

# Equality Impact Assessment

## Amendments to the Training Regulations 2010 to allow for the Accreditation of Prior Learning (APL) for Bar Vocational Course (BVC) and Bar Professional Training Course (BPTC) graduates

**Business unit:** Education and Training Unit

**Date:** September 2011

### Introduction

It is proposed that the Training Regulations are amended to allow Bar Vocational Course (BVC) and Bar Professional Training Course (BPTC) graduates to apply for exemptions from parts of the Legal Practice Course (LPC).

Accreditation of prior learning (APL) generally refers to the recognition of an individual's significant achievement in a particular area. APL is seen as a means to promote lifelong learning, social inclusion and social mobility and is therefore linked closely to our work in ensuring fair and inclusive access to the profession.

### Background

The need for the SRA to develop a policy on APL has been motivated by both internal and external factors. These include:

- a request by the SRA Board in September 2007 to develop our policy on APL
- the introduction of the Qualified Lawyers Transfer Scheme (QLTS) which means that BVC/BPTC graduates can no longer qualify through the QLTS route as they are not fully qualified<sup>1</sup>
- our conclusion in the QLTS EIA<sup>2</sup> that the changes to our eligibility requirements on the QLTS are "likely to have a disproportionate adverse impact on BME graduates of the BVC" and that to mitigate this impact the SRA would carry out research to further its existing commitment to developing our policy on APL (stemming from the SRA Board decision of September 2007)

However there is a much broader socio-political context to this policy. On 5 May 2011, the Government published its social mobility strategy<sup>3</sup> and appointed Rt. Hon. Alan Milburn as Independent Reviewer on social mobility and child poverty. This strategy builds on the conclusions of the Panel on Fair Access to the Professions which reported in 2009<sup>4</sup>.

The SRA has responded to calls for evidence from the Panel and more recently, from Alan Milburn and has emphasised our commitment to social mobility, particularly in

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<sup>1</sup> Our QLTS EIA revealed that Black and Minority Ethnic (BME) BVC and BPTC graduates seem to find it harder to gain pupillages. Latest figures from the Bar Council show a 4.4% decrease in the number of BME pupils between 2004/5 and 2009/2010. See the Bar Barometer March 2011 at

[www.barcouncil.org.uk/assets/documents/Bar%20Barometer,%20March%202011.pdf](http://www.barcouncil.org.uk/assets/documents/Bar%20Barometer,%20March%202011.pdf).

<sup>2</sup> <http://www.sra.org.uk/sra/equality-diversity/impact-assessments/QLTR-consultation-full.page>

<sup>3</sup> <http://download.cabinetoffice.gov.uk/social-mobility/opening-doors-breaking-barriers.pdf>

<sup>4</sup> Unleashing Aspiration -

[http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/21\\_07\\_09\\_fair\\_access.pdf](http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/21_07_09_fair_access.pdf)

the context of our regulatory objective to "encourage an independent, strong, diverse and effective" profession.

The recommendations in both reports are clear, that the professions should look carefully at the entry points and requirements in place and consider whether any changes can be made which will enable people from more socially diverse backgrounds to enter the profession. Furthermore they call on the professions to support mid-career, career interchange and career returner opportunities. The Unleashing Aspiration report concluded that "the professions are missing out on talent because of inflexible entry and profession routes".

In particular in relation to Professional Regulators the report recommended:

- that statutory and approved regulators ...should embed the social mobility and fair access agenda into strategic plans<sup>5</sup>; and
- regulators should consider how to embed more widely the fair access agenda permanently into the work and strategic planning of their professions and take the appropriate regulatory action to do so<sup>6</sup>

### **Aims and objectives of the policy**

The SRA seeks to establish a scheme which:

- provides BVC/BPTC graduates with a route to qualification as a solicitor
- gives BVC/BPTC graduates credit for outcomes achieved on the BVC/BPTC which are broadly similar to those on the LPC
- is the most effective way of achieving the outcomes listed above

These outcomes will be measured in the following ways:

- number of BVC/BPTC graduates embarking on LPC - we will ask LPC providers to provide us with data and feedback in their annual report
- feedback from those BVC/BPTC graduates taking the LPC

### **Key stakeholders**

- LPC providers
- Prospective LPC students
- Bar Standards Board
- Bar Council
- BVC/BPTC graduates who have been able to gain pupillage and thereby qualify as a barrister
- Other career changers who might be interested in the extension of this policy to other groups

### **Conclusions about the equality impact**

We conducted an initial EIA on our proposed policy on APL in July 2010<sup>7</sup>. In that EIA we concluded that the policy was likely to have a positive impact in terms of race,

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<sup>5</sup> See Recommendation 83 of footnote 1

<sup>6</sup> See Recommendation 84 of footnote 1

<sup>7</sup> <http://www.sra.org.uk/sra/equality-diversity/impact-assessments/LPC-Consultation-on-policy-on-Accreditation-of-Prior-Learning.page>

disability, socio-economic factors, age and gender as it had the potential to facilitate career changers, and in particular those groups who statistically find it difficult to complete pupillage<sup>8</sup>.

Since we undertook the EIA in July 2010, the Bar has published their report 'Bar Barometer - Trends in the profile of the Bar'<sup>9</sup> which indicates some support for our initial conclusions. From the data provided, it does appear that BME students find it more difficult to progress to full qualification than their white counterparts:

#### BPTC

|              | <b>2007/8</b> | <b>2008/9</b> |
|--------------|---------------|---------------|
| <b>BME</b>   | 44% (811)     | 44% (790)     |
| <b>White</b> | 38% (689)     | 34% (602)     |

According to the data, there have been more BME students than white students in the last two reported years. The following table, however, indicates that a significantly higher proportion of white students are called to the Bar following completion of the BVC/BPTC than BME students.

#### Call

|              | <b>2007/8</b> | <b>2008/9</b> | <b>2009/10</b> |
|--------------|---------------|---------------|----------------|
| <b>BME</b>   | 38.5% (670)   | 40.7% (721)   | 44.2% (819)    |
| <b>White</b> | 60.4% (1052)  | 57.6% (1020)  | 54.3% (1006)   |

We are aware that there may be other contributory reasons for the statistics. For example, the Bar points out that 20-30% of BPTC students and those called are non EU nationals who purely wish to attain the qualification and return to their home jurisdiction. These groups are therefore less likely to want to apply for a pupillage in England and Wales after their studies.

#### Pupillage

Nevertheless, it is understood that there is still a large proportion of BME groups that find it harder to gain pupillage, as the following table suggests.

|              | <b>2007/8</b> | <b>2008/9</b> |
|--------------|---------------|---------------|
| <b>BME</b>   | 19% (105)     | 13% (68)      |
| <b>White</b> | 72% (402)     | 82% (420)     |

This is also the case for the number of women, which is particularly noticeable given that there is an almost even split between men and women up until this point. In 2007/8 the split between male and female BPTC students was 50:50 and in 2008/9 52% were women. In 2007/8, 53% of those called were women, and this proportion has remained almost exactly the same for the two preceding years (52% and 53% respectively).

<sup>8</sup> The latest figures from the Bar Council show a 4.4% decrease in the number of BME pupils between 2004/5 and 2009/2010. See the Bar Barometer March 2011 at [www.barcouncil.org.uk/assets/documents/Bar%20Barometer,%20March%202011.pdf](http://www.barcouncil.org.uk/assets/documents/Bar%20Barometer,%20March%202011.pdf).

<sup>9</sup> <http://www.barcouncil.org.uk/assets/documents/Bar%20Barometer,%20March%202011.pdf>

|              | <b>2007/8</b> | <b>2008/9</b> |
|--------------|---------------|---------------|
| <b>Men</b>   | 46.4% (261)   | 54.4% (280)   |
| <b>Women</b> | 44.3% (249)   | 40.8% (210)   |

If, as the data suggests, BME and female BVC/BPTC graduates do find it more difficult to gain pupillage, it is therefore likely that, as a consequence, the removal by the SRA of a route to qualification as a solicitor for BVC/BPTC graduates via the QLTR will have a disproportionate impact on those groups.

### Consultation

We consulted on our (then) proposed APL policy<sup>10</sup> from July-October 2010. In this consultation we proposed the accreditation of prior certificated learning (but not of prior experiential learning) of qualifications regulated by the other Legal Services Act approved regulators. We saw this as a proportionate and outcomes-focused response to the APL, enabling us to ensure standards are being achieved, whilst being flexible about how students prepare themselves for assessment.

We received 41 responses to the consultation, made up of 26 individuals and 15 organisations. Respondents included the representative Law Society, five local law societies, and an academic institution.

Overall, there was broad support for the concept but concerns around how far we planned to go and about how it would work in practice. Some saw the proposed policy as potentially harming standards by removing taught elements; some thought that the policy did not go far enough by ignoring experiential learning and not awarding exemption from assessments.

As part of the consultation, we asked respondents to give us their views on the potential positive and negative equality impacts of the proposals. Many of those who saw positive impacts in terms of equality and diversity were those seeking solicitor qualification themselves, or representing people who might benefit. No negative equality impacts were raised, although some criticisms of the proposals as a whole were put forward. For example, there was criticism of the proposal to allow exemptions from course attendance but not from assessment. This has now been revised to allow exemptions from attendance and assessment. Concerns were also raised about the cost of applying for exemption and whether the LPC would be any cheaper for those with exemptions. Some respondents also raised concerns that an APL policy would lead to the watering down of standards and that diversity should not be seen as important as rigorous training and assessment. We have responded to these concerns by piloting the policy initially solely with BVC/BPTC students so that we can ensure that standards are still being met. We will also raise the issue of finance with the providers and encourage them to embrace this policy as part of their overall strategy to engage with students from a broad range of backgrounds.

We then carried out further consultations with the LPC providers during 2011 and commissioned a benchmarking exercise which mapped the BVC and BPTC outcomes against the LPC outcomes. This exercise revealed that there was an overlap in particular in relation to litigation, advocacy and drafting, and potentially in relation to electives (although this would depend on which electives the student had

<sup>10</sup> <http://www.sra.org.uk/sra/consultations/lpc-consultation-policy-accreditation-prior-learning.page>

chosen on the BVC/BPTC). As a result we have further developed the procedural aspects of the proposals.

We now envisage that the APL process would work as follows:

- a BVC/BPTC graduate applies to an LPC provider and enters into an individual learning contract which sets out the credit which has been given to the student. The scope of this credit will be established by the SRA on the basis of our benchmarking exercise.
- should there be sufficient demand, it is possible that providers would seek approval for a bespoke LPC to accommodate transferring BVC/BPTC graduates.
- where the provider has added to the LPC outcomes for the purposes of its own award, for example if it is offering the LPC as a post graduate award, the providers would be expected to assess the individual's applications for credit in these areas under the QAA's guidelines for APCL as adopted by the provider.

We have modified our policy since last Summer in response to feedback from stakeholders. We now propose:

- to allow exemptions from attendance and assessment
- to pilot the policy with BVC/BPTC graduates initially to ensure that the procedures are rigorous and practical
- for the SRA to determine the possible exemptions that could be granted, and for the LPC provider to determine whether they are able to grant such an exemption in the context of their course
- to engage with stakeholders with a particular interest in access to the profession

## **Conclusions about the human rights impact**

At this stage, it is not thought that there would be any adverse impact in relation to human rights.

## **Overall conclusions**

It is anticipated that this policy should have a positive impact in terms of equality. Its impact would be more far-reaching if it extended beyond BVC and BPTC graduates as was initially anticipated in the consultation last Summer, however there are clear reasons, in terms of demand and need, for prioritising these groups and a clear regulatory rationale for establishing a robust procedure for APL.

We will monitor the take-up of this policy if implemented and evaluate quantitative and qualitative data as to its impacts.

## Action plan

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| Policy considered by ETC  | 14 September 2011                        |
| Request data on age and disability from Bar   | September 2011                           |
| Engagement with stakeholder groups  | Autumn 2011                              |
| Consider what positive action the SRA could take in relation to LPC providers to ensure the successful introduction of this policy (e.g. in relation to fee structures) | September/October 2011                   |
| Policy considered by SRA Board  | TBC                                      |
| Policy submitted to LSB for approval  | TBC                                      |
| Monitoring of impact  | Yearly via LPC providers' annual reports |