



Bar Council response to the Consultation on fees and charges for the authorisation and supervision of Authorised Education and Training Organisations by the Bar Standards Board

1. This is the response of the General Council of the Bar of England and Wales (the Bar Council) to the December 2018 consultation paper (the Paper) on fees and charges for the authorisation and supervision of Authorised Education and Training Organisations (AETOs) by the Bar Standards Board (BSB)¹.
2. The Bar Council represents over 16,000 barristers in England and Wales. It promotes the Bar's high-quality specialist advocacy and advisory services; fair access to justice for all; the highest standards of ethics, equality and diversity across the profession; and the development of business opportunities for barristers at home and abroad.
3. A strong and independent Bar exists to serve the public and is crucial to the administration of justice. As specialist, independent advocates, barristers enable people to uphold their legal rights and duties, often acting on behalf of the most vulnerable members of society. The Bar makes a vital contribution to the efficient operation of criminal and civil courts. It provides a pool of talented men and women from increasingly diverse backgrounds from which a significant proportion of the judiciary is drawn, on whose independence the Rule of Law and our democratic way of life depend. The Bar Council is the Approved Regulator for the Bar of England and Wales. It discharges its regulatory functions through the independent Bar Standards Board.
4. This Response has been prepared by the Education and Training Committee and the Young Barristers' Committee, both committees of the Bar Council whose membership comprises a cross-section of members of the employed and self-employed practising Bar, representing all levels of seniority, geography and with experience in a wide range of fields of practice. It has been approved by the General Management Committee of the Bar Council and should therefore be taken as the official response of the Bar Council to this consultation.

¹ [https://www.barstandardsboard.org.uk/media/1969810/fees_consultation - aetos.pdf](https://www.barstandardsboard.org.uk/media/1969810/fees_consultation_-_aetos.pdf).

PRINCIPLES

5. The Bar Council believes that the following two points should be brought to bear in approaching the questions posed by the Paper.

6. First, the Bar Council has as much interest in fostering a strong, independent and excellent cadre of barristers as does the public. Without ensuring that we achieve excellence in our training and in our resulting careers, we will gradually lose our global status as the gold standard of advocacy (and in consequence the unimpeachably high standard of our judiciary, which continues in large part to be recruited from the Bar).

7. Secondly, we also recognise the importance of encouraging the diversity of our profession (and indirectly, therefore, that of the judiciary). The BSB will need no reminding of the outreach activities, training courses and other steps the Bar has been taking in that regard.

8. It is vitally important that the amount of regulatory oversight of our education and training recognises and respects both these points. As to the first, the BSB must not supervise where it has little need to do so: the profession takes its own self-interest in maintaining excellence so seriously that *blanket* supervision is unnecessary. The BSB is required to be proportionate in its oversight and, as in fairness we accept it has done elsewhere², it should therefore supervise in a targeted manner.

9. As to the second matter, the BSB must ensure that the burden of the cost of its regulatory oversight activity does not impact diversity, by deterring those whom we wish to attract to the Bar.

10. The BSB appears to accept both these points, insisting on page 2 of the Paper that its aim is that “Bar training should be more accessible, more affordable and more flexible, whilst at the same time sustaining the high-standards of entry expected at the Bar.”

11. There is no benefit at all to the Bar in the regulatory cost of supervising and examining those who will not find pupillage; and little or no public benefit either. We note the observation on page 25 of the Paper that, “the provision of Bar training is likely to remain commercially attractive, at least in the medium term, for vocational providers”. We have said elsewhere that the current regime benefits the vocational providers, while burdening the many students who will never find a career at the Bar³. We do not therefore accept that the regulatory cost of supervising and examining those students should be borne by the profession through the Practising Certificate

² In relation, for example, to CPD.

³ In this respect, the Bar Council notes the assumption made on page 24 of the Paper to the effect that 1,550 students each year will study the vocational component, with only 400 barristers each year undertaking pupillage, with the result, broadly speaking, that only 22% of students on the vocational course achieve pupillage.

Fee (PCF). It should be borne by the students. In short, the Bar should not have to subsidise the cost of failure.

12. Moreover, the imposition of the costs at the outset of the new vocational course, as proposed by the BSB, would be damaging to the two-part vocational model proposed by the Bar Council and the Council of the Inns of Court (COIC), whereby Part 1 (involving the online study of evidence and procedure) is designed to be cheap to study, with only a proportion of those then passing through to the significantly more expensive Part 2 (experiential training in drafting and advocacy). If the full regulatory cost were to be imposed upon entry to Part 1, this would double the cost of that course, and impose regulatory costs which in large part relate only to Part 2, which most students will fail to reach.

13. On this topic, we reiterate what we said in our response to the Consultation on the Future of Training for the Bar: Future Routes to Authorisation:

“The current authorised BPTC model is unsatisfactory, and extremely unpopular with all that take it (save possibly the very wealthy). It leads to too many people wasting too much money paying for expensive courses which in most cases do not lead either to employment or to tenancy. The system does not ensure that those who wish to come to the Bar have a chance to do so at reasonable expense and with a prospect of success that is reasonable given the investment of time and money required. The system will only be satisfactory if this vocational stage is made much less expensive, and correspondingly open to a wider segment of society.”

14. To avoid replicating that state of affairs in the new model, the proposal we urge on the BSB in relation to the vocational course is as follows:

(a) no part of it should be met by the PCF;

(b) all of it should be met by the students taking it;

however

(c) the costs should be divided between Parts 1 and 2, with the division between them to reflect the actual regulatory costs referable to that Part.

15. In making this proposal, we recognise that fewer students will sit Part 2, this being intrinsic to our model, as we have pointed out in previous consultation responses. Accordingly, the costs per student will be proportionately greater. Nonetheless, we consider this to be a fairer method than frontloading all the costs.

16. We should, however, express our deep concern at the level of the proposed costs. The £870 the BSB proposes to charge for its assumed number of 1,550 students means that it expects its regulatory costs under the new arrangements to be in the region of £1,348,500. If half this figure (£674,250) were imposed upon the students undertaking

Part 1, that would leave an equal cost to be imposed upon the far fewer students undertaking Part 2. Suppose that number to be 500 students: the result would be that they would be charged £1,348.50 each, representing rather more than 10% of the proposed cost of Part 2. On page 3 of the Paper, the BSB asserts, “our per capita fee for vocational providers is only a small element of the cost of Bar training”. Based upon these figures, we emphatically disagree. Neither do we consider that it is appropriate for the BSB to draw comfort from figures for regulation in other professions: this is not an exercise in regulation by analogy.

17. In those circumstances, we urge upon the BSB the need for it to justify its figures, and to show that its regulatory oversight is targeted and proportionate. We note in this regard that, for some years, the BSB imposed upon the profession the cost of deploying six members of its staff to examine CPD records for accuracy. As the BSB now accepts, that was largely a waste of regulatory time (and therefore PCF subsidy). We ask, therefore, that the BSB revisit the necessity for charging such high levels of fees. Indeed, we would welcome the opportunity to assist the BSB in devising a model for regulation (upon which we have thus far not been consulted) which respects the principles we have set out above, and which seeks to achieve effective, targeted regulation at minimal cost.

18. In relation to the regulatory costs associated with ethics training, by contrast, there is more to be said for the proposition that this should be met through the PCF (although the responses from Members of the Bar set out in the Appendix to this paper show that the profession is split on this issue). The Bar Council recognises the interest it has in ensuring the proper teaching of this subject, irrespective of whether those paying the PCF belong to chambers offering pupillage. Some sets of chambers choose not to offer pupillage, recruiting the tenants from sets who have done so. Moreover, sets which already struggle to afford pupillage grants might find the additional financial burden too hard to bear, thus disproportionately impacting sets who specialise in publicly funded work. In such circumstances, it can plainly be said to be fairer to spread the costs of ethics regulation across the whole Bar. Moreover, we emphasise here the converse of the point made above: since those undergoing ethics training will be pupils rather than the majority of students who will not go on to enjoy a career at the Bar, the point that the profession should not have to bear the cost of student failure has far less purchase. As against that, we recognise that to burden barristers with an increased PCF at a time when many are struggling to make ends meet will be deeply unpopular.

19. Here too, however, we are surprised at the high level of proposed cost and repeat the invitation for the BSB to set out and justify its thinking in relation to regulatory oversight and examination setting, in much of which the Bar (including its circuits) and Inns could be involved, presumably less expensively than the arrangements the BSB has in mind (whatever they might be). At the end of that exercise, we will

consider the matter again, and provide our final view as to where the burden should fall.

20. It may however assist the BSB in its approach to this topic if we set out our own ideas for how the BSB might consider approaching this topic. First, we bear in mind that the BSB has, largely, left the Inns to provide advocacy training for pupils. Its regulatory oversight has been slight, and no examinations are involved in this process. That notwithstanding, the Inns apply rigour in their approach to this training: senior practitioners are involved; the training is intense; proper criteria are applied to the question whether any candidate has met the required standard.

21. We see no reason why the same approach should not inform the teaching and assessment of ethics during pupillage. We envisage (with all due respect to the Inns, who through ICCA or otherwise would be responsible for devising and teaching the new arrangements) the Inns providing ethics training in the same way that they teach advocacy training – with their own members administering the training. At the end of the training, a test could be administered. We think that a viva would be the best way of doing this, staffed again by the Inns' members. We consider that a viva (coupled possibly with video material for examination and discussion) would provide a far more testing environment for searching analysis than any written exam. Provided that: the trainers and examiners were properly trained (and here the Inns could surely be depended upon); and stringent safeguards were introduced to ensure consistency and quality assurance across the Inns, then we see every reason why this should not provide a more effective, more searching (and therefore less risky) and less expensive alternative to the examination format to which the Paper refers.

22. We now approach the questions in the Paper having regard to the points made above.

THE BAR COUNCIL'S ANSWERS TO THE QUESTIONS RAISED BY THE PAPER

Q1: Do you have any comments on the BSB's proposed approach to fees, including the application of the charging principles and other factors? Do you think we should consider any other factors?

23. Please see our analysis above, which leads us to conclude that the regulatory costs associated with the vocational course should be borne by the students on the course; while there may be more of a case for saying that the costs associated with ethics training should be borne by the PCF.

Q2: Do you agree with the proposed fees?

24. We cannot answer this question without seeing the BSB's justification for the fees. We are sure that the BSB will be the first to accept that its approach in relation to the level of regulatory supervision it is proposing is not necessarily consistent with the statutory requirement of proportionality. We therefore ask it to revisit its figures, and to justify them to the Bar Council, in order for us to be able to provide a considered response on this question.

Q3: Do you think the cost of the Professional Ethics Examination during pupillage/work-based learning should be charged discreetly to pupils/AETOs as part of the pupillage or work-based learning component of Bar training, borne by the profession through the PCF or be funded by a combination of the two funding options?

25. This question is based on the premise that imposing an examination in professional ethics is the best way of ensuring that the appropriate standard has been met. We strongly disagree with this. The recent history of ethics examinations has not been a happy one, and we are not confident that the position will improve. Ethics is a very difficult subject to test properly by multiple-choice questioning. In our view, ethics should be treated like any other matter covered during the course of pupillage in chambers. Students should be required to undergo ethics training of a thoroughness and rigour which the Inns and circuits will provide. It is in our view unnecessary for there to be an expensive and flawed examination process at the end of that training. Neither the Inns nor chambers has an interest in promoting pupils who have not shown themselves to be proficient in ethical issues. The BSB should limit itself to targeted and proportionate supervision of the training process.

26. If, however, the BSB does not agree with our own expert view, then, once the BSB has justified the costs in question, we would like to give further consideration to the question whether the cost of the ethics exam should be borne by the profession through the PCF, or by the pupils or their chambers.

Q4: Have you identified any adverse or positive equality impacts as a result of the fee model we are proposing?

27. We have dealt with this question in our analysis above, in which we emphasise the adverse impacts of imposing what we regard as an unnecessarily high level of fees, and in particular frontloaded on to Part 1 of the new vocational course.

Other matters

28. Lastly, we should say that we agree with the proposal that existing AETOs offering pupillage should not have to pay for the regulatory costs associated with supervision by the BSB. We caveat that agreement as follows. If the BSB finds (as we expect to be the case) that particular AETOs falling outside the traditional chambers and employed Bar model prompt greater regulatory concerns and therefore higher

supervision costs, then our view is that the BSB should consider requiring the AETOs in question to bear those costs themselves.

Responses by the Profession

29. Members of the profession are rightly exercised by what they naturally regard as over-expensive, disproportionate and unnecessary regulation.

30. A selection of the views expressed to us by practising barristers to whom this response was sent is set out in the Appendix below.

Bar Council
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Appendix - Views expressed by Members of the Bar

I agree with the Bar Council's view.

I am completely against the profession making any contribution to either fee through the Practising Certificate fee. That fee is already high enough and many at the bar and the criminal bar in particular are barely managing financially. There may be an argument for chambers funding the ethics exam fee for individual candidates if they consider it appropriate. I cannot support any suggestion made that either fee is somehow the responsibility of the bar as a whole - that is a completely untenable position.

I am also bound to ask why the fees are so high for these exams. They exceed by some distance what junior counsel would be paid for most 1-2-day Crown Court trials. Surely, we should be cutting costs not increasing them.

I agree that the BPTC regulatory fees should be met by the students themselves, since it is not for the profession to subsidise the majority of those taking the BPTC that will not be able to come to the Bar.

It is my view that the ethics fee should be met by pupils themselves or by the chambers who have taken them on as pupils. I consider that a pupillage related cost should not be borne by the entire profession but by those benefitting from the arrangement, namely the pupil and/or the chambers where the pupil is undertaking pupillage. Individual chambers should have the discretion to adopt their own policy in respect of this fee, particularly as to who, as between the pupil and chambers, meets this fee and how this is to be paid (e.g. by way of reimbursement from pupil to chambers spread over a certain period to minimise up front hardship).

I write to say that I think that what you say about funding below is sensible.

Regarding ethics training, I teach advocacy and ethics for my Inn and think that practitioner lead training is useful and to be encouraged. In principle, therefore, if the Inns could provide members to assess students' performance during pupillage I think that would be a good idea, and certainly better than the BPTC training that has been

done to date, which doesn't really seem to assist students as much as it should. My only caveat is resourcing in that there are only so many people who are prepared to give up their time, and only for so long. It occurs to me that if the current Inn-based ethics training were to be amended then that might help free up resource, which could help. In principle though I think it is a good idea to make any new assessments Inn based (and more to the point I would continue to contribute, which is what I suspect your email is really aimed at).

I cannot agree to spending any money out of my ridiculously low fees as I now live on loans with the drop-in income now suffered at the Criminal Bar

It is wrong in principle for the profession to pay for or subsidise students, many of whom do not go on to practice at the independent bar or use their qualification in another jurisdiction or profession which does not require an English Practising certificate.

Why is supervision required on an individual basis at all? It is unnecessary.

I am an employed barrister (having previously worked in private practice in Brussels). The focus of my work is now on compliance and ethical conduct in the pharmaceutical industry, so I take a particular interest in this subject generally.

I would certainly support having an ethics exam for barristers, both independent and employed. High ethical standards are required of the legal profession, but they cannot be taken as just a matter of honour or expected professionalism. Understanding and evaluating ethical standards is critical for any business, and not least the legal profession.

I would certainly support the approach being suggested with regards to short answers. Multiple choice questions may have the place in other forms of objective training, but in the rather more contentious and arguably subjective area of ethics, it is far more appropriate to have written answers to assess whether this skill has been adequately acquired.

I tend to agree with you with regards to the view you take on how fees should be allocated.

1. I support the proposal that students pay their own BPTC fees. Indeed, any other suggestion would be wholly unacceptable, particularly in light of the relatively recent “income-based” changes made to the PCF - not only would I be financing the studies of students who had no prospect of ever obtaining pupillage, I would be doing so on the basis of a redistributive PCF system that is itself objectionable.

2. I am opposed to the proposal that the profession, through the PCF, pay the fee for the ethics exam:

First, there is no logical basis for separating the ethics part of the required training from any other part of that training. It is in the interests of the Bar (whether or not in my own interests) to have competent, as well as ethical, entrants: if the student is to bear the cost of acquiring and demonstrating competence, then the same must apply to ethics.

Secondly, as I understand it, this ethics exam will be undertaken during the pupillage period. If the student/pupil is not to bear the cost of the ethics exam, then his/her chambers should do so. There is no justification for me having to fund the during-pupillage training of other chambers’ pupils.

Thirdly, the proposal by the BSB that the cost of one re-sit of the ethics exam ought also to be borne though the PCF is ridiculous - not only would I have to be paying for other chambers’ pupils, I would have to be paying for their pupils who were unable to demonstrate sufficient grasp of ethics issues at the first attempt. Any pupil of ours who failed the ethics exam would, frankly, have little future.

I agree with your proposed response, save that in respect of the ethics fee, rather than being charged through the PCF, my preference would be for individual chambers to pay the fee when their own pupils undertake the training (following para 28 and 29 of the consultation paper). The concern was that this could create a disincentive for offering pupillages; but it seems from para 30 that the decision to go for full subsidisation was marginal. I think it is a fairer allocation of cost for chambers to pay directly for their own pupils, rather than spread the cost evenly throughout.

My main concern is that the cost appears too high. I can’t see how £875 can be justified for ethics. I’m not saying it isn’t a very important part of the educational process, but that this is a topic that will be rolled out to each pupil, each year with presumably the

same or similar texts and questions. If the fee is reduced, then so does the risk that levying it on chambers for their pupils would act as a disincentive. To that end your proposal to involve the Inns is sensible and hopefully would reduce cost. I suspect the Inns are anxious about their continuing relevance and input on training and this seems an area that they are ideally placed to fit in given, as I say, it is a topic that would be rolled out to each pupil with the same content regardless of the area of practice. They would also no doubt be able to tap into experienced members of the bar who would have a greater insight into the issues and bring a greater level of gravitas to the subject.

Further, if in some areas with lower income but a greater number of pupils, this would be a disincentive, then the PCF could be used as a form of contribution or the fee could be lowered for those areas.

I am happy for you to share these views of mine with the BSB.

I agree with the view and reasons in your email that (a) the BPTC regulatory fees should be met by the students themselves; but that (b) the ethics fee should be met by the PCF.

I would add that I am very surprised that either additional fee is necessary. I would have thought the BSB already have substantial oversight of the BPTC curriculum and assessment, and that between the BSB and the Inns of Court, ethics is very well covered. The BPTC is already a very significant expense and my preliminary view (knowing little of the ins and outs) is that the BSB should be working harder to stay within their means instead of trying to impose additional cost on aspiring or practising barristers.

I find it surprising that the fee for each aspect is exactly the same – the two aims seem to be widely different in scope and resource requirement. Teaching and assessment of ethics has always been very important to the profession. Ethics is not something that I am aware of a systemic problem with. If there is to be additional ethical guidance, I do not see why it cannot be provided by the existing structures, and in particular the excellent Inns of Court training (which is, as you have identified, already subsidised by the generosity of time of many members of the Inns).

I hope this brief response is helpful and would ask that it is not shared except in anonymised form.

I agree that the BPTC Regulatory Fee should be met by the students themselves.

However, I do not agree that the Ethics Fee should be met by the PCF. It should be met by chambers (or approved in-house pupillage providers). Chambers (etc.) already pay for pupils to undergo mandatory training during pupillage, and as such the Ethics Fee should be regarded as an extension of this, and as something individual sets can factor in when deciding how many pupils to take and how much their pupillage awards should be.

It is not fair for PCF fees to increase for the entire Bar. PCF fees are already a significant expense for those at the self-employed Bar, especially for those who do publicly-funded work.

You say that it is in the interest of all of us that students are properly trained in ethics. I entirely agree. However, that is not a reason to shift the financial burden onto the entire Bar given (i) everyone has to undertake pupillage somewhere (and thus undergo the ethics assessment) and (ii) it is generally the wealthier sets that take pupils, and as such can afford the fee over those sets who do not take pupils and cannot so afford it.

Finally, I am mindful that the self-employed Bar should not carry the burden for those undertaking pupillage in-house at other approved pupillage providers, whose employers are even better placed to meet the cost.

Of course, if the Bar Council favours a different approach to ethics instruction that involves members of the Bar assessing it for free, then the cost will be greatly reduced. This might be another advantage.

My view is that any fees should not be levelled on the profession whatsoever and in regard to the ethics fee this should be paid by pupillage providers (chambers / training organisations)

In respect of the assessment method my view is that this is best integrated into wider assessment as far as possible.

I support the views of Bar Council that students should meet their own fees

I agree that the BPTC fees should be paid by the students. I am less sure of the ethics fee. It would be helpful to see how it would impact the PCF bands, which are already too expensive at the middle earning bands, in my view.

I do not agree that I should have to pay anything towards the BPTC for students including regulation and examination. This should be borne by the students themselves as I had to do. It is a matter of choice whether a student wants to do the course. Over three quarters of the students will never practice at the Bar of England and Wales and there is no justification for a subsidy of this kind.

As far as ethics is concerned I approve of an ethics course to be provided whilst either at the BPTC or during pupillage and to be provided by volunteers in the Inns on a weekend and at no cost other than the provision of accommodation to do the test at the end of the course. I feel the proposed charges by the BSB to be exorbitant and unnecessary.

As a member of the profession I will reap no benefit at all by the proposed charges. I am not an AETO and nearing retirement in the next few years. I had adequate training at qualification with ethics training provided by volunteer barristers when I qualified which was more than adequate. In fact, it was excellent. In pupillage I also got further useful training on ethics which equipped me well for practice.

Re: ethics - I support your proposal – it is a skill – and am happy for my view to be passed to the BSB.

I support the proposition that fees due for BPTC should be met by those undertaking the training.

Whilst it is a morally commendable response to share quality ethics training for all, particularly as many who undertake the course and do not succeed in pupillage end up working in paralegal roles with responsibilities akin to newly qualified practitioners; I believe it is too complex to split these aspects.

In my role as a * Rep on Bar Council there is a poor understanding of the PCF division. We have sought to improve communications in this area, but I fear that such

an initiative will damage the general practitioners' engagement with the Bar Council / BSB if they feel they are subsidising aspirant practitioners, some of whom have poor chances of success.

1. I strongly support the Bar Council's proposals (a) and (b). I consider this to be by far the best solution because it addresses the problem of costs, risk and social responsibility. These are problems which any BSB reform should aim to address. I agree with the presumption in the BSB paper that the costs are necessary.

2. I consider that ethics ought to be taught as a skill prior to pupillage, the testing of which should be carried out by the pupil supervisor, and the Inns over the course of the first six months of pupillage. That should ensure that only those who are sufficiently competent in the skill commence practice at the Bar.

3. I consider that ethics should be tested in the form of problem questions rather than standard interviews or multiple-choice questions which may place certain well-resourced individuals at an advantage.

I agree that it should not be the individual pupil who pays; however, as the interviewing would be done by the Inns as part of members' voluntary service to the Inn and profession, I query the amount of the proposed fee, which could be lower than that proposed in my view. I agree that neither short answer, nor multiple choice testing of ethics is acceptable.

It is my view that the ethics of the profession is at the very heart of what is conveyed by pupillage supervisors and by chambers' and Inn activities during pupillage; a theoretical ethics examination in itself, external to the coal-face training in pupillage, must not become the focus of pupillage training, in my view. Pupillage must not be seen as training preparation for the external ethics examination, as this will undermine the value of the pupillage experience. Ethics must continue to be the very substance of pupillage in itself, and any testing of ethics should be done within the Inns.

I support the Bar Council's propositions, both in relation to the charges for the BPTC stage (charge to individual students - or to the course providers, given the profits they currently make from many students who will never gain pupillage?) and for ethics training, save in one respect. There is no mention of the Circuits. Here on the North

Eastern Circuit we currently provide all necessary training for pupils and new practitioners, on circuit, and for free. It will be our intention, when the curriculum is published by the BSB, to offer the new negotiation skills course on Circuit. We will endeavour to do the same in relation to whatever is proposed in relation to ethics training. We would be grateful if, in any joint response on behalf of the Bar, the vital role of the Circuits is mentioned alongside the role of the Inns.

I agree entirely with your approach, especially that relating to your proposal to assess ethics through standardised interviewing. There are challenges, including ensuring those who train away from London (including at the employee Bar) are able to prepare for and to access these interviews on the same terms. There is an opportunity here to provide a central role to the Inns as an extension of their post-pupillage New Practitioner training, though I would not support deferring this assessment to that course, as ethics are too important and too practical to wait that long.

I agree that the new fees should be paid by the students Also the same case for the ethics exam as many of those pupils do not get tenancy and all of course are already funded by chambers i.e. by we barristers While I am quite senior I do much Legal Aid work and I find that I have less and less disposable income and another professional fee levied would add to my financial pressures.

I agree and am happy for my view to be communicated to the BSB.

Firstly, I would like to query the amounts quoted by the BSB: to charge a pupil £800-£900 to sit an ethics exam (which at present, is part of the BPTC), seems exorbitant.

The additional proposed cost of £800-900 for setting the exam and marking has me scratching my head - is this to mark the same ethics exam or something else entirely? I couldn't quite work it out from the document attached to the email.

It strikes me that the Bar Council/BSB are trying to find an imaginative way to generate income, which I completely understand is a necessary part of running a business. But is this really the right way?

Pupils are likely to have already been saddled with tens of thousands in degree fees, some will have paid an additional £10-15k for the GDL, and then an additional £15k for the BPTC. To ask them to pay £1,600+ to take an exam which they currently take as part of the BTPC would be a huge bar to entry.

I worked as a nightclub bouncer to pay my way through university and worked three jobs (full-time and part-time) alongside the part-time BVC. When you added in the qualifying sessions, the fees, the high cost of living, the cost of having to commute into the city centre to study (etc.) and the difficulty in securing any further loans on top of the burgeoning debt already accrued, an additional £1,600 would have finished me off as a pupil. I already had weeks where I could barely afford to eat, and I know that other pupils will be in the same boat.

Further, those in practice areas that don't pay too well, such as crime, are not likely to ever recoup the investment made in the profession to the same degree as those practising commercial and civil.

The document justifies such a huge fee on the basis of other professions being able to charge like amounts for professional courses only, as opposed to looking at the cost of providing the course. If, however, you look at other courses taken during pupillage, it's clear that £1,600 is not comparable or good value. For example, the compulsory Criminal Forensic Accounting course run by BPP is two full days and includes face-to-face teaching by professionals, a printed paper and online file of notes, marking and a certificate. It costs £348, which seems reasonable given that it's pupils who sit the course.

I'd like to see the BSB justify the fees - i.e. how were they arrived at and what are the margins - before suggesting who pays them.

I feel that there are already too many bars to entry for those from disadvantaged backgrounds, and specifically in relation to my practice area (Crime).

I teach on the BPTC part-time, and Ethics is probably the least challenging subject in terms of teaching and marking, as it's largely common sense combined with knowledge of the Code of Conduct.

If the BSB/Bar Council wants to find better ways to create revenue, I'd like to see an online learning hub for practitioners. It would be useful and inclusive to have a continuing education program that teaches advanced advocacy, how to change practice areas, business development, (etc.) in an online format. I'd love to start doing some civil law, for example, but wouldn't know where to start. I'd love to improve my advocacy (even ten years in!) and iron out the bad habits I know that I've picked up along the way. I'd love to know how to make the most of being a sole practitioner and what the current rules are regarding advertising. How can I use social media to boost my business (etc.)?

If there were some practical masterclasses online, I would gladly pay for them. Being a working mother and sole practitioner based in Manchester, I often feel a bit left out of things and it would be good to see more online support and a community for practitioners. There are loads of things that the BSB/Bar Council could charge for, but charging pupils nearly £2k for the ethics exam doesn't sit comfortably with me.

I do NOT consider that the Bar should meet the cost of face to face ethics training.

Online tests are fine.

And until we take the sensible step of making obtaining a pupillage a pre-requisite for doing bar finals, the student body is too numerous.

In respect of the first issue on which views were requested- the proposed charge of £875 for supervision etc. of the BPTC. My views are broadly in line with those of the Bar Council. The fees for the BPTC are high enough to present a barrier to entry for some who would like to become barristers, an additional charge of £875 won't help. But, far more students take the BPTC than could ever get pupillage, either because they wish to practice in their home jurisdiction or because of the competition for places - it is difficult to see why the profession as a whole should bear the costs of supervising the training of students who either don't want to practice in this jurisdiction or who have a very limited chance of ever doing so. Passing the cost to the profession would seem to be a subsidy for the BPTC providers. Individual students should be taken as knowing the prospects of obtaining pupillage and be expected to bear the cost of 'having a go'.

For context, I finished the BPTC relatively recently (2012), received means tested assistance at university and took the BPTC without having secured pupillage (albeit with the assistance of a scholarship, without which I couldn't have afforded the course)- students with a realistic chance of obtaining pupillage had a pretty good idea of the competition for places and their prospects.

In respect of the second issue, the provision of ethics training, I again agree with the Bar Council's position- pupils will be more impressed by (and take more away from) senior practitioners volunteering their time than they would from BPTC style teaching/ lecturers (the practitioners being the best thing, in my view, about the advocacy courses). In respect of funding however my view is this should be borne by the pupils (or preferably their chambers, as part of the package offered to pupils) - this is (or was) the position for the forensic accounting course and I can't see a principled distinction between the two - the costs envisaged are fixed per pupil in both cases.

Public funding in certain areas of the bar is a travesty (until recently I had a 50% civil legal aid practice), but the answer doesn't seem to me to be subsidy from other areas - this simply supports an inadequate funding regime.

I agree with your proposals regarding the funds of the new fees.

I also agree with your proposal that ethics should be learnt during pupillage and tested by an interview panel. I think the very nature of ethics means it is not suitable for a multiple-choice test. The preparation for an MCT leads to a dry, technical understanding of what exactly the BSB handbook says, rather than a deeper understanding of what can sometimes be difficult or nuanced issues.

I agree that the fees should be borne by the students. I probably would say that even if all were going to join the UK Bar, but it is entirely wrong that the profession bears costs for the considerable numbers who do not intend to do so.

I agree ethics is not a topic for multiple choice questions. The nature of the issues demand interaction. I support the interview as a more appropriate method.

I assume that you have the information to judge the level of fees as appropriate or not and will indicate they are too high if that is a proper conclusion.

1. The students themselves should pay for the BPTC regulatory fees.
 2. The profession should pay for the ethics element.
 3. I think that the Inn panels are a good idea, but I am not sure that they should take the place of an exam, but rather could supplement it.
-

My view is that students should meet both the regulatory fees and the ethics fees themselves.

I agree with the Bar Council's proposed response and for the same reasons.

I am also of the view that in recent years a career at the Bar has been unattainable for many young people whose ambitions collapse in great disappointment matched only by the size of their debts.

I believe it is high time the profession addressed this situation for the good of society.

I appreciate that's a different matter, but not wholly unconnected with the current training process.

1. I agree with the Bar Council view that the BPTC regulatory fees should be met by the students themselves.

2. I agree with the Bar Council view that testing of ethics should be carried out by the Inns through an interview panel.

I do not agree with the proposal that the practising Bar should bear the cost of the ethics exam to be taken by students during pupillage, for essentially five reasons:

1. BSB and other regulatory costs for barristers have been increasing over recent years above the rate of inflation, and there is regulatory creep, the BSB seems to be doing more and more, with higher cost and limited tangible benefit. Meanwhile barristers' fee earnings are not increasing at the same rate, and many practising barristers – even well-established practitioners – are experiencing severe financial difficulty, and their ability to continue in the profession is borderline. You will be well aware of the difficulties faced by the junior bar, the Criminal Bar and those at all levels who do Legal Aid work.

2. I do not fall into any of these challenged categories - I do only privately funded work and am well-established and successful. Nevertheless, I am struggling financially, my income from month to month is highly variable and uncertain, but I have fixed monthly costs including a mortgage and 2 dependent children. I am frequently in debt and have experienced ill-health as a result. BSB and Bar Council charges for established practitioners are unfairly high so that established practitioners bear a disproportionate burden of all general costs - apparently on some "Robin Hood" principle? IT IS ESPECIALLY UNHELPLEFUL that the BSB and Bar Council fees are imposed in February/March every year, there cannot be any justification for that when it could be in any month. You will be aware that self-employed barristers have to pay the greater part of their income tax on 31 January each year so that this is inevitably, for most barristers, the most difficult time of year financially, and in addition the Bar Mutual insurance premium is payable in March.

3. The £875 fee for the ethics exam seems absurd – how can it cost in the region of £500,000 to set an exam for a few hundred pupils, and who is benefiting from this

money? If the pupils have to pay this charge directly themselves, then that at least provides some constraint on financial extravagance by the BSB. In contrast, if the general Bar covers this cost, there will be the opportunity for the BSB to increase the cost in subsequent years with little effective oversight or constraint, in the same way that it has been impossible to reduce, or prevent increase in, other collective costs. The BSB and the level of its regulatory charges are fundamentally and structurally uncommercial, and as such, unfair. The Bar Council should be doing far more to resist the BSB's charges and challenge their budgets. Your paper is symptomatic of this, your paper "presupposes that the proposed costs are necessary" - when even a back-of-the-envelope calculation suggests that that is unlikely to be correct.

4. There are more students in pupillage than end up becoming practising barristers, I don't know exact ratios but anecdotally would estimate that only around 1 in 3 succeed. Those who will not become practising barristers need to be aware of the huge waste of cost and effort their training and examination involves, for no benefit to the profession or the public (it may of course have personal benefit, in that it may equip them for lucrative legal careers elsewhere).

5. Pupils already receive generous pupillage awards and cannot be thought to be impecunious – they are, in general, able to pay this cost themselves.

1. I agree strongly that BPTC regulatory fees should be met by the BPTC students (or even possibly some of the large profit-making institutions that run the BPTC courses). I agree that it is not for the profession to subsidise the majority of those taking the BPTC that will not be able to come to the Bar.

2. I agree that the ethics fee should be met by the PCF, since it is in the interest of all of us at the Bar that students should be properly trained in ethics, as opposed to that fee falling only upon those sets that take pupils.

3. I also agree that the testing of ethics via an interview process would work just as well as (if not better than) a written test.

1. The Bar should NOT be called upon to pay either sum. The ethics fee will no doubt be paid by individual chambers, but such should be a matter of DISCRETION for each set.

2. There is simply no need for an exam following the ethics course (and therefore no need for the absurdly high costs associated with it).

I agree with the proposal that the BPTC regulatory fees should be met by the students themselves (or their institutions). While I sympathise with students having to pay ever higher fees for the BPTC (and question whether many of them are receiving value for money), it is not for the Bar to subsidise this, particularly given the relatively low percentage of those taking the BPTC that will come to the Bar.

I accept that there it may be more appropriate for the Bar to contribute to the costs of testing/training pupils. However, I am unclear as to the necessity for the new testing by the BSB rather than this being administered through the Inns, who already deliver excellent training during pupillage (which includes some training on ethics). Multiple choice testing would not provide a rigorous test (or prepare you for life at the Bar) in the nuanced area of ethics. I am in favour of strengthening the ethics training already provided by the Inns as proposed in the email below.

I have to say I'm rather surprised to hear that it costs £875 per student for the BSB to oversee the BPTC and to set and mark 3 papers, particularly given the formulaic nature of the course. It's even more surprising to hear that it would cost the same figure for them to administer a single exam to be held during pupillage. Frankly, the BSB have taken their eye off the ball to a significant extent with the BPTC, and this rather smacks of rewarding them for this, or at least not holding them to account.

That said, I appreciate that you may well have looked into it some detail and may have been persuaded that the level of fees is necessary. If so, then the approach you advocate in your email seems sensible, providing that the inns are fully engaged with the proposed ethics exam and consider themselves likely to be able to find sufficient volunteers to conduct the interviews. Indeed, I am a believer in the inns when it comes to ethics - I think they are generally well placed to promote the sort of standards we would want to maintain, but which are often seen as old-fashioned in the face of an ever-more competitive world. So, enshrining their role in the ethics element of training seems wise.

As a volunteer ethics trainer for my Inn, I agree with your proposals.

I agree with the Bar Council's position on this. I also wish to add that I would support

the proposal for ethics to be a skill tested by members of the Inns and would be willing (time and commitments permitting) to volunteer to be on such a panel.

I agree with the Bar Council's proposed approach including the way in which it is suggested that ethics should be assessed.

I agree that (a) the BPTC regulatory fees should be met by the students themselves, since it is not for the profession to subsidise the majority of those taking the BPTC that will not be able to come to the Bar; but that (b) there is more of a case for the ethics fee to be met by the PCF, since it is in the interest of all of us at the Bar that pupils should be properly trained in ethics, as opposed to that fee falling only upon those sets that take pupils.

I agree with your suggestions re the fee allocation (i.e. first stage on students, second stage on the profession). I think 2 lots of £875 is an appalling amount to charge. I remember well an afternoon at Cumberland lodge whilst in my BVC year chatting through ethics problems with various benchers of Middle Temple and then picking things up from QCs in chambers once I entered practice. I imagine an oral test, perhaps based on a scenario given 48 hours in advance, could well be both more testing and, if the tone of the process is right, pleasant. Whether the Inns will be keen to pick up this burden I don't know. I'm involved in scholarship interviews and I know that they do struggle sometimes to get panels together to do those.

I am in agreement that the BTPC stage should be funded by the pupils themselves.

As far as the funding of the second stage is concerned, my chambers simply cannot afford the costs of funding a pupil to increase yet further. We are a small Chambers practising principally in crime and have continued to take pupils - most of whom have joined Chambers as tenants - through a period when many other chambers, some with far greater financial resources than ours, have given up taking pupils because of the financial and administrative burdens. We do this because we need to take pupils in order to grow, and because we see it as important that chambers do their bit in ensuring that the Bar continues to thrive. However, we have already been considering how long we can continue to provide an annual pupillage, given the recent substantial

increase in the minimum funding requirements. £875 may be a small cost to larger chambers or those with more lucrative practice areas but it is not to us. Perhaps more importantly, I feel very strongly that ensuring that new Counsel are properly trained and fully grounded in ethics is in the interest of the Bar as a whole, not just those chambers providing pupillage, and the costs of properly assessing this should therefore be paid for by the Bar as a whole.

As far as the method of testing is concerned, I do not think that asking people about hypothetical scenarios in controlled environments is the best way of making sure that counsel understand their ethical obligations. A panel interview, towards the end of pupillage, in which candidates are asked by practising members of the Bar in their own fields, about real issues they have come across, seems far more likely to be effective. A couple of things do concern me about this approach - firstly, I think candidates should be encouraged to talk about situations they have actually come across, but it should be entirely confidential so if - for instance - they think a senior member of chambers (or a judge!) did something they have reservations about, they should be able to raise this in confidence that it will not get back to them - it may be sensible to have assessments carried out by barristers from different circuits from the pupils. Secondly there should be some option for retraining and reassessment for those candidates who just miss the mark.

I very much agree with the proposals you have set out and which the Bar Council plans to put forward to the BSB. I agree both with the proposals regarding who should bear the cost of new fees and the approach to testing ethics. BPTC students themselves should bear the cost of regulatory fees. It remains the case that a great many BPTC students will in fact never practice and many remain individuals who intend to return to their home jurisdiction and see the BPTC as an impressive credential rather than a necessity towards a successful practice at the English bar. I have been to many recent law student events and presentation evenings and have found this to be remarkably common. As someone who completed the BPTC in 2016 I clearly recall, for example, members of my advocacy class who struggled with English as a second language. Now as a practicing barrister I feel very uncomfortable at the thought of subsidising these same candidates.

In regard to the ethics exam I agree that this should be funded by way of the PCF as it is in everyone's interest that incoming pupils/tenants are properly trained in ethics, irrespective of whether your chambers in fact takes pupils. I would also support the approach to ethics as a skills (rather than knowledge) based subject, not least because this is how ethics comes up in real life. A skills approach that builds upon rote learning of the 10 Core Duties (and not the dreaded entire handbook) and real-life scenarios is much to be preferred.

I agree with your proposed responses on the consultation. Obviously leaves begging the issue of the scandalous fees charged by providers for the largely pointless BVC, & the fact that introducing a yet further cost will definitely be a yet further hurdle to poorer students wishing to come to the Bar...

I agree with the Bar Council's position that fees should be met by the students themselves. If the present situation in which an unrealistically large cohort of students is allowed to take the BPTC every year (generating profits for the many private institutions running it), many of whom have no intention of practising in England and Wales, and most of whom will not obtain pupillage, then it is not for the profession to subsidise those costs.

I also endorse the ethics test to be carried out by the Inns as you suggest. There seems to be no reason why this could not be incorporated into the pupillage advocacy weekend.

I agree with the suggestion of ethics interviews rather than an exam. However, I would favour this being done in the first year or two of tenancy rather than during pupillage. Pupillage is already rather crammed with assessments and ethics assessments would risk becoming just another box to tick. Moreover, the first couple of years of tenancy are the time when ethics issues are very likely to arise (and thus the time when this sort of course would have the most impact and best support our emerging practices).

I think it is desirable to have ethics taught and examined during the BPTC. Anyone who holds themselves out as having completed that course should be aware of the Bar's ethical requirements, and the other elements of the BPTC have to be taught in the context of the ethical and professional standards that apply to the Bar.

I agree with the interview form of assessment but that could be done by the BPTC providers. The cost would therefore fall within the cost of the BPTC.

I agree with your views as to the proper response to the BSB ATO consultation.

I would support the Bar Council's position on each issue in your email, i.e. I agree that:

1. The BPTC regulatory fees should be met by the students rather than via the PCF.
2. The ethics fee should be met by the PCF rather than by students if those are the only options, but an interview system conducted by the Inns for free would be a significantly preferable alternative.

I would be happy to communicate this to the BSB.

If the BSB has provided a detailed explanation of why the proposed cost increases are necessary I would be interested to see it.

I agree with the "Bar Council" view set out below on both issues (funding and the teaching of ethics). I am happy for that view to be communicated to the BSB.

I agree with your proposed response (a) "the BPTC regulatory fees should be met by the students themselves, since it is not for the profession to subsidise the majority of those taking the BPTC that will not be able to come to the Bar". I do not agree with your proposed response (b) "there is more of a case for the ethics fee to be met by the PCF, since it is in the interest of all of us at the Bar that students should be properly trained in ethics, as opposed to that fee falling only upon those sets that take pupils". Pupils represent a resource for chambers and most are deployed as such. It should be the responsibility of chambers to meet the cost.

Generally, those representing the bar, whether the Bar Council or specialist associations, ought to pushback against the seemingly endless charges that are being levied to support various administrative and bureaucratic functions. We all pay quite enough as it is. Please communicate to the BSB.

Having played a role in teaching ethics, having been involved in professional negligence and regulation for 30 years and as a former member of the BSB I wholeheartedly support the proposal for ethics teaching to be funded on the broadest basis and to be Inn based. This is an area where educational failures place consumers

and the professions at great risk. The modern approach to regulation, which has blurred the hard edges of conduct issues makes the highest standard of educational provision essential.

It is not clear to me what the impact of any proposals will be on the level of the PCF - this is a significant factor to take into account. If the impact will be only marginal, then it would be less of a significant issue to include further costs, whereas if it would be a substantial and material increase, this should be a factor against including any such fees within the PCF.

It is not clear to me why any training fees for students should be included in the PCF, nor do I see the merit in treating ethics differently to the training fees - the profession wants barristers with strong ethics and competence - both are important. Training in relation to both ought in principle be paid for by the recipient.

If costs are prohibitive, then answers to that may be to offer some form of subsidy, perhaps funded through the PCF, but alternatively and perhaps more logically student funding from scholarships, pupillage awards etc should provide the necessary assistance.

Funded by students/ pupils makes most sense. There does not seem to be anything particularly different about ethics training that merits it being funded by the profession more generally compared with other training costs.

If further costs are added to the PCF, this may make it difficult for practitioners who do not come from wealthy backgrounds and/ or do not earn well.

1. The initial fee should be paid by BPTC students as part of their training.
 2. The subsequent fee for the ethics exam should also be paid by the students (although chambers could of course decide to reimburse it).
 3. I have no strong view as between the written ethics exam and the interview panel.
-

I was called in 2017 and am in my first year of practice. I completed the Bar Course at BPP from 2016-2017 and pupillage at ... from 2017-2018.

Vocational Fees

It is clear to me that individual students ought to bear the cost of these fees in respect of the BPTC.

While there is already a concern over the cost of the Bar Course (it is in my view deeply exorbitant already), the number of individuals who complete it who do not ever intend to practice in the UK, or never will, is very high. I was deeply surprised by how many of my cohort had no intention (or no hope) of ever practicing at the Bar but were nevertheless pursuing the course.

It would be an undue imposition on the profession to expect it to collectively fund this cost – which in most cases will not benefit the profession as a whole. While the increase in fees is highly undesirable in the current circumstances, I would hope that the Inns through their scholarship programmes or otherwise can help to ameliorate this extra cost – and that the future changes to bar training will act to reduce the cost of studying for the Bar in general.

Ethics Exam Fees

I do not think that it would be right for either pupils or their chambers to bear the cost of the proposed fees for the new ethics exam that is to be sat during pupillage. Pupils are afforded vastly different levels of financial support, and a flat fee (in effect for completing their training) has a whiff of a poll tax (I note in addition that £875 per student would be a large percentage of a pupillage award at a publicly funded set). Furthermore, many sets in my understanding (especially at the publicly funded bar) already find it difficult to meet the costs of providing pupillages - I can only imagine that this would further strain budgets – and put a downward pressure on the number of pupillages offered.

For this reason, I would support some sort of collective funding of the fees for the ethics exam – most obviously through the PCF. A properly regulated and provided ethics exam in pupillage would be a benefit to the entire profession – there does not seem to be anything wrong with asking the profession as a whole to cover it.

The Ethics Exam - Changes

I sat the ethics exam when it was just SAQs (some 8 or so as I remember). The exam was, if you will forgive me being blunt, pretty useless. It was as much an exercise in guessing what the mark scheme wanted you to say as engaging in any sort of ethical reasoning. In that sense it is quite a capricious exam - and many good students fail it (I know a couple who did) not because they lack professional ethics, but because they are unable to guess what the examiner counts as a reasonable answer and what they don't. This is especially tricky because more than any other subject there are a spectrum of "right" answers to many questions.

Furthermore, much of the exam was focused on reciting “core duties” rather than practical reasoning – this struck me as a complete waste of time.

While infinitely better than MCQs, it was not in my view fit for purpose.

If ethics is now to be sat during pupillage then the approach recommended by the Bar Council of testing by a standardised interview panel has much to recommend it. It would allow pupils to engage in the reasoning and to have their answers explored by a panel of knowledgeable practitioners, ensuring (a) that they were not just spouting lines without real thought but understood the reasons that drive particular ethical standards/duties and (b) that those marking have a proper chance to understand the reasoning and thinking that is behind the answers given by asking questions and probing the process of judgment that the candidate is undertaking to reach the answer given. I would be glad to give up my time to sit on such a panel and I am sure that many other members of the bar would be too.

I support the approach of not putting the cost of BPTC regulatory fees onto the bar. Those costs should be put on the providers and the students. The providers run this unattractive racket of having vastly more places than there will ever be pupillages and I see no basis for practising barristers to be subsidising it (and thus implicitly encouraging it).

As regards the cost of ethics examinations during pupillage, if indeed an examination is needed during pupillage (and I am unpersuaded that it is, as the Bar has not needed one previously), the overriding consideration should be to keep the costs down. If indeed a form of exam during pupillage is necessary, and volunteer interview panels convened by the Inn are the best way to keep costs down, then I would tend to support that.

It is very important that the BSB and indeed the Bar Council stop treating the practising bar as, in effect, cash cows who can simply be hit up for more and more money as and when needed. This tendency, which seems to be strong in both organisations, needs to be resisted.

I agree with you that the BPTC regulatory fees should be met by the students themselves, since it is not for the profession to subsidise the majority of those taking the BPTC that will not be able to come to the Bar.

Whilst the same argument might be made in relation to the ethics fee, I am persuaded that the ethics fee should be met by the PCF, as I think the Bar should be prepared to shoulder at least part of the burden, and as you say it is in the interest of all of us that

students should be properly trained in ethics. It is my firm view that if the ethics fee is to be borne by the Bar it should be borne by the Bar as a whole through the PCF and not by the pupils' chambers. This is not only for the reason you give (that it would be unfair for the cost to fall only upon those sets that take pupils), but also because it is likely to place disproportionate strain on the pupillage budgets of sets doing mostly publicly funded work.

I am not sure I agree with you that ethics is a "skill" to be learned like any other during pupillage, but I do agree with you that pupils must be trained and rigorously tested in this area, and I support your proposal that testing should be carried out by an interview panel, standardised across the Inns, and staffed (for free) by members of the Inns. Of all relevant institutions, the Inns of Court have the widest access to the necessary resources of experience and expertise to carry out this important function.

I agree that the BPTC regulatory fees should be met by the students themselves, for the same reason you give in your email, i.e. that it is not for the profession to subsidise the majority of those taking the BPTC that will not be able to come to the Bar.

I also agree that the ethics fee for those students who are undertaking pupillage should be met by the PCF, again for the same reasons you give, i.e. that it is in the interests of all of us at the Bar that pupil barristers should be properly trained in ethics. I am also conscious that the proposed fee of £875 per pupil would have a disproportionately high impact on criminal sets which are already experiencing financial challenges.

As for the ethics exam, I am strongly against the machine-marked multiple-choice approach, as in my view that does not lend itself at all well to the nuances of ethical issues and the complex judgements that are required in considering such issues.

One concern I have about the proposal of a course examined for free by members of the Inns is that this depends heavily on those individual members with busy practices giving up considerable amounts of time. However, the success of the Inns' advocacy courses suggests that many practitioners are willing to make that sacrifice. Further, it strikes me that it would be more appropriate for this testing to be carried out by practitioners who have real-life experience and understanding of the sorts of ethical issues which may arise in practice, rather than the pupils' papers being marked by other individuals who may not have the same understanding.

I have read the paper and agree with the Bar Council's views as summarised in your email. I also support in principle the proposed approach to ethics testing set out in

your email. In my view (and in my experience of the BVC, as it then was, in 2007-8) the testing of ethics does not lend itself well to testing by multiple choice or even short written answers.

I agree with the approach.

I do agree with you. I can see that there is an argument for the relatively modest cost of the ethics fee being met by the Bar as a whole (provided it is only the pupils' fees, rather than all BPTC students) and for testing by an interview panel staffed by members of the Inns rather than short-answer questions marked by paid examiners. The Inn training also has a side-effect of getting more senior practitioners thinking and talking about the questions, rather than it just being an exam-room question.