

**BAR  
STANDARDS  
BOARD**

REGULATING BARRISTERS

## **Future Bar Training**

# **Consultation on the Future of Training for the Bar: Future Routes to Authorisation**

**October 2016**

## Executive Summary

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Do you have views about the way in which barristers should be educated and trained in the future?

The Bar Standards Board's **Future Bar Training (FBT) programme** is considering **three possible options** for the future of training for the Bar and we want to hear from as wide a range of people as possible about them.

Whichever option is implemented, it could have a significant impact on the next generation of barristers and therefore the Bar itself. We hope that there will be a great deal of interest in this consultation paper from students, from barristers and from other interested parties.

Much has been said about the current system of training for barristers. It has its supporters but it also has its critics. **This is your opportunity to help us improve that system.**

Please let us know what you think.

### Background

Before we consider the three options, this consultation paper provides some background and outlines some important principles that we have to take into account when deciding what the best approach will be for the future of training for the Bar.

The background is explained fully in Part I of the consultation paper.

In short, we launched the FBT programme in 2014. It was our response to the earlier Legal Education Training Review (LETR) which considered the education and training requirements for all types of lawyers. In parallel with our FBT consultation, the Solicitors Regulation Authority (SRA) are also conducting a consultation about their own proposals for the future training of solicitors.

Amongst other findings, the LETR encouraged the respective legal regulators to take **a more outcomes-focused, flexible and innovative approach to education and training**. These have been guiding principles throughout our FBT programme to date.

Since FBT started in 2014, we have:

- Explained [our vision for the future of training for the Bar](#) in February 2015;
- Issued a wide-ranging [consultation paper on the academic, vocational and professional stages of training](#) in July 2015. This consultation paper follows on directly from the responses we received to the 2015 consultation;
- Published our Professional Statement in October 2015. This describes the knowledge, skills and attributes that a newly qualified barrister should have when issued with a Full Practising Certificate. This was updated and enhanced in September 2016 with the publication of an updated [Professional Statement for Barristers incorporating the Threshold Standard and Competences](#); and
- [Hosted a debate](#) in July 2016 about the three options which are now presented in this consultation paper.

## The current training system

The current training system for barristers requires students to complete **three separate and sequential stages of training** before being authorised as a barrister by the BSB. The academic stage requires either a law degree or a Graduate Diploma in Law (GDL) in addition to another degree. The vocational stage consists of students taking the Bar Professional Training Course (BPTC). Lastly, students must complete pupillage, a work-based learning stage, divided into a non-practising first six months and a practising second six months.

**Part I** of this consultation paper provides more detail about **the BSB's role in the education and training** of future barristers.

## General principles applying to any future training system

**Part II** of this consultation provides further detail about the policy principles upon which we intend to make our decision about the future of training. In this section, we set out a number of these principles and seek your views on them and on whether we have correctly identified their impacts.

Drawing on the results of responses to our 2015 consultation and our regulatory objectives, we have identified a number of fundamental principles which have guided our decision making. These are shown below:

- Flexibility;
- Accessibility;
- Affordability; and
- Sustaining high standards.

In addition to these guiding principles, we have identified the following policy points, which will be common to any or all of the options for future Bar training that we consider. These are shown below:

- A general expectation that the Bar would remain a graduate profession<sup>1</sup> and normally meet the minimum degree classification of 2:2;
- Students would need to pass an aptitude test and BSB centralised assessments;
- We should reduce to a minimum our regulatory involvement in the academic legal education (ie the “Qualifying Law Degree” or “Graduate Diploma in Law”<sup>2</sup> under the current system);
- We should continue to pursue as much of a common agenda with other legal regulators, and the SRA in particular, as can be achieved in pursuit of our principles; and

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<sup>1</sup> Consultation on the Future of Training for the Bar: Academic, Vocational and Professional Stages of Training, Summary of responses; p. 3, 11, 12.

<sup>2</sup> A Graduate Diploma in Law may be used with to another degree to satisfy the requirement.

- During any transitional period between our final decision on future pathways in spring 2017 and the coming into force of a new system, specific reforms to the current education and training arrangements will continue.

### The three proposed FBT approaches

Finally, in **Part III** of the consultation paper we describe the **three possible approaches** for the future of Bar training which we are considering. We describe how each approach would work, discuss their strengths and weaknesses and then ask you to share your views.

Our appraisal of each option is based on the feedback that we have already collated from interested parties. Many of the respective strengths and weaknesses for each approach were discussed during our recent [debate](#).

Here is an overview of the three options:

#### Option A is an “Evolutionary” approach

- This approach would retain the three sequential stages in the current system: the academic legal education (law degree or Graduate Diploma in Law), the vocational training (currently the Bar Professional Training Course) and work-based learning.
- The changes already being undertaken to improve the current system would continue. These are explained fully in this consultation paper.

#### Option B is a “managed Pathways approach

- This approach would establish a number of different training pathways alongside each other.
- This would allow providers to offer courses that are more flexible and fit with the requirements of students.
- Option B provides for several routes which the BSB might authorise, including:
  - Option B(i): Academic legal education followed by the vocational training, followed by work-based learning (as in Option A above);
  - Option B(ii): Combined academic and vocational learning followed by work-based learning;
  - Option B(iii): Academic legal education followed by combined vocational and work-based learning requirements; and
  - Option B(iv): Modular format, in which components of qualification can be acquired separately over time (may also include an apprenticeship pathway).

Option B is the BSB’s favoured option because we think that this would be the best approach for ensuring that education and training providers can develop and offer more flexible modes of study so that that students are able to train in a way that suits them best.

### Option C is the “Bar Specialist” approach

- A degree or equivalent would still be required before taking the Bar Course Aptitude Test (BCAT) to test intellectual ability.
- Students would then be required to pass a new qualifying examination – the Bar Entrance Exam (BEE). This examination would cover knowledge and understanding of academic and vocational learning. Students may prepare for this exam in any way they choose.
- A three month approved skills course would need to be taken which would be followed by a period of work-based learning. We would hope to be able to make this more flexible and believe that the short skills course could be integrated in the work-based learning.

Under all of these options students would need to meet the requirements of the Professional Statement to be authorised. Training providers would need to demonstrate that their courses provide training which would enable students to do so.

### How to respond to this consultation

You can share your thoughts with us in a number of ways:

- Completing the online survey linked the [website](#)
- Completing this form emailing it to: [futurebartraining@barstandardsboard.org.uk](mailto:futurebartraining@barstandardsboard.org.uk) or posting it to: Hannah Wilce, The Bar Standards Board, 289 - 293 High Holborn, London, WC1V 7HZ.
- Attending one of our planned meetings around the country for us to listen to your views. Details of these events are on our [website](#).

This consultation closes on **23 December 2016**.

### Who should respond to this consultation?

We would like to hear from as many interested respondents as possible. However, we are particularly interested in hearing from:

- Students: current law students, BPTC students and anyone interested in a career at the Bar;
- Members of the legal profession: registered and unregistered barristers, solicitors or anyone who works with barristers professionally;
- Higher education and training providers: universities, BPTC providers and legal academics;
- Consumer organisations who may represent the interests of users of barristers’ services; and
- Organisations which have an interest in promoting equality and diversity and access to the profession.

## About you

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Name: John Hodgson

Email address: john.hodgson@ntu.ac.uk

Location: Nottingham

Role

- Practising Barrister
- Unregistered Barrister
- BPTC Student
- Other Student
- BPTC Tutor
- Legal Academic
- Consumer

Other (please specify) On behalf of the Association of Law Teachers, a membership organisation of legal academics

If you are a barrister, how long have you been practising?

- 0-4 years
- 5-9 years
- 10-14 years
- 15-19 years
- 20+ years
- Not applicable

We may publish a list of respondents to the consultation. Please state clearly if you do not wish your name and/or response to be published. Although we may not publish all individual responses, it is our policy to comply with all Freedom of Information requests.

- You may publish my name or response
- You may NOT publish my name or response

## Consultation Questions

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## Part II – General principles applying to any future training system

### Question 1:

Do you agree with the BSB's proposal not to seek changes to s207(1) of the LSA 2007? If you do not agree, please state why not.

Yes

### Question 2:

Do you agree with the BSB's proposal to maintain the principle the Bar remain a graduate profession? If not, please state why not.

Yes

### Question 3:

Do you agree with the BSB's proposal to maintain the normal expectation of a minimum degree classification of 2:2? If not, please state why not.

Yes

## Part III: Options appraisal

*Option A: The "Evolutionary" approach*

### Question 4:

Do you agree with our analysis of this option's capability to meet the requirements of the Professional Statement? If not, please state why not.

It appears that it meets these, albeit with some constraints on flexibility.

### Question 5:

Do you agree with our analysis of this option's capability to meet our regulatory objectives in general, and access to the profession, supporting the rule of law and promoting the interests of consumers in particular? If not, please state why not.

It appears that it meets these, albeit with some constraints on flexibility. In particular it tends to support a regional network of provision, which is desirable. Retaining a single structure may actually promote access to the profession as it will mean that there are no distinctions between those who achieve qualification by different routes, and therefore no danger that those from backgrounds with existing links to the Bar, and access to advice

and guidance, will be better able to select a more approved route, while other students will select their route without a full understanding of the implications.

**Question 6:**

**Do you agree with our analysis of this option's capability to meet the LSB's statutory guidance? If not, please state why not.**

There has never been any suggestion that the existing route fails to meet these requirements. There is therefore no reason to assume that what is, in effect, a modification to the detailed structure but not to its overall architecture will fail to do so.

**Question 7:**

**Do you agree with how ethics is taught and assessed under Option A? If not, please state why not.**

Ethics must clearly be explicitly taught, and that teaching must be contextual, but must also adequately align the contextual regulation of behaviour with the wider philosophical and moral underpinning of ethics (as encapsulated in LETR Recommendation 7). We agree that the assessment should, at least in part, incorporate exercises in which the student is required to identify ethical issues as they arise in a particular situation and formulate appropriate responses in terms of expected behaviour. It is entirely artificial to present these as explicitly "ethics questions" as this does not reflect the realities of professional life. This teaching and assessment should be incorporated into the vocational and work-based learning assessments, since, for a variety of reasons, it cannot be assumed that coverage of ethics -related matters at the academic stage would be sufficiently contextualised towards the requirements of the Bar.

**Question 8:**

**Do you agree with the cost implications we have set out above for Option A? If not, please state why not.**

Overall, the analysis appears to suggest that the proposals are roughly cost neutral overall. We agree that increasing centralised assessment would increase the direct costs to the BSB. We also agree that there is the possibility of some efficiency savings for providers as a result of greater flexibility in delivery, which may be reinforced if the evolved vocational stage can be delivered more cost effectively. There is also some opportunity of making additional public funding available within Option A by combining the existing content of the BPTC with other modules to create a bespoke LLM. A similar outcome could be achieved under current funding arrangements by integrating the academic and vocational stages into an M Law course structure, which would also reduce the cost to the student slightly. However, if there is going to be full integration of the two stages, this would be more appropriately seen as an Option B alternative.

On this analysis it may be correct that the overall impact would be cost neutral, although we note with some concern that there is a transfer of cost from the provision of learning to assessment and monitoring.

The document raises the question of removing BPTC options. Members of this

Association with experience of teaching the BPTC caution against this. The options currently enable students to consolidate their learning in a practice area that they have chosen and which therefore motivates them. It enables them to demonstrate commitment to a particular area of practice and better prepare them for pupillage in an appropriate set.

We welcome your concern for the international student population. Continuing to provide for these students is important to maintain what could otherwise be a very modest market for Bar training and thus reduce the number of providers and/or increase the cost of providing training. It is also important for the international status of the Bar and its contribution to the rule of law in many countries throughout the world. The links with international students that many barristers develop through their training provides valuable opportunities to develop international practice in an increasingly globalised world. Option A, being the least disruptive option, appears to support this continuing relationship.

**Question 9:**

**Do you agree with the higher education implications we have set out above for Option A? If not, please state why not.**

We agree that the vocational course could be incorporated into the FHEQ, either in the form of a Postgraduate Diploma, or an integrated M Law, and that a top up to an LLM would remain feasible. We would note that the work demands of the BPTC justify the programme being awarded 150 level 7 credits. The impact on the market would be dependent on whether the changes to the vocational stage impacted sufficiently on the viability of existing provision to destabilise it, either by the removal of existing provision, or by the introduction of additional provision competing for a finite pool of students.

**Question 10:**

**Do you agree with the equality and diversity implications we have set out above for Option A? If not, please state why not.**

Much depends on whether the proposed modifications to the vocational stage will enable a more blended delivery, thus expanding the possibilities of students combining this stage with their existing employment. The majority of those who seek to change careers already utilise the available part-time, blended and distance learning LLB and GDL courses which are widely available. They would no doubt welcome similar flexibility at the vocational stage. The issue of the performance of BAME students is a very complex one. We are not persuaded that the structure of the training process is a significant factor, as opposed to the content and note that the point at which the participation rate of both women and BME candidates is most affected is at the stage of entry to pupillage, not the academic of vocational stages.

*Option B: The “Managed Pathways” approach*

**Question 11:**

**Do you agree with our analysis of Option B's ability to meet the requirements of the Professional Statement? If not, please state why not.**

Since there are a number of alternatives within this Option, this is not an altogether simple question. We do however consider that all the alternatives are perfectly consistent with the requirements of the Professional Statement, provided they are appropriately specified and delivered.

We feel that it is important to address certain overarching issues relating to Option B.

The first is that, vital as the Bar is to the functioning of the legal system, it is a relatively small profession, and there are limits to the number of different routes which can be sustained. Any provider will require a certain minimum number of students to make its provision financially and educationally viable. Authorising a range of alternatives may therefore actually undermine diversity by rendering certain provision non-viable. Equally, many providers of academic legal education will not consider it viable to offer an integrated qualification in the form of the combined law degree and vocational training (Option B (ii)), and this option may not be widely popular among students, if it requires a commitment to the Bar at a very early stage. Similar considerations apply to the COIC/Bar Council proposal. Dividing the current intake between the proposed stand-alone Part 1 and 2 vocational assessments and an integrated vocational course and assessment might well render some existing provision non-viable, in particular that in the provinces, thus fostering a move to exclusively London based provision, which is clearly not obviously in the overall public or student interest.

The second is that, whenever there are alternatives, some will become more valued than others. Inevitably, those whose family and other connections to give them access to appropriate advice and guidance will be able to access the more valued routes, while others, lacking that inside information, may well choose other routes for reasons of cost or convenience without appreciating that they are less highly valued, and that therefore their prospects will not be as good.

Insofar as the individual alternatives within this Option are concerned, our view of their overall fitness for purpose is as follows

Option B (i) In itself, this has exactly the same advantages and disadvantages as Option A, but, if only one of various alternatives, risks the problems identified above.

Option B (ii) There is in principle merit in this alternative. In particular, it may have funding advantages, as students can enrol on what is potentially a four year integrated course at undergraduate fees and with access to undergraduate loans and grants. Students might also benefit from the synergy between academic and vocational aspects of their education being conducted in parallel. However, it is likely to be only providers who are offering a stand-alone vocational course which will be attracted by the possibility of additionally offering this in integrated form. It is also not clear that offering this option will necessarily be in the interests of students. Practice at the Bar requires a very specific set of skills and attributes. It is entirely unrealistic to suppose that most students, at the point when they are considering what undergraduate law programme to pursue, will have any realistic understanding of what this entails, and whether they themselves are likely to be able to demonstrate the skills and attributes. There is therefore a danger that they will enrol in an unsuitable course. This issue can be mitigated if the integration is managed in such a way that the decision to opt for the "Bar route" as opposed to the "academic route" or "Solicitor route" is taken part way through, as currently occurs at Northumbria, where the decision is taken at the end of the second year. However, if, as we suspect, only a small minority of degree providers will actually offer this route, it will have a limited contribution to

increasing diversity, since the majority of law students will not have access to it.

Option B (iii) We can see merit in this alternative. The vocational course is already offered on a part-time basis, and we can see an advantage in explicitly linking this to the work-based learning phase. A significant number of those pursuing the part-time LPC route to qualification as a solicitor are combining their studies with their training contract, and other professions, such as accountancy, adopt similar models. Given that under the existing system, certain providers already offer a part-time vocational course, we would take the view that this model would not destabilise the provision of the vocational course, although it might well change the balance between full-time and part-time student numbers. Provided that each provider is free to choose whether to offer full-time, part-time or both modes, this should not impact on the availability of places or the quality of provision. There is a possible risk that, if this recruitment to this option is only from a limited range of more traditional HEIs, it will not serve to improve access in the context of equality and diversity, but will reinforce existing patterns.

Option B (iv) This is an interesting alternative. We think it unlikely that it will be attractive to the traditional Bar. We take the view that it will only work if the student has a training provider which is fully committed to facilitating the student's progression through all three stages. This is a commitment which we suspect most chambers will be reluctant to undertake, bearing in mind that students are undertaking the process of qualification in order to become independent practitioners. We can envisage that organisations such as the Government Legal Service and the Crown Prosecution Service may see this alternative as attractive, and these organisations clearly have a much stronger incentive to take greater responsibility for education and training as they are looking to produce barristers who are integrated into the organisation. We have reservations as to whether even these organisations will consider this route the most appropriate one, but we do not consider this a reason for objecting to the alternative being available within the overall regulatory framework.

Option B (v) As we understand it, the BSB regards the COIC/Bar Council proposal as a further alternative within this option. As we have already observed, one disadvantage of creating this significantly different route will be the potential destabilisation of provision by splitting the available pool of students into too many streams. A second concern is whether the two routes would have parity of esteem. In reality students would not be able to prepare for the proposed Part 1 without accessing a significant educational resource. Again, there is the potential for disparity of esteem between these sources, and if attendance at a recognised provider's course is seen as being the preferred option, then this alternative will not produce the desired cost reductions. Whatever the precise permutations, there is clearly substantial potential for better informed candidates to ensure that they are pursuing the most approved route.

We take the view that, if it is considered that there should be greater flexibility at the vocational stage, effort should be devoted to encouraging providers to develop more flexible courses within Option B (i) and (iii) to allow students to pursue a part-time, blended or distance learning approach where it is appropriate.

We have a further, more fundamental, objection to this alternative, which is that it assumes an artificial distinction between knowledge and skills. In reality, the vocational stage entails the application of knowledge in a particular context through the deployment of skills. While under the proposal, students would be able to cut corners in relation to the knowledge element, by substituting attendance on a full-time course for some form of self-study, this may well be a false economy, and in any event it results in a significant diminution in the overall quality of the educational experience and the extent to which it appropriately fits the student for professional practice in due course. Furthermore, one driver behind this alternative appears to be the assumption that candidates whose knowledge is weak will also struggle with the skills element, and should be triaged out at a

relatively early stage. There will however inevitably be students whose knowledge is adequate, but who still struggle with the skills aspect.

One explicit argument put forward in support of this alternative is that candidates who struggle with the knowledge assessment will reconsider whether they are suited to the Bar. There is however a danger that it will be disproportionately those candidates from non-traditional backgrounds, in particular where they have limited financial resources, who will be most discouraged by an initial failure. There may well be able candidates who struggle initially with the demands of the centralised assessment but could pass and then become effective practitioners. Those from more traditional backgrounds, and with greater financial security will be less affected by this factor. There is the additional point that students with limited resources and from non-traditional backgrounds, are more likely to be attracted to the self-study option, and/or lack guidance as to the undesirability of this, when structured preparation courses are available. This again is likely to militate against improving access and diversity. We accept that this is an unintended consequence of the proposal, but we nevertheless consider it a likely and undesirable one.

**Question 12:**

**Do you agree with our analysis of Option B's ability to meet our regulatory objectives in general, and access to the profession, supporting the rule of law and promoting the interests of consumers in particular? If not, please state why not.**

Our primary concern here is the possibility of a greater diversity militating against widening access for the reasons set out in our answer to the previous question. Otherwise, it is difficult to answer this question conveniently, since Option B contains a number of disparate approaches. We believe that we have dealt with the principal issues in our response to the previous question.

**Question 13:**

**Do you agree with our analysis of Option B's ability to meet the LSB's statutory guidance? If not, please state why not.**

Yes, subject to our observation that you are asking us to provide a single answer in respect of multiple alternatives, some of which are better fitted to meet this guidance than others.

**Question 14:**

**Do you agree with our view of how professional ethics is taught and assessed, and how ethical behaviour and professional integrity are fostered, under Option B? If not, please state why not.**

We agree that there is considerable potential for optimising the way in which ethics is taught and assessed. We do not think that this depends upon the adoption of Option B as such, rather that if there is to be a review of the vocational and work-based learning stages, this provides a convenient opportunity for ensuring that ethics is appropriately addressed.

**Question 15:**

**Do you agree with the cost implications we have set out above for Option B? If not, please state why not.**

We are not persuaded that there will be substantial cost savings. In particular the cost of centralised assessment is likely to be an on cost. This applies particularly to the COIC/Bar Council, if it requires additional opportunities to pass the Part 1 assessments. This alternative also carries with it the risk that students will initially assume that they can attempt Part 1 after accessing the most basic, and cheapest, preparatory courses, but then discover that these have not equipped them to pass. This alternative also requires considerable investment in the development of preparatory courses, at least in the short term.

Integrating the vocational and work-based learning elements may result in some cost saving to streamlining, but will not affect the fundamental economic position, which is that most students undertaking work-based learning do so under pupillage schemes which guarantee basic minimum subsistence but little else.

**Question 16:**

**Do you agree with the higher education implications we have set out above for Option B? If not, please state why not.**

Broadly, yes. We anticipate that only organisations which are effectively employing barristers, such as the Government Legal Service and the Crown Prosecution Service will wish to explore the possibilities of apprenticeship. In particular we would not anticipate that the traditional independent Bar will move away from recruiting pupils who have undergone a conventional legal education.

**Question 17:**

**Do you agree with the market risk analysis we have set out above for Option B? If not, please state why not.**

We agree that, by creating greater flexibility and a wider range of options there is the potential for more innovative provision to develop. This may entail new providers, or a revised approach by existing providers. We consider that the main constraint is the overall size of the market. In addition to educating and training those destined for the English Bar, BPTC providers currently educate and train a range of international students for whom the English Bar Qualification carries with it the rights of audience in their home jurisdiction. This market is important, perhaps even crucial, to the viability of much of this provision. It is therefore important that whatever models are developed are at least compatible with the objectives of this international student market.

Where a variety of distinct options are made available, there are a number of risks created. One is that the relative suitability of the options will not become apparent for a period of time, resulting in some students investing substantial time and money in courses of study which prove suboptimal. A second is that students from non-traditional

backgrounds will have less information and thus be more susceptible to making inappropriate choices.

However, we would reiterate that the major risk is that the creation of multiple routes will lead to the destabilisation of provision because the available students are spread too thinly across the provision which may result in the withdrawal of provision on economic grounds which proves to be counter-productive on educational and training grounds.

**Question 18:**

**Do you agree with the equality and diversity implications we have set out above for Option B? If not, please state why not.**

In principle, greater flexibility should foster greater diversity. We do however have reservations. We have set these out already. Permitting a variety of routes creates the possibility of differential perceptions of the acceptability of these. If students from non-traditional backgrounds disproportionately access the less acceptable routes, this will be to their disadvantage, rather than their advantage.

To the extent that part-time, blended and distance learning courses are developed, this will advantage mature, career changing, students, and may advantage students with family responsibilities. We do not perceive Option B as having either positive or negative implications in relation to BAME students

*Option C: The “Bar Specialist” approach*

**Question 19:**

**Do you agree with our analysis of this option’s ability to meet the requirements of the Professional Statement? If not, please state why not.**

We have grave reservations. This appears to be an equivalent to the SRA proposal for the SQE 1. We are aware that many responses to the recent SRA consultation on this, including our own, have been extremely negative. We cannot see that there is any legitimate purpose in “second guessing” the outcomes of a Qualifying Law Degree. If the BEE is effectively an MCQ test, it runs the risk of assessing only limited aspects of what a law graduate should know, which is particularly problematic in the context of a non-law graduate. While the GDL has certain limitations, it does at least require an in-depth study of a range of legal subjects with a range of assessment methods. We also agree with the conclusions contained within the consultation document that the development of an acceptable BEE would be a very significant financial burden, and we cannot see that this is in any way justifiable.

Option C is also susceptible to our criticism of Option B(v) (see the final paragraph of our response to Q. 11).

**Question 20:**

**Do you agree with our analysis of this option’s capability to meet our regulatory objectives in general, and access to the profession, supporting the rule of law and promoting the interests of consumers in particular? If not, please state why not.**

We share the reservations expressed as to the suitability of the proposed three month vocational course to adequately cover all that is required. The argument that certain students would find this more accessible largely ignores the fact that there are already many options for study at degree level by part-time, blended or distance learning, and also the potential for greater flexibility in delivery of the vocational stage under Option B. Option C adds relatively little in this context, and creates significant dangers in relation to inadequate knowledge.

**Question 21:**

**Do you agree with our analysis of Option C's ability to meet the LSB's statutory guidance? If not, please state why not.**

This Option offers little by way of flexibility over and above what is offered by Option B. What it does offer is at the cost of significant regulatory risk in terms of the adequacy of the functioning knowledge base of candidates who have only taken the BEE.. We very much doubt whether such candidates would be regarded as fully qualified lawyers in an international context, and this is a significant reputational risk to the standing and professional reputation of the English Bar generally.

**Question 22:**

**Do you agree or disagree with our understanding of how Option C promotes the professional principles, ethical behaviour and integrity? If not, please state why not.**

Assessment of ethics as part of the BEE risks being schematic, and would come at a time when the candidates had not necessarily had any exposure to the context in which professional ethics operates. Overall, we see nothing in this Option to suggest that it would in any way enhance ethical standards, or indeed enable these to be appropriately taught and assessed.

**Question 23:**

**Do you agree with the cost implications we have set out above for Option C? If not, please state why not.**

We agree that establishing and operating the BEE represents a significant cost. In practice, we very much doubt that candidates who do not have a Qualifying Law Degree or a GDL will be attractive to potential employers/training providers. Furthermore, we would anticipate that, on the American model, a market would develop for preparatory courses for the BEE, which would represent an additional cost. Since the BEE appears to be designed to assess elements which would not normally form part of a QLD/GDL, virtually all students would undertake such courses. We acknowledge that the vocational course envisaged will be shorter than the current BPTC, and there may be some cost saving at this stage, however we envisage this will be outweighed by the cost of preparatory courses and of the BEE itself

**Question 24:**

**Do you agree with our analysis of Option C's impact on the higher education training market for the Bar? If not, please state why not.**

We think it much more likely that the current degree providers will withdraw from this market, thus leading to a concentration in the hands of a small number of specialised providers. These may well be predominantly London based, which will be a disadvantage to those students who would prefer to study in the provinces. Given the overall size of the market for qualification at the Bar we think it unlikely that most degree providers will regard a degree program specifically focused on the Bar and BEE preparation as being viable. There is likely to be a small number of exceptions, but it cannot be assumed that all existing BPTC institutions would regard this as a viable option.

**Question 25:**

**Do you agree with the equality and diversity implications we have set out above for Option C? If not, please state why not.**

The major disadvantage is that there is a significant potential for the development of a two tier system which will militate in favour of those with existing connections.

**Question 26:**

**After having given consideration to the three options above, please tell us which option is most appropriate and why you think this is the case.**

We consider that Option B is the most appropriate.

We note that the five alternatives proposed within Option B are examples, not models limiting what providers might propose. We anticipate that acceptable proposals could be made within the frameworks suggested by Options B(i)-(iv) but do not regard Option B(v) as responding sufficiently well to the regulatory requirements. We therefore propose that an authorisation framework be prepared that indicates certain expected characteristics such as the degree to which elements of education and training should be sequential and the degree to which learning (for example, of knowledge and skills) should be integrated. We are conscious that this risks the creation of a number of different pathways that might be confusing for the applicant or (particularly in respect of (ii) and (iv)) attract very small cohorts. The greater flexibility available in Option B is our reason for preferring it to Option A.

**Question 27:**

**If you have any proposals for another route(s) to authorisation, please use this question number to give us a preliminary evaluation of your proposed model against the criteria used above in order for us to be able to give the proposal serious consideration.**

N/A