the barrister

#105 ESSENTIAL READING FOR BARRISTERS
3RD JUNE - 31ST JULY 2025

EST. 1999 PRICE £2.80

TRINITY TERM ISSUE www.barristermagazine.com ISSN 1468-926X

Safety at Court: A Cornerstone of Access to Justice

Until April 2024, I took general court security and special measures for granted. As a practitioner frequently appearing in the Family Court in domestic abuse-related matters, I would arrive at court and only take notice of the security measures for the time it took to have my Bar Council pass scanned and be ushered through, before I rushed to hunt down a conference room that had hopefully been set aside for my client in accordance with special measures. My blasé attitude came abruptly to an end when I was assaulted last year at court by my opponent, a litigant in person.

This was a case where my client had asked for special measures, having previously been assaulted by her ex-husband (for which he had been convicted). On this day – as is often the case - the court did not have sufficient capacity to cater for the number of cases in the list that required separated conference rooms. Conference rooms – thin on the ground at the best of times – were therefore incredibly limited. I thought I was lucky therefore to secure a conference room for my client at all. However, it quickly emerged that this room did not provide sufficient protection. The location of the room was such that my client had to walk past her ex-husband to get to and from the toilet facilities, or indeed the entrance / exit. Every time she did so (accompanied by either myself or my solicitor), the litigant in person would make comments loud enough for her to hear, seemingly in an attempt to intimidate her. I raised repeated concerns throughout the day to court staff regarding this behaviour, however, there was no other place for the court staff to move him to, nor were there sufficient security guards on duty to cover both the court entrance as

Jessica Lindgren, Barrister at KBW

p.6

From Compliance to Commitment: Embedding EDI in the Legal Profession

Disability Pride Month ***("DPM")*** is approaching, and an opportunity to discuss the positive impact the Bar Standards Board's (the ***"BSB"***) package of Equality, Diversity and Inclusion ***("EDI")*** reforms on addressing some of the remaining problems faced by disabled barristers. DPM is held each July to commemorate the enactment of the Americans with Disabilities Act (the ***"ADA"***) on 26 July 1990. The first celebration was held in Boston, and it is celebrated annually in various U.S. cities. Unfortunately, Brighton is the only UK city to host a similar event, despite the UK's potent disability rights activism since the 1980s and 1990s. Protests, including those against negative media portrayals and efforts of disabled people, led to the Disability Discrimination Act 1995. However, we have adopted the annual event into our calendar.

Challenges around accessibility and inclusion remain. Within the legal profession, disabled barristers are leading the movement to address these concerns, coordinated by groups like the Association of Disabled Lawyers (the ***"ADL"***), Neurodiversity in Law, AllBar, Barristers with Lived Experience of Mental Illness (***"BLEMI"***) and Bringing (Dis)Ability to the Bar (***"BDABar"***). Bar Standards Board (the ***"BSB"***) Disability Taskforce and Bar Council's Disability Panel also contribute to representation and reform.

These welcome reforms will introduce an outcomes-focused approach while retaining prescriptive requirements for transparency and accountability.[1] Central to these proposals is the recasting of Core Duty 8 from *"you must not discriminate unlawfully against any person"* to *"you must act in a way that advances equality,*

p.7

Features

Publishing Director: **Derek Payne**
0203 5070 249
email: **admin@barristermagazine.com**
Publishers: **media management corporation ltd**
Design and Production: **Jeremy Salmon**

The Problem of Denying Pupil Barristers Access to Hearings

Despite the mandatory nature of pupillage, one issue continues to frustrate both pupils and their supervisors: refusal or objection to a pupil's attendance at court hearings. This problem often arises without warning, sometimes scuppering the pupil's best-laid plans for training and development. Worse still, there is currently no guidance from the Bar Standards Board (BSB), the Bar Council, or the judiciary on how such objections should be addressed.

By Avaia Williams, Pupil Barrister, Park Lane Plowden Chambers

It is counterintuitive that a pupil barrister could be excluded from observing a hearing. Pupillage is the only route to qualify as a barrister, and observing complex, contested proceedings is central to learning. Yet, in practice, many pupils find themselves at the mercy of solicitors, litigants in person, other counsel, and even the court themselves, who, for varying reasons, object to the pupil's presence. Such objections can, and do, result in the pupil being excluded from court, often from the very hearings which are most significant for that pupil's learning. The problem has a direct impact on training and professional development as well as impacting pupil's confidence and preparedness.

The Nature of the Objections

Objections may arise from a client's concern about confidentiality or a misunderstanding that the pupil's presence could lead to breaches of professional or legal duties. Occasionally, it seems to stem from an opposing representative's misguided perception that the pupil's attendance might in some way disadvantage their client, including some pupils reporting that the other side has felt "ambushed" by their presence. Regardless, these concerns are typically focused on a misunderstanding, perhaps, of both the role and the ethical obligations of pupil barristers.

Pupils are regulated by the BSB; they are bound by the same core ethical duties, including confidentiality. They also operate under their supervisor's professional insurance. A pupil is not a rogue actor with no sense of professional responsibility. A pupil's entire purpose is to learn, and any misconduct during pupillage is likely to jeopardise their entire career. A career which, all those reading will understand, is not easily obtained. Therefore, there is little logical reason to assume that a pupil would misuse or disclose private information.

Variable Responses to Pupil Attendance

Responses to objections vary widely from supervisors, solicitors, chambers clerks, legal advisers, and judges when confronted with an objection, perhaps because of the lack of guidance, or being taken aback by the objection and no clear route to challenge any objection or refusal to allow the pupil to attend. Some supervisors will specifically raise the issue in court, making robust submissions on the pupil's need to observe. Others, likely out of a desire to avoid conflict and overall, in their client's interests, accept the objection. I myself, on one occasion, had travelled 90-minutes to attend a significant Court of Protection hearing which would have ticked off several points of learning, only to be turned away, literally at the door of court, because the Official Solicitor of all parties objected to my presence having not been able to take their client's views on the matter. What was shocking, not only to me, but also other members of Chambers, is that this effectively resulted in a position where a journalist or member of the public (under a Transparency Order) could attend, but my attendance as a pupil was not seen to be permissible.

These variations in approach mean that pupils in different chambers, indeed in the same chambers but under different supervisors or within different practice areas, or dependant on how the initial notification of pupil attendance is dealt with, experience very different training environments. While flexibility is often lauded in legal practice, such variability in training experiences raises real concerns about fairness and consistency. The response to a pupil's attendance is often swayed by how attendance is presented: "Does anybody object to X's pupil attending?" can elicit a different outcome than "Ms X's pupil will be attending."

Impact on Pupillage and Training

From a training perspective, the consequences of being excluded from hearings can be significant. Pupillage is described as a yearlong process, but in reality, it is six-months of shadowing and learning before being thrown in at the deep end. Attendance at a broad range of hearings and discussions in the first six months is crucial to building knowledge and confidence.

If a pupil is frequently blocked from attending certain hearings, their exposure to essential courtroom experiences dwindles. This can lead to knowledge gaps, impacting the pupil's readiness to practise independently. Given that pupillage is already extremely time-limited, every missed hearing is a lost opportunity, potentially leaving the pupil less prepared for the rigours of life at the Bar. This is even more significant for pupils in practice areas where court attendance is less frequent. As a family pupil, being turned away from a hearing results in me simply finding another hearing to attend, but for a civil or chancery pupil, hearings may not be so readily available.

Surveying the Extent of the Problem

I conducted an informal survey of pupils on circuit (with invaluable support from the North Eastern Circuit), the results of which form part of the background for this article, and this confirms that objections to pupil attendance are more common than one might think. Pupils reported multiple instances in which their presence was challenged and most expressed frustration and confusion as to why their very status as a pupil triggered objections from people who had no basis for refusing them.

Refusal was common in certain areas, such as family, but extended widely to employment and clinical negligence. Surprisingly, even a pupil in crime, an area inherently open to the public, had been refused attendance at two hearings by the Judge, that pupil noting this

> *"knocked [their] confidence as I didn't know how I would learn what to [do] if I could not observe it."*

In one case, a pupil attended at court only for the legal advisor to the court to be the one to question their attendance and ensure that all parties were happy with them being there. Whilst that question was without malice, the very fact it was asked is indicative of the issue, that pupil barristers are not seen to have an inherent reason or right to be present in court with their supervisors.

Another pupil, whose supervisor spent an hour dealing with the issue of their attendance, responded that the impact of this was

> *"surprising but I didn't take it personally. If I had been refused, I would have been frustrated at being refused an opportunity to learn and observe what was a very useful hearing. It seems counterintuitive to refuse pupils when observing is a key part of first-six. While litigants in person may understandably not*

know the process of pupillage, judges could take time to explain the situation and enable proceedings to run smoothly. It's also caused unnecessary delays - had we not spent 1 hour disputing my attendance, the hearing would've finished on time."

The survey showed that most pupils had, at the least, experienced their attendance being objected to. This is not an issue that lays at the door of certain chambers or practice areas, it is ubiquitous. The absence of a unified approach in dealing with these issues means that outcomes are unpredictable. One expects that, in public courts, a pupil should have an easy right to attend. However, the reality is complicated by private hearings, sensitive matters, or parties who object for reasons that are rarely articulated.

The Need for Clear Guidance

The core of the issue lies in the absence of explicit direction from key regulatory and professional bodies. The BSB has set no specific rule or guidance note that addresses objections to pupil attendance in court. The Bar Council, whilst not the lead on such an issue, in representing barristers, could provide best-practice guidance; in any event, the Bar Council administer pupil supervisor training and so, clearly, they have a significant role to play. Meanwhile, the senior judiciary could issue simple directives to judges clarifying that pupil barristers are part of a party's legal team and are permitted to attend unless there is a compelling reason for exclusion.

A uniform approach, endorsed by these bodies, would give pupil supervisors, solicitors, and clerks the confidence to stand firm when an objection is raised. It would also reassure judges that they have the institutional backing to allow pupil attendance, rather than wasting court time and money dealing with submissions on these points.

There is a specific tension to be resolved around ones supervisor's own client objecting to a pupil's presence. Where this does occur, as limited as it may be, there is a clash of obligations: on one side, the supervisor's duty to act in the client's best interests above (almost) all else; on the other, their committed obligation to train the pupil. Understandably in such a case, supervisors will err on the side of client comfort. Yet this undermines the fundamental purpose of pupillage, which is to allow the pupil to witness proceedings first-hand, particularly those cases where there are such difficult issues or vulnerable clients. It is in such a circumstance where more specific guidance from the BSB would be welcomed.

Conclusion

Denying a pupil barrister the right to observe a hearing goes against the entire purpose of pupillage. It undermines the educational value of the process, sows further confusion about pupils, and generates tension between supervisors and clients. Where no legitimate interest is truly at stake, any objection to pupil attendance should not stand.

As things currently are, pupils are navigating a labyrinthine of varying attitudes and approaches. Without formal guidance, the response often depends on the personal inclination of individual supervisors, clerks, solicitors and even judges. This is simply not acceptable if we aim to foster a robust, well-trained, and adaptable Bar.

The remedy is seemingly simple, those bodies overseeing the Bar should take the lead in issuing definitive, yet ostensibly simple, advice or guidance. A standardised position, underpinned by clear explanations of the pupil's regulatory status and confidentiality obligations, would empower supervisors and pupils to resist unfounded objections and ensure clerks and solicitors are able to simply note that a pupil will be attending. It would also reassure clients and opposing parties that the presence of a pupil is both legitimate and beneficial.

Pupillage is not an optional extra – it is the single route to qualify as a barrister. With this in mind, there is every reason to ensure that no pupil's training is jeopardised by avoidable exclusions from court. By securing a uniform protocol that recognises and affirms a pupil's right to attend hearings, we can preserve the educational essence o f pupillage.

Avaia Williams, Pupil Barrister, Park Lane Plowden Chambers