whom English or Welsh is not their first language are required either:
  - (a) to verify that they have achieved a current score of at least 7.5 in all parts of the academic IELTS test or other recognised equivalent English language test ("equivalent" for these purposes meaning that the test must examine the candidate's written and spoken English to a level and in a way that enables meaningful comparison with the requirements of the IELTS test) obtained no more than two years prior to the date of the candidate's commencement of the BPTC)

or

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<sup>4</sup> This policy is still under discussion by the BPTC Sub Committee and may be slightly altered in the next few months. August 2009.

(b) to produce alternative equivalent evidence of satisfactory oral and written competence in English obtained no more than 2 years prior to the date of the candidate's commencement of the BPTC course (such as certification of a Qualifying Law Degree, CPE or GDL that has been taught and assessed in English by a HEFCE funded UK Higher Education Institution)

3. On entry to the course students will be required to sign a statement that they are aware that this standard is required of all students who enter the BVC, and that they consider that they have met it.
4. Subsequent to being admitted to the BVC, should the BVC provider consider that a student's language ability is unsatisfactory, it may require the student to take the IELTS (at the student's cost). Should the student then fail to achieve a score of 7.5 in all sections of the IELTS the provider may require the student to:
  - a) withdraw from the course;
  - b) intermit and improve their score prior to being re-admitted to the course;
  - c) require the student to take such remedial training in English language as the provider sees fit;
  - d) Impose such other requirements as the provider deems appropriate.

In all cases the student is wholly liable for any costs incurred.

### **Attitudes**

The BVC is largely a skills based course aimed at preparing reflective professionals. The skills taught on the BVC and the intended learning outcomes cannot be learnt in a library or practised alone. Classes will be interactive and students will be required to undertake skills exercises simulating practice and to engage in discussion of issues of procedural knowledge and the application of substantive and adjectival law.

Consequently, you will be required to attend all classes, prepare thoroughly for all classes and to engage in and contribute to all classes. On registration you will be required to sign an attendance requirement denoting acceptance of these requirements. Failure to attend at least 90% of the course in each term may result in the need to withdraw from the course.

Such attendance, preparation and engagement is seen as a minimum requirement of a professional attitude to the course, one's learning and one's peers and tutors. You should be sure that you are able to make such a commitment.

### **Inn Membership**

Every student must be admitted to one of the Inns of Court before he/she is able to register on and attend the Bar Vocational Course.

## **Appendix A.**

### **1. Contract**

You should be familiar with the following:

#### **Formation of Contracts**

1. Offer/Acceptance
2. Intention to create legal relations
3. Consideration
4. Privity of contract
5. Capacity/Formalities

#### **Terms of the Contract**

1. Express terms, implied terms, particularly implied from statute (Sale of Goods Act, Supply of Goods & Services)
2. Conditions and warranties
3. Exemption clauses

#### **Vitiating factors**

1. Misrepresentation
2. Mistake
  - a) Duress/undue influence
  - b) Illegality/restraint of trade

#### **Discharge of Contract**

1. Discharge by performance
2. Discharge by frustration
3. Discharge by breach
4. Remedies
5. Damages
6. Specific performance
7. Injunction
8. Restitution

## **2. Tort**

You should be familiar with the following:

1. Negligence
  - a) Duty of care
  - b) Negligent statements
  - c) Professional negligence
  - d) Nervous shock
  - e) Breach of Duty
  - f) Damage
  - g) Remoteness
  - h) Causation
  - i) Rescuers
2. Employers' liability
3. Trespass torts; Nuisance
4. Breach of statutory duty
5. Occupiers liability

### **Common issues in Tort and Contract**

1. Professional liability
2. Product liability
3. Multi-party transactions
4. Economic loss
5. Misrepresentation
6. Unfair Contract Terms Act
7. Remedies

## **3. Land Law**

You should have an understanding of:

1. the estates and interests which can be held in land and how these can exist
2. the ways in which legal estates can be held
3. the respective roles of trustees and beneficiaries
4. the formalities governing the acquisition of interests in land
5. matters which may defeat an estate or interest
6. licences and leases in both commercial and residential contexts
7. the regulation of land use through private law mechanisms (covenants and easements)
8. how estates and interests in land are governed by the unregistered and registered systems of conveyancing.

You should therefore ensure that you are sufficiently familiar with the following elements of your undergraduate or conversion course land syllabus.

1. Transfer of land
2. Strict settlements, the trust for sale and the trust of land
3. Co-ownership
4. Mortgages
5. Licences
6. Leases
7. Freehold covenants
8. Easements
9. Unregistered land
10. Registered land

#### **4. The Law of Equity and Trusts**

You should be familiar with the following:

##### **Basic principles and rules of equity**

##### **Creation of Private Trusts**

1. Certainty, formalities for creation and exceptions
2. Rules against remoteness of vesting
3. Secret trusts

##### **Charitable trusts**

1. Requirements for charitable status
2. Cy-près doctrine
3. Purpose trusts and unincorporated associations
4. Resulting and constructive trusts
5. Implied trusts of the home

##### **Administration of private trusts**

1. Appointment and removal of trustees
2. Variation of trusts
3. Trustees' powers and duties
4. Breach of trust and defences
5. Liability of strangers, tracing

## **5. Constitutional and Administrative Law**

For the purposes of the Bar Vocational Course an outline understanding only of this topic is required save for those matters, which appear below in bold.

### **Nature and sources of Constitutional Law**

1. Doctrines of Constitutional Law
2. Institutions of Constitutional Law in the UK and EU
3. Government Powers and Accountability

### **EC Law**

1. Relations with the national legal order
2. UK sovereignty and impact of EC Law
3. EC remedies

### **Civil Liberties**

1. The police
2. The Judiciary
3. Human rights - the European Convention on Human Rights and Fundamental Freedoms

### **Administrative Law**

3. Judicial review
4. Jurisdiction - ultra vires
5. Principles - natural justice
6. Procedures and remedies
7. Administrative tribunals

## **6. Criminal Law**

By the commencement of the BVC you should have:

1. an understanding of the general principles of criminal liability (actus reus, mens rea and defences)
2. an ability to apply these general principles to specific offences
3. an understanding of the elements of specific offences
4. an understanding of the role of case law, the rules of precedent, statutes and rules of statutory interpretation in the operation of criminal law.

You should be familiar with the following elements of your undergraduate or conversion course criminal law syllabus:

### **The basic elements of criminal liability**

1. Actus Reus
  - a) Causation

- b) Omissions
- 2. Mens Rea
  - a) Intention
  - b) Recklessness

### **Non-fatal offences against the person**

- 1. Assault and battery
- 2. Assault occasioning actual bodily harm
- 3. Causing or inflicting grievous bodily harm
- 4. Self defence
- 5. Mistake
- 6. Robbery

### **Fatal offences against the person**

- 1. Murder
- 2. Manslaughter

### **Modes of Participation**

- 1. Accessorial liability
- 2. Inchoate offences

### **Offences involving deception and dishonesty**

- 1. Theft
- 2. Obtaining property by deception
- 3. Obtaining services by deception
- 4. Evasion of liability by deception
- 5. Making off without payment
- 6. Handling stolen goods
- 7. Burglary

### **Road Traffic Offences**

- 1. Taking a vehicle without the owners consent
- 2. Aggravated vehicle taking
- 3. Careless driving

### **Other Offences**

- 1. Public order offences
- 2. Criminal damage

## **7. EC Law**

On the BVC it is assumed that the basics of EC Law will have been studied prior to the commencement of the BVC.

At this stage you should therefore be able to:

1. Recognise the circumstances in which issues of EC Law may arise
2. understand the relationship between EC and Domestic Law in a practical context
3. understand the main content of and problems existing in some of the major areas of substantive EC Law and the impact of each on English Law
4. understand how to research both primary and secondary sources of EC law in the context of specific substantive areas.

## Annex 4

### **THE BVC RE-SPECIFICATION WORKING GROUP (THE ELIAS WORKING PARTY)**

The Education and Training Committee of the Bar Standards Board is grateful to the members of the BVC Re-specification Working Party, chaired by the Hon. Mr. Justice Elias, for their work in producing this document. The membership of the Working Party comprised representatives from the Bar, representatives of the BVC providers, independent academic experts and members of the Bar Standards Board's Education and Training Department.

The Hon. Mr Justice Elias (Chairman)

David Wilby QC	199 Strand
Dr Peter Clinch	Institute of Advanced Legal Studies
Nigel Cooper	4 Essex Court
Prof Phil Knott	Nottingham Law School
Nicholas Lavender	Serle Court
Chris Maguire (Coordinator)	Education & Training Department, Bar Standards Board
Prof David Miers	Cardiff Law School
Rosie Samwell-Smith	ICSL
Prof Julian Webb	University of Westminster
Jo Dixon (Secretary)	Education and Training Department, Bar Standards Board
Mary Walsh (Secretary)	Education and Training Department, Bar Standards Board

## Annex 5:

### REGISTRATION PROTOCOL

#### **BVC Student Enrolment Information: Protocol**

##### **Issue**

1. It is a requirement of the Bar Standards Board and the Inns of Court that a student may not enrol on the BVC unless he or she is a member of an Inn of Court.
2. Consequently, the Inns and Bar Standards Board request that the data is provided to both parties simultaneously according to the agreed Protocol set out below.

##### **Resolution**

3. A list of all students who have enrolled should be provided within 10 working days of the start of term.
4. A final list of all students who have enrolled on the course indicating any students who have since left the course should be provided by 15 October or the next working day. Where a course does not commence until after this date, then within 10 working days of the commencement of term.
5. Any students who leave the BVC after the October list has been issued should be reported to the Inns and Bar Standards Board as and when they leave.
6. Each list should present students in alphabetical order by surname, and should include all first and middle names together with a gender or professional title (Mr, Ms, Dr etc), and the Inn of which they are a member. Wherever possible, an indication of whether the student is home or overseas should be given.
7. The details should be provided in electronic form in a table in Excel.

The minimum information required:

**Surname**  
**First name**  
**Title (gender)**  
**Inn**  
**Mode of study**  
**Overseas/home student**

Useful information:

Example(s):

<b>Surname</b>	<b>Middle Name</b>	<b>First Name</b>	<b>Title</b>	<b>Inns</b>	<b>Mode of study</b>	<b>Home/Overseas Student</b>	<b>Additional Notes</b>
Abram	John	Philip	Mr	Middle Temple	PT	O/S	
Brown		Samantha	Ms	Lincoln's Inn	Exempting student Yr 3	H/S	Joined Inn in 2002
Mohammed	Ali	Ahmed	Prof	Gray's Inn	FT	H/S	

Last Amended 5<sup>th</sup> May 2006

## ANNEX 6:

### **BVC ANNUAL REPORT GUIDANCE**

#### **Approach**

1. The Bar Standards Board's approach to quality assurance is that all the documentation we ask for should be something the institution would wish to produce for itself for its own purposes. This is particularly the case with the annual report. The approach to writing the annual report should be that it is primarily a management tool for the course team, which reviews the past year and sets direction for the forthcoming year. The fact that the report may also inform the institution's quality council, senate, advisory board and professional body should not detract from this central purpose. Indeed, an analytical and comprehensive annual report would indicate an engaged and robust course team.
2. The following prescriptions are made with the above principles in mind.
3. The Annual Report should not duplicate the standard or factual information contained in the Definitive Course Document. It should be evaluative, critical and concise. Factual detail should be used to support arguments and description should be avoided.
4. The Annual Report should review the operation of the course over the past academic year. In doing so it should take account of all external sources of information available to the course team, such as monitoring and external examiners reports, student questionnaires and feedback from conferences and other staff development activities as well as the notes of subject group and course team meetings.
5. The following model for discussing issues, developments or problems is recommended;
  - statement of issue(etc)
  - providers view
  - possible actions
  - action chosen
  - timescale for implementation
  - review mechanism.

**Central to the Annual Report is an Action Plan in tabular form, which brings together all of the issues identified above with the suggested action and the timescale for implementation.**

#### **Statistics**

6. Statistical tables should be included which provide information on the following:
  - a) Numbers of students enrolled broken down by ethnic origin, age, gender, jurisdiction, classification of 1<sup>st</sup> degree, classification of CPE/GDL and special needs requirements
  - b) Results broken down by ethnic origin and jurisdiction, age, gender, classification of 1<sup>st</sup> degree, classification of CPE/GDL and special needs requirements
  - c) Numbers of students who passed on their first attempts or after being referred broken down by the classification of 1<sup>st</sup> degree or CPE/GDL, jurisdiction and by subject matter
  - d) Numbers of students who dropped out of the course during the year
  - e) Destination survey results including, for example, the number of students who have obtained pupillage, are to be employed in the legal field, employed outside the legal field etc.

## **Course Management and Quality Assurance**

7. The current position should be described and any changes adopted during the year or planned for the future should be set out and discussed.

### **Staffing**

8. The following information on staffing should be included:
  - (1) A list of teaching staff, setting out the subject taught by each member of staff and the percentage of their time committed to the BVC.
  - (2) details of changes in staffing, with reasons, identifying any problems that arose or any benefits. New members of staff should be identified and their c.v. included.

### **Staff development:**

9. An annex, should be included setting out the courses, conferences and practice updating (external and internal) which were attended by members of staff. The report should identify areas where future staff development is believed to be necessary and indicate the form such staff development might take.

### **Physical Resources**

10. The report should include the institutions resources statement; describe any changes to the statement, which occurred during the year, or are planned, and the reason for such changes. In particular IT, library and bookstock usage should be analysed.

### **Subject Reports**

11. Reports on the compulsory subjects should focus upon the aims and objectives for each subject, the success of the delivery methods, the appropriateness of the form of assessment and a commentary on student performance. In particular the subject reports should address student feedback and the comments of the external examiners and monitoring panels. The reports should highlight any changes to the subject in respect of syllabus, delivery and assessment or any proposed changes in the light of e.g. comments from external examiners. In addition, the report should list which options were available to students in that particular academic year, and comment on the balance between knowledge and skills, the level of knowledge delivered and the method and appropriateness of the assessment instrument.

### **Assessment Regime**

12. Where not already covered in the subject reports, the report should describe changes to the assessment regime e.g. timetabling, structure of the assessment regime, and general comments of the external examiners not specific to individual subjects. Where any review/appeal by a student has highlighted a defect in the system this should also be identified and an action plan included.

## **Student support and services**

13. The report should review the success of the provision of student support and services. In particular
- special needs,
  - equal opportunities
  - personal tutor system
  - English language support
  - careers and alternative careers
  - extracurricular activities: guest lecture programmes, competitions e.g. mooting, debating, street law and pro bono work.

### **Annexes**

14. The following should be annexed to the report:
- Summary issues and action plan
  - the last full monitoring report
  - the external examiners' reports
  - the analysis of student feedback.

Last amended July 2007

**ANNUAL MONITORING REPORTS (AMRs) – additional guidance produced August 2007**

**1 Introduction**

- 1 Annual course monitoring is an essential component of professional programme management and should have as its focus the quality of BVC students' educational experience and the attainment by candidates of the required professional (and academic) standards.
- 2 As highlighted in the *QAA Code of Practice for the Assurance of Academic Quality and Standards in Higher Education* (section 7, precept 7, p. 14), institutions should routinely monitor the effectiveness of their programmes in order
  - to ensure that they remain up to date;
  - to evaluate the extent to which the specified learning outcomes are attained by students;
  - to evaluate the effectiveness of the curriculum and assessment in relation to the intended learning outcomes; and
  - to ensure that recommendations for appropriate actions are followed up to remedy any shortcomings.
- 3 Annual monitoring and the production of the AMR by Providers is thus essentially an analytical exercise, based on a critical self-evaluation by the programme team responsible for the provision. Institutions will normally hold meetings between their 'Quality Committees' and course staff in order to discuss the contents of their annual monitoring reports, in accordance with good practice. Reports should then be formally submitted to both the parent institution and to the BSB Education Standards Department, by the end of November each year (see below section 4 for detailed schedule).
- 4 As well as the annual process, Annual Monitoring Reports, together with External Examiner Reports, will provide the basis for scrutiny of provision during full and interim ('pastoral') visits by BSB representatives.

**2 The Report**

The course monitoring report should be based on a short evaluative report (5-10 pages maximum) drawn up by the Course Director, with a critical analysis of the previous academic year covering:

- 1 evidence that the standard of the award(s) is being pitched at the correct level, and that the intellectual challenge being set for students is sufficiently demanding
- 2 evidence that the integrity of curriculum design has been maintained in accordance with the *Course Specification Requirements and Guidance* (also known as the 'Elias Report' or 'Golden Book'), together with demonstration of which areas are specifically delivered at M Level in accordance with the QAA Framework for Higher Education Qualifications – and as required by framework
- 3 evidence of the provision of a high quality of learning environment, including detailed resource statement
- 4 evidence of the effectiveness of the teaching, learning and assessment methods used in relation to curricular aims and objectives
- 5 evidence (ie a list of) teaching staff, in grid form demonstrating subjects taught. Details of any changes and CVs of new staff must be provided, as well as information about

staff development and other activities to show that the course is being kept up to date with developments in the subject discipline and professional practice. Details of Advocacy training and accreditation must be included.

- 6 analysis of statistical information, according to the Protocol included as with this guidance, and with particular reference to student applications and admissions; progression, completion and resit rates, and including consideration of trends over time (ideally three years). Results must be tracked against entry qualifications in order to provide detailed evidence of any correlation between honours degree classification or CPE/GDL grades as against BVC success/failure. It is very important that statistical data is analysed and commented on – not just presented
- 7 demonstration of responses to issues raised by students
- 8 the results of action resulting from the previous year's monitoring (including action in response to comments of external examiners)
- 9 action taken in response to any approval, monitoring or review visit by the BSB, including comments made on full/pastoral visits, and responses to reports from any other internal/external agencies (for example internal periodic review or scrutiny by the Quality Assurance Agency)
- 10 details of any changes proposed in delivery, teaching methods or resources for the following academic year
- 11 evidence of adherence to the QAA Code of Practice and Framework for Higher Education Qualifications, where relevant and a QAA-type Programme Specification if available
- 12 the identification of good practice, with examples
- 13 commentary on the previous year's action plan
- 14 action plan for the forthcoming academic year, with timetable and dates

**NB** The above may be used for sectional headings in the report

### 3 **Appendices/additional information**

The following should be included as appendices to the report:

- 1 external examiners' report(s)
- 2 response(s) by the Provider to external examiner's report(s)
- 3 analysis of any student satisfaction questionnaires
- 4 notes of staff-student liaison meetings should be included
- 5 data on student entry, progression, completion and destinations
- 6 Subject reports on individual units – (but these must also be summarised in the main report, for example as in the table provided below)

It is expected that matters raised in the annual monitoring reports will have been discussed in course committees, and minuted accordingly. These will also have been discussed in institutional monitoring meeting with internal Quality Assurance Departments or equivalent. It is not, however, necessary for the minutes to accompany the annual reports, unless requested.

#### 4 Schedule

July	student examination and assessment results confirmed
July/August	analysis of end of year student comment/feedback
By 31 August	submission of external examiners' reports
Early September	resit results and decisions
September	drafting of reports
October/November	reports discussed with institutional representatives (eg academic standards/Quality Assurance departments and committees )
By 30 November	Reports submitted to Education Standards Department. BVC SC considers reports and draws up overall report and action plan
February	E & T considers overall report and feeds in to Feb BSB meeting

#### 5 Statistics Protocol as issued July 2007

- 1 In accordance with best practice recommendations, and in order to ensure that we are carrying out our public duty, the BSB is required to collect statistical information in relation to the BVC. The following data must therefore be collected by each provider of the BVC and submitted to the Education Department at the BSB:
- 2 Beginning of year (ie by 1 October 2007 for 2007 entry)
  - a) Ratio of applicants to places
  - b) Numbers of students enrolled broken down by ethnic origin, age, gender, jurisdiction, entry qualifications (classification of honours degree, grading of CPE/GDL), and special needs requirements
- 3 End of year (to be included in AMR, by 31 October each year for the preceding academic year)
  - c) Completion rates and progression data, for first time attempts/successes at summer examination boards, broken down by unit/module (broken down by ethnic origin, age, gender, jurisdiction, entry qualifications, classification of honours degree, grading of CPE/GDL, and special needs requirements)
  - d) Final completion rates and progression data following all resit boards (broken down by ethnic origin, age, gender, jurisdiction, entry qualifications, classification of honours degree, grading of CPE/GDL, and special needs requirements)
  - e) Numbers of students who dropped out of the course during the year
  - f) Destination survey results including, for example, the number of students who have obtained pupillage, are to be employed in the legal field, employed outside the legal field etc.
- 4 These details should be provided in electronic form in a table in Excel. The pro forma of which can be obtained from the BSB.
- 5 This information must be received by the BSB by 31 October following the academic year in question (eg 31 October 2007 for the 2006-2007 academic year) and should also be included as appendices to Annual Monitoring Report.

## Annex 7:

### INTERIM: 'PASTORAL' VISITS

#### Background

- 1 Since it was found to be unnecessary (from AY2001-02) to make a full visit each year to all Providers, interim 'pastoral' visits have taken place in alternate years. While not as comprehensive as 'full' visits, these are similarly designed to help maintain and enhance the quality and standards of the Bar Vocational Course (BVC) by monitoring the quality of the courses being delivered; the quality of the student experience; and the standards attained by students.
- 2 Pastoral visits will be carried out with a view
  - 1 to help ensure that the BVC is being delivered to the agreed specifications and standards laid down by the Bar Council; and
  - 2 to encourage the enhancement of the quality of the course by providing a commentary and recommendations on findings.

The process is not a (re)validation or accreditation exercise and there will not normally be specific conditions attached to the continuation of the course. Rather, various observations will be made and recommendations suggested. In exceptional circumstances, if serious issues or concerns arise, then a full visit may be triggered (proceeding according to guidance in the main body of this document).

#### Panel Composition

- 3 Pastoral visits will normally be undertaken by staff of the Bar Standards Board.

#### Materials

- 4 The following documents should be provided in advance of the visit:
  - 1 Visit Programme (as negotiated between provider and education standards Department)
  - 2 \*The Monitoring Reports of pastoral/full visits as appropriate, for the previous 1-2 years
  - 3 \*External Examiners' Reports for the previous 1-2 years
  - 4 The Provider's Annual Report
  - 5 The Provider's Definitive Course Document, including:
    - Course management responsibilities
    - Course structure and delivery including timetable and assessment schedule
    - Notes on physical resources dedicated to the BVC and/or shared with other groups of students
    - Details of staffing and SSRs
    - Brief details of student support provision

*[NB – a Student handbook and supplementary information may be provided in lieu of a traditional DCD]*

*[\* signifies to be provided by the Education Standards Department]*

- 5 In addition, the following documents may be made available in the base room
  - 1 Minutes of relevant meetings (e.g. course team meetings; staff student meetings; quality assurance meetings)
  - 2 Additional course documentation as provided to students (textbooks, handbook etc), including examples of lesson plans, teaching materials, assessments and marking schemes

## The Visit

- 6 The one-day visit should include (preferably in this order):
  - 1 a meeting with management,
  - 2 a meeting with students, and
  - 3 a meeting with teaching staff
  - 4 time allowed for private discussion of the visitors
  - 4 short tour of resources, if time allows
  - 5 feedback session to management and staff

The visitors may have an evening meeting to consider particular matters to discuss. Some observation of special activities may also be included and a debriefing meeting will be held at the end of the visit. A report will be produced after the pastoral visit highlighting recommendations and any areas where action is desirable, advisable or necessary.

## Matters to be discussed

The following are indicative of areas that will normally be discussed with managers, students and staff, depending on what appears to be particularly relevant to the provision and in relation to matters raised in annual monitoring reports and external examiner reports:

### 1 ***Meeting with Management***

- Course management and resourcing
- Quality assurance arrangements; response to previous reports etc
- Physical resources e.g. accommodation, library
- Learning resources e.g. IT library services
- Staffing & staff development
- Student services and welfare, inc. equal opportunity policies and disabled access

### 2 ***Meeting with students***

- Induction
- Workload, level and challenge of the course
- Clarity of information, student handbooks, teaching materials, case studies and the aims and objectives of each class
- Understanding of teaching methods, methods of assessment, and criteria for assessment
- Appropriateness of the teaching and assessment timetable.
- Number/range of opportunities to practice skills under supervision
- Quality and timeliness of feedback received on coursework and progress (written and oral)
- Operation of the personal tutor system, academic and pastoral.
- Quality of resources and equipment - accommodation, IT, library etc.
- Participation in QA – feedback, issues and action taken; awareness of procedures
- Personal tutor system and careers advice
- Special activities and events (local practitioners)
- Aspects of the course they have found most difficult and most enjoyable.

### 3 ***Meeting with Teaching staff***

- Recruitment and selection
- Course materials
- Teaching and learning methods
- Assessment methods
- Any other issues raised by external examiners in their reports
- Any issues arising out of the meeting with students
- Likely developments
- Notable achievements and areas of best practice.

**NB**

- *The purpose of the visit should be made clear to students and assurances provided of anonymity*
- There will be no sampling of student work
- There will be no formal teaching observation - although attendance at 'special' sessions may take place
- A short tour of resources/facilities can be helpful if time allows, particularly if there have been changes since the last visit

21 February 2007

## Annex 8

### THE 'RED LIGHT' RULE - clarification and guidance

#### 1 Background

- 1.1 Providers have agreed (meetings January 2007 and 30 March 2007 and before) with the principle of 'the red light rule', devised to ensure that a candidate gaining an average overall pass could still be failed or referred if an essential (or 'must pass') element was failed. However, further clarification was sought from the BVC Sub Committee to ensure continuity in the application of the Red Light Rule.
- 1.2 The BVC Course Specification, Assessment Framework summarises this requirement (p. 15, para 9) which was discussed at length at the meeting of the BVC Sub Committee on 2 May 2007. It was agreed that inadequate demonstration of knowledge and comprehension, or inadequate case analysis and preparation should result in the candidate being failed in that assessment, irrespective of the marks achieved in the different components of the assessment.

#### 2 Conclusions

- 2.1 After much discussion on the merits and application of this rule, the Committee agreed that the rule should be in place where legal or other analysis by the student was so clearly incorrect that it would:
  - put the client(s) interests at risk, and/or
  - put the [potential] barrister at risk of negligence.

The issue cannot be addressed by the weighting of assessments since such mistakes might be unpredictable. A negative value cannot be weighted for what might be wide ranging unexpected mistakes. The requirement to achieve 50% on a 'content' section of an assessment appears to be an inadequate safeguard, and an overarching discretion to fail, operating outside the assessment scheme, is preferred.

- 2.2 The BVC Sub Committee reviewed the detailed summaries of applications of the Rule that had been confirmed by the Providers. They unanimously approved of the 'fatal flaw' approach rather than the 'contents' based approach. For clarification, it was confirmed that a fatal flaw was further defined as an error of law or procedure and not an error in judgement.
- 2.3 Since the 2006-07 academic year is already part way through, implementation of any new guidance will only take place from the next academic year, i.e. October 2007.

NB *The draft paper, summarising all the approaches by the various providers is available if requested.*

## Examples

- 1 **A personal Injury claim.** Counsel advises that the claim is statute barred because the three years since the date of the accident have expired. He fails to consider date of knowledge and or an application under section 33.
2. **A contract claim.** Counsel fails to advise that the claim cannot be brought because the breach of contract was over 6 years from the date of the advice.
- 3 **In conference** - giving inaccurate advice i.e. advising a client to settle a civil claim where they have a perfectly good defence, e.g. on limitation.
- 4 **In advocacy** - failing to challenge inadmissible evidence that might lead a client to be convicted.
- 5 **In negotiation** - making a concession contrary to specific instructions.

Updated 24th May 2007