



## **JASON ELLIOTT BARRISTERS PUPILLAGE PROGRAMME**

The following is the pupillage programme designed to satisfy each of the Collyear outcomes of pupillage:

At all times, pupils will be based at the Jason Elliott Barristers located at Suite 18, Albion Place, West Percy Street, North Shields, Tyne and Wear, NE29 0DW. Mr Jason Elliott or Mr Paul Fleming will be the pupil's supervisor.

Our aim is to give pupils a complete and thorough understanding and appreciation of the operation in practice of rules of conduct and etiquette at the Bar. We will aid them in achieving a working knowledge and understanding of the Code of Conduct and the written standards for the conduct of professional work.

During pupillage, the pupil will see the operation of the above in practice. Should a point of conduct and etiquettes arise, the pupil's input and consideration of the appropriate course of action will be sought.

The pupil supervisor will ensure that the pupil will cover the following over period of the pupillage:

### **Understanding all aspects of the cab rank rule in practice, including**

- The duty of not to withhold services save on proper grounds.
- The duty to not to take on work beyond competence or for which there is insufficient time and opportunity to prepare.
- The duty to not to take on work that may take cause a conflict of interest to arise or which may jeopardise the confidentiality of information belonging to another client or a former client.

### **Understand the relationship between Counsel and the Instructing Solicitors including:**

The importance of prompt response to the instructions.

- The importance of prompt responses to the instructions
- The driving line between decisions in the running cases that should and should not be made without first consulting with the client and the instructing Solicitor.
- Duties in the event that two hearing dates clash

### **Understand the duty to avoid conflicts of interest including:**

- The overriding duty to the Court
- The duties to the lay client and professional client respectively
- Duties when publicly funded

- When conflict arise or may arise between two lay clients for whom a Barrister is acting or is instructed to act jointly
- The several duties that may arise to the client, the court and to opponents if a pupil comes into possession of relevant information which he/she is instructed or requested not to disclose
- The circumstances when it may, or will, be necessary to withdraw from a case

**Understand the rules and practices relating to confidentiality including:**

- The status of clients privileged communications
- Duties in the event of obtaining confidential information belonging to other parties
- Duty to the client in respect of any relevant information coming into the barrister's possession
- Duty to ensure the preservation of client confidentially including appropriate practice in relation to reading papers or conducting conversations in public places

**Understanding the courtesies conventionally extended to other members of the Bar including those observed including:**

- On receiving instruction in a matter in which other counsel has previously acted
- On strike-out, or wasted costs applications

**Understand the responsibilities and duties when being led including:**

- The likely division of responsibilities
- The junior's paperwork tasks

**Understand what actions to take and what consequences may arise including if:**

- A complaint is made against a barrister
- A barrister is asked to give a witness statement or provide evidence
- A barrister is asked to withdraw from a case
- A wasted costs order is sought against a barrister
- A barrister is late for the court for a conference

**Understanding obligations in relation to practice management including:**

- The duty to have a current practising certificate
- The duty to keep or ensure that accurate practice records are kept
- The duty to comply with any continuing professional development requirement
- the duty to be insured with BMIF against claims for professional negligence
- The restrictions on advertising and publicity

**Understanding the duty of ensuring that practice is competently administered and the importance of maintaining:**

- Completion of Practice Management Course

- Sufficient records to support and explain details of fees claimed
- Proper financial records
- A proper record of hours worked and work done

### **Experience of legal research, drafting and opinion writing:**

The pupil supervisor will aim to aid the pupil in properly developing the necessary writing and drafting skills by providing feedback on examples of written work produced by the pupil. The pupil supervisor will also work in tandem with the pupil on performing legal research, furthering the skills in this area already developed on the Bar Course. These will be built upon, thereby allowing the pupil to correctly locate and apply information derived from the proper sources.

The pupil will achieve this by producing practical work and receiving constructive feedback on that work from the pupil supervisor. This will be provided as soon as reasonably possible by the pupil supervisor, in order that the work will still be sufficiently familiar to the pupil.

Upon conclusion of pupillage, the pupil will have achieved the appropriate degree of competence producing written work. Research skills, meanwhile, will be conducted more independently by the pupil, however the pupil supervisor will provide any required input, assisting the pupil in learning how to locate and apply relevant information.

### **Preparation of a case for a hearing (factually, legally, and procedurally)**

Depending upon the nature of the case, the pupil supervisor will guide the pupil to consult the relevant rules, such as the Civil Procedure or Criminal Procedure books.

The pupil supervisor will guide the pupil in relation to the following three elements of case preparation:

#### **Facts of the case:**

The pupil supervisor will:

- Aid the pupil in analysing the facts of the case, in order to be able to briefly summarise them following examination of the file.
- Eliminate facts that are not pertinent to the case
- Identify any gaps or ambiguities in the fact pattern
- Identify the strengths and weaknesses of the case
- Establish “proof”
- Distinguish facts from inferences.
- Determine the central issues in the case.

#### **The Law:**

The pupil supervisor will direct the student to:

- Consult the current laws that apply to the facts of a given case.
- Summarise the relevant law and apply it to the facts of the given case.

- Impart succinct, understandable and realistic advice to the client.

### **Legal procedure:**

The pupil supervisor ensure that the pupil consults the appropriate procedure rules, as detailed above. In the event that the case is a civil matter, the following will be considered:

- The overriding objective
- The use of pre-action protocols
- Case management by the courts
- The application of any case-specific rules (such as Small claims, Fast track or Multi-track)

In general, the pupil will be advised to organise themselves and their time well, ensuring that salient points are noted down and any questions are addressed. The importance of constant communication with the pupil supervisor and other members of chambers will be stressed, as will the necessity to stay alert and observe the practices of senior colleagues.

Thorough case preparation will be outlined to the pupil. The pupil supervisor will explain the importance of ascertaining:

- The facts required to be proved
- How they may be proved
- The evidence that will achieve this (be it physical or through testimony).

### **Experience of negotiation and conference skills**

The development of these skills will be addressed during pupillage, being essential elements in the armoury of a barrister. By the conclusion of pupillage it is expected that the pupil will be able to prepare for and conduct both conferences and negotiation independently. The pupil supervisor will observe the pupil's performance during both and ensure discussion of the pupil's performance thereafter, ensuring of course that proper instructions as to the requirements are given beforehand. It will also be ensured that there is an awareness of the requirements to take and retain appropriate notes of the contents of conferences.

The pupil supervisor will also ensure that the pupil has the opportunity of observing senior members conducting conferences and negotiations, seeking the pupil's input thereafter on what they have seen. In the event that the opportunity to conduct a particular sort of conference or negotiation, it will be ensured that this is at least discussed, in order to adequately prepare the pupil for such a future eventuality.

### **Conference:**

The pupil will:

- Be actively involved in preparation for conferences
- Observe the pupil supervisor and other members of Chambers during in person conference with solicitors, clients and Counsel

- Observe the pupil supervisor and other members of Chambers in the conduct of telephone conferences with the same

### **Negotiations:**

The pupil will:

- Be actively involved in preparation for negotiations
- Observe the pupil supervisor and other members of Chambers during negotiations
- Obtain an understanding of how to deal with opponents, dealing with clients and advising on settlements, including any additional considerations to be taken into account should the instructing solicitor be absent.

### **Experience of the trial and appeal proceedings in the higher courts**

The pupil will receive instruction upon the later stages of trial preparation, namely ensuring that evidence has been collected and exchanged as required, that all parties involved are fully prepared and will attend Court, and that evidence is presented in a manageable and understandable format for all parties, including the trial judge. Timetabling of trial dates will also be discussed, as will the duty incumbent upon solicitors to ensure the continued communication with witnesses, and to ensure their attendance.

The preparation and content of trial bundles by solicitors, and the lodging with the court in advance of the trial, will be covered. This will include (where relevant)

- the claim form and all statements of case;
- a case summary and / or chronology where appropriate
- requests for information and answers;
- witness statements with an indication of whether the contents are agreed;
- expert reports with an indication of whether the contents are agreed;
- Documents which any of the parties wish to have before the court.

In respect of the mechanics of the court, the pupil supervisor will explain to the pupil the structure and court hierarchy in existence, for example the progression of criminal matters from Magistrates' to Crown Court, depending on the seriousness of the case.

### **Practical experience of advocacy**

A central aim of pupillage is to provide the pupil with the skills required to become a competent and effective advocate. This encompasses both oral and written advocacy, as well as legal research to facilitate this. Ultimately the pupil will combine these skills to be able to perform to a high standard while operating under the pressure of time constraints inherent in practice at the Bar.

The pupil will be afforded the opportunity of observing experienced advocates at close quarters, and in a variety of different courts and tribunals in which the pupil could expect to appear in the early stages of their career. They will also discuss the fundamentals of effective

advocacy with the pupil supervisor. This will help the pupil to properly develop the skills required to operate independently.

During the second six months, when the pupil can expect to appear in court, the pupil supervisor will ensure that the pupil's preparation is supervised, and any difficulties addressed. Attendance on advocacy training courses provided by the pupil's Inn will also be encouraged and attend the Advocacy Compulsory Course during their first six.

### **In general**

The pupil supervisor will ensure that the pupil becomes familiar with, among others, the following:

- Modes of address in court and in chambers
- The proper use and mode of citation of authorities in court
- Proper conduct towards court staff, lay clients, instructing solicitors, witnesses (expert and otherwise, opposing advocates, litigants in person and lay advisers.
- Proper conduct towards the press and other media
- Counsel's responsibilities when dealing with a litigant in person or unrepresented defendant.
- The proper conduct of examination-in-chief, cross-examination and re-examination, particularly where there are restrictions in place due to, for example, bad character.

### **Trials, Applications and Final Hearings**

The pupil will receive instruction relating to the preparation of and attendance on trials, applications and final hearings. This will include the preparation of:

- (i) Skeleton arguments;
- (ii) Chronologies;
- (iii) Case Summaries;
- (iv) Minutes of order;
- (v) Bad Character and Hearsay applications and responses to same; and

The ultimate aim of this will be to employ the above in effectively delivering narrative advocacy as part of the trial, applications and final hearings.

### **Trial – witness handling:**

The pupil will develop skills in the following:

- Preparation and execution of examination in chief and cross examination, initially by observation and subsequently in practice.
- Understanding proper conduct in relation to witnesses.
- Understand the proper role of independent and expert witnesses.

- The special considerations which apply when dealing with children, vulnerable or intimidated witnesses, in particular, when and what manner of special measures may be appropriate to assist such witnesses.

**Appeals:**

In respect of appeals the pupil will develop the skills of preparation for oral advocacy on appeal in particular the preparation for use on an appeal of skeleton arguments. In the first instance, this will be through observation. The pupil will also be exposed to the rationale behind pursuing an appeal or not.