



Inns' Conduct Committee

Second Annual Report to COIC (2010/2011)

Introduction

1. This report is submitted in accordance with the Rules for the Inns' Conduct Committee (ICC Rules) r15.
2. In the course of this year the ICC has formulated draft guidance for panels for assessing whether an applicant/student is a fit and proper person to become a practising barrister. This guidance inter-links with draft Decision Guidelines relating to the imposition of sanctions. New guidance is attached to this report as follows:
 - An updated Practice Direction on minor matters which may be retained by the Inns for determination, pursuant to the Bar Training Regulations (BTR) r113 and ICC Rules r 47 (Annex F);
 - Guidance on assessment of fitness to practice (Annex G, Appendix A); and
 - Updated Guideline Sanctions for certain common offences considered by ICC Panels (Annex G, Appendix B).

Operation of ICC

3. The second full year of the operation of the ICC has been much busier than the first. Overall numbers of referrals from the Inns have increased by nearly 25% leading to more Screening Panels and hearings. I would like to thank those members of the Inns who have given up their time for this very important role and to the lay members who continue to provide invaluable input into the operation of the ICC and hearings. I would also like to thank the ICC administrator, Linda de Klerk, for her dedication and industry. She provides an excellent service to the ICC, and a conduit for all those referred to it.
4. The overall numbers of legal members of ICC from the Inns was reduced at the end of the first year to ensure that all members had the opportunity to undertake sufficient work to build up the required level of experience and consistency without being over burdened. That reduction of numbers has not adversely affected the operation of the ICC. The ICC believes that the total number of members of the Inn of about 20 is sufficient to deal with all of the business. The Lay members also feel that their number should be refreshed from time to time and we will make proposals about how this is done in due course.
5. In accordance with ICC Rule 10, ten original legal members stood down at the end of the second year of operation. Six were re-nominated by their Inns and the following new members were nominated.

Lincoln's Inn

Sean Hammond of 2 Bedford Row (vice Sir Charles Gray)

Middle Temple

Paul Spencer of Middle Temple (vice Richard Wilmot Smith QC)

Gray's Inn

Nirmal Shant QC of 1 High Pavement (vice Christopher Jeans QC)

Philip Baker of Grays Inn Tax (vice Oba Nsugbe QC)

We were also sad to learn of the untimely death of David Williams QC (Middle Temple) at the beginning of the year. He was replaced by Robert Jay QC.

ICC Meetings

6. The full committee met three times during 2010/11 to agree proposed amendments to the ICC Rules for submission to COIC and to establish a working party to develop ICC sanctions guidelines and guidance on fitness to practice.

Referrals to the ICC

7. During the period September 2010 to August 2011 **116** individual cases have been referred to the ICC by the Inns. Consideration of 13 (6 applicant, 6 students and 1 transferring solicitor) of these cases was delayed to the third year of operation of the ICC because they were received too late for determination in August 2011.

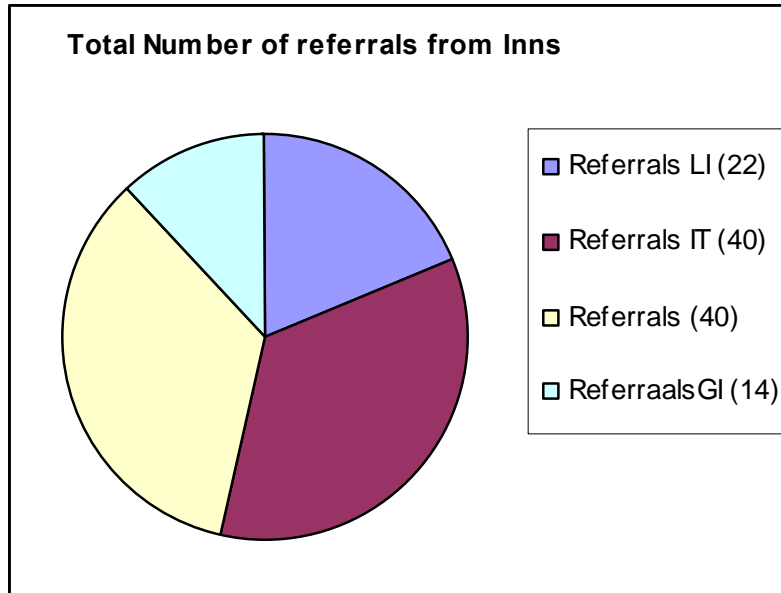
8. Of the **103** cases dealt with:

- a. **79** were applicants to join an Inn, of whom 48 were determined to be fit and proper by the Screening Panel and returned to the Inns to be admitted. 31 were referred to an ICC hearing Panel: 4 applicants were rejected, 3 applicants withdrew before the date of their Hearing Panel and 24 were determined to be fit and proper to be admitted by their respective Inns.
- b. **2** were transferring solicitors and both were returned to the Inns for admission by the Screening Panel.
- c. **22** were students of whom 14 were returned to the Inns by the Screening Panel with no sanction. 8 were referred to a Hearing Panel: 3 were expelled from their Inns and 5 received other sanctions.

9. These **116** cases were considered by 10 Screening Panels and the 37 individual cases referred by the Screening Panels to Hearing Panels were considered in 26 sittings of the Hearing Panels.

Referrals to the ICC by each Inn

10. Total No of referrals to the ICC by the Inns



*Intake numbers for each Inn for BVC 2010/2011

Lincoln Inn = 650

Inner Temple = 453

Middle Temple = 530

Gray Inn = 260

11. The following pie charts show the handling of referrals by Inn.

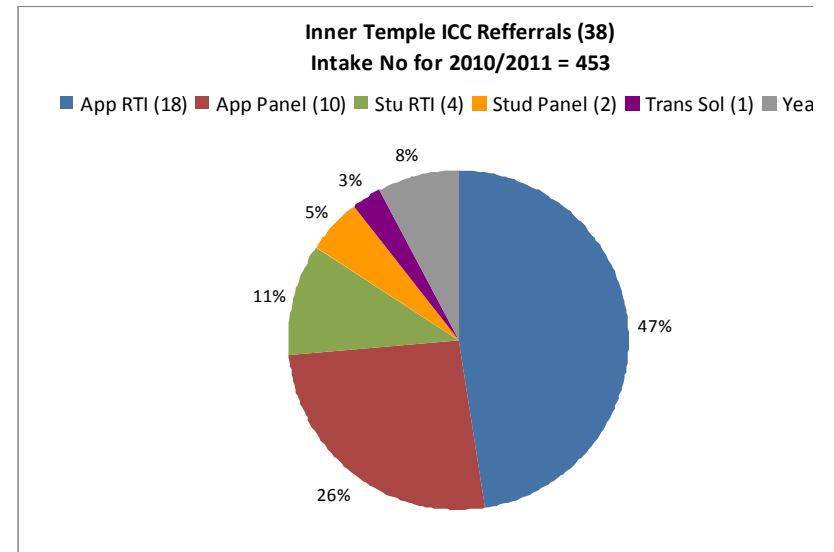
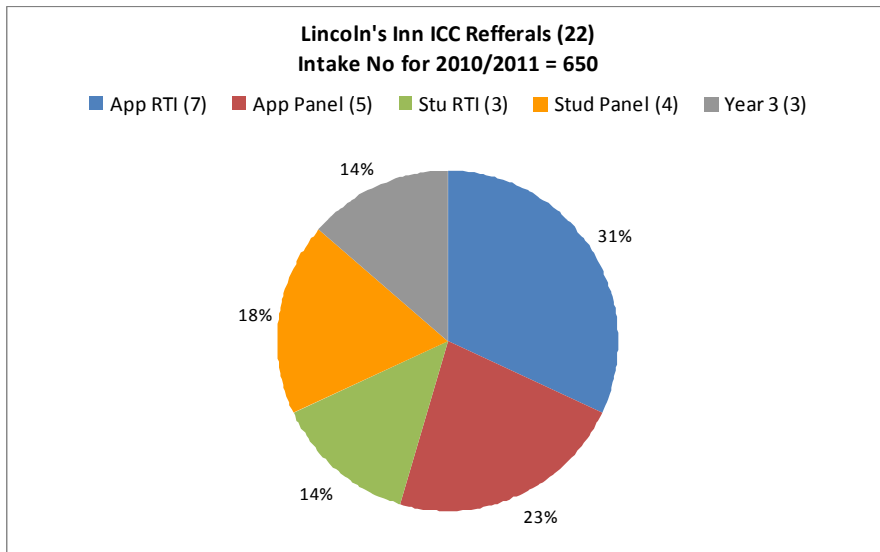
Key

App RTI = Applicants Returned to the Inn

App Panel . Applicants sent to Panel

Trans S . Transferring Solicitor

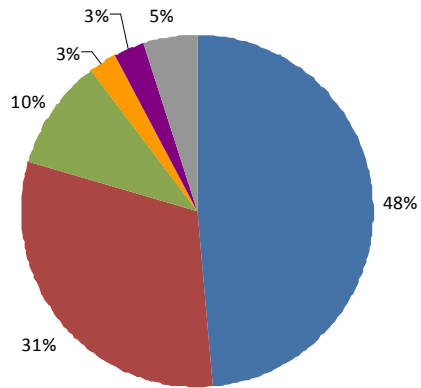
Year 3 . applications delayed to Year 3



Middle Temple ICC Referrals (39)

Intake No for 2010/2011 = 530

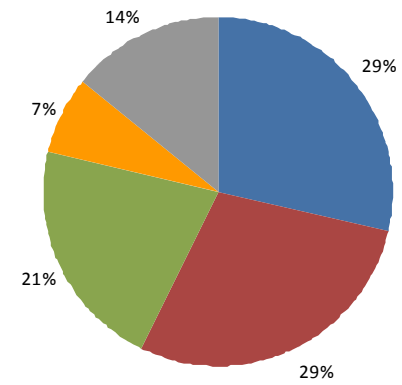
■ App RTI (19) ■ App Panel (12) ■ Stu RTI (4) ■ Stud Panel (1) ■ Trans Sol (1) ■ Year 3 (2)



Gray's Inn ICC Referrals (14)

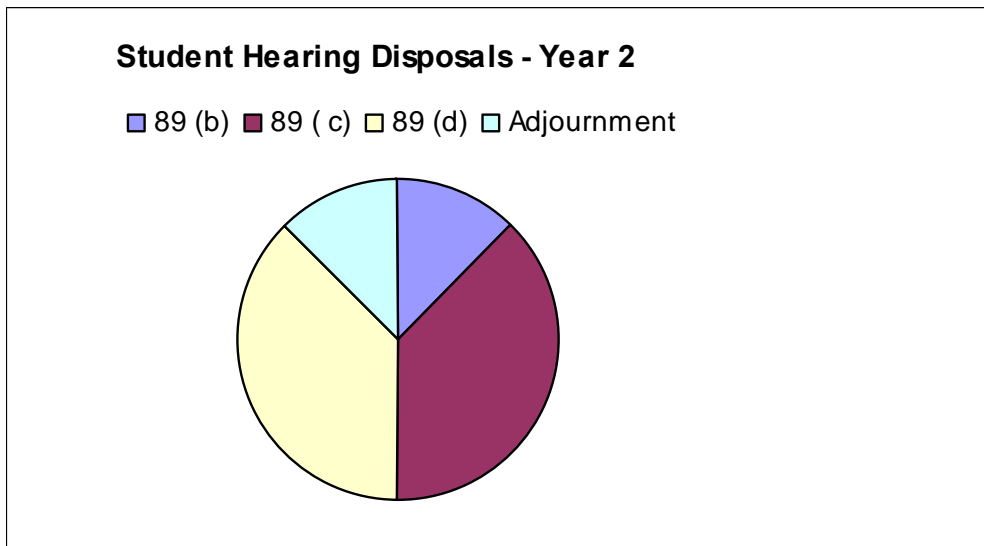
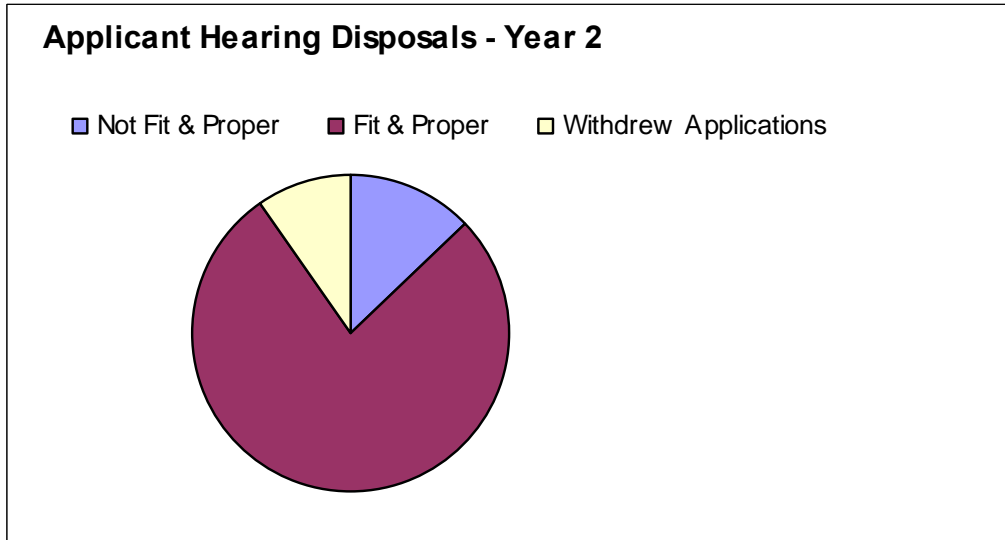
Intake No for 2010/2011 = 258

■ App RTI (4) ■ App Panel (4) ■ Stu RTI (3) ■ Stud Panel (1) ■ Year 3 (1)



ICC Hearing Disposals for Year 2 (Sep 2010 – Aug 2011)

12. The following pie charts show the disposals of referrals



Note

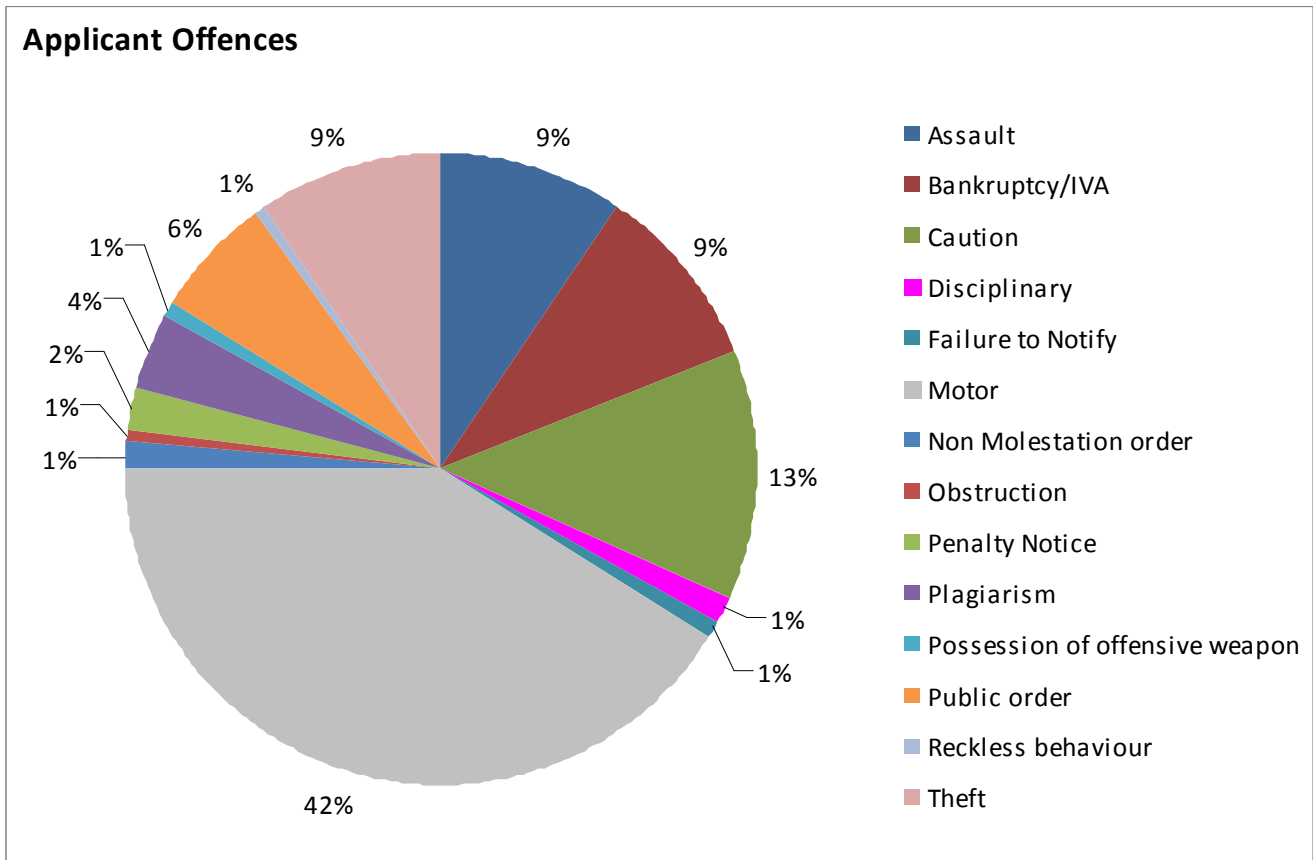
89b - Reprimand the Student

89c - Student's Call to the Bar postponed

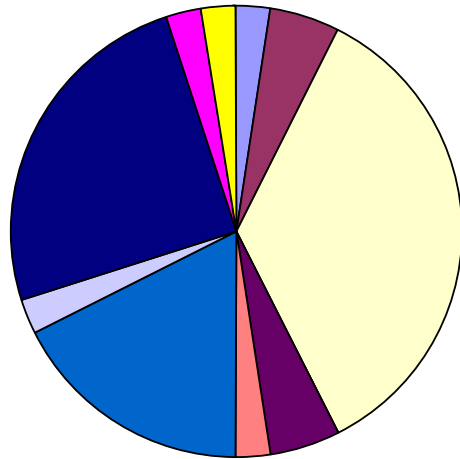
89d - Expulsion

Applicant and Student Offences

13. The following pie charts show offences and cautions dealt with by the ICC, the most prevalent being Traffic offences (41) and Cautions (18) which are expanded in separate pie charts.

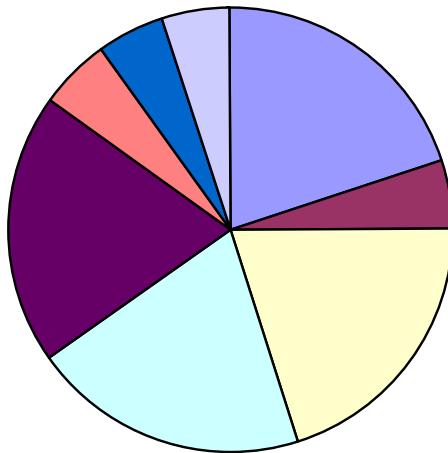


Applicant Traffic Offences



- Contrary to section 87 (1) Road Act
- Careless Driving
- Drink Drive
- Driving other than in accordance with a licence
- Driving whilst disqualified
- Disqualification for 12 penalty points
- Driving without Insurance
- Use of Mobile phone
- Speeding
- Taking conveyance without authority
- Driving a defetive vehicle

Applicant Cautions

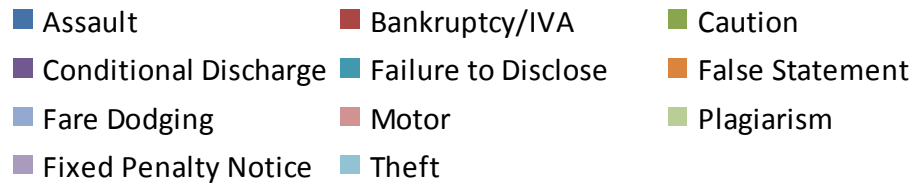


- Shoplifting
- Battery
- Assault
- Cannabis
- Criminal Damage
- Drunk and Disorderly
- Harrassment
- Juvenile Reprimand

14. There is some inconsistency between the Inns about whether applicants who declare that they have received a Formal Police Caution should be referred to the ICC. The ICC takes the view that all FPCs should be declared by applicants (and reported by students) and that they should be referred to the ICC (except for very minor offences). This is particularly important where the offence for which the FPC is given includes an element of dishonesty. It is recommended that COIC provides direction on this issue so that rule changes can be made if appropriate.

15. The following pie chart shows the offences declared by Students

Student Offences



Appeals from the ICC

16. Three Applicants and two Students asked the BSB to review the decisions of the ICC under ICC Rules r34 and r35. The BSB upheld the decisions of the ICC in all cases considered during 2010/11. However, one case dealt with by the ICC during that period was reviewed during the third year of operation (in November 2011). In that case the ICC decision to reject an applicant (Mozolevsky) was overturned by the BSB which decided that the ICC panel had produced insufficient reasons for its finding that the applicant was unfit to become a barrister.

17. One review (Craig) held over from the 1st year of operation was also considered by the BSB Qualifications Committee which considered the decision of the ICC to reject the application of applicant C to be too severe and ordered that he be admitted to the Inner Temple

18. The ICC is grateful for the COIC^o agreement that the BSB will provide written reasons for any decision to vary an ICC decision.

Issues of concern that have arisen during the year

Appeals

19. The ICC has a number of concerns about the process for appeals:

- a. **Appeals to the BSB are considered on paper only.** The experience of members of the ICC who have conducted ICC panel hearings has been that much turns on the presentation of the applicant/ student at a hearing. There is a perception that the Qualification Committee of the BSB in overturning a decision of an ICC panel may fail to grasp the full import of the concerns of a panel which has actually seen and heard the applicant/ student in person. This is particularly so where an applicant/student has committed a relatively minor offence but displays traits which raise doubts about his/her fitness in the panel^o minds.
- b. **Treating applicants/students differently from barristers in misconduct cases.** The ICC believes that the fit and proper test for applicants/students may be different from that relating to barristers in practice for the following reasons:
 - (i). Applicants/students are not concerned with issues relevant to barristers such as methods of, and defaults in, running a practice at the Bar, nor to court presentation or the return of paper work, nor (save as to past offences and the like) to cost or financial matters. Such matters might persuade the BSB to permit a barrister to continue to practice for an offence which would lead to the refusal of an applicant or the expulsion of a student.
 - (ii). The disciplinary perspective setting the alleged misconduct of the barrister against the strains and demands of practice is not present in student/applicant cases. This is liable to impact on decisions about the imposition of sanctions.
 - (iii). There are specific and different issues which arise as to whether an applicant/ student is at the outset and before starting in

practice a fit and proper person to *become* a barrister, as opposed to whether a barrister is fit and proper to *remain* in practice at the Bar. In the ICC's view an offence which might preclude a person from becoming a barrister might not necessarily lead to a barrister being disbarred. The opposite may also be the case.

- c. **The facility for the applicant/student to submit additional material to the BSB on appeal.** A further perceived problem is that applicants/students may take advantage of the process by producing additional material at an appeal which should have been presented at the ICC hearing, and which might change significantly the nature and ambit of the applicant/student's case. The danger inherent in the current system of review to the BSB is that an applicant/ student is able to use the ICC panel as a sounding board, to assess his or her case in the light of its findings, and to put forward on paper only a case before the BSB which may be significantly different from that originally put before the ICC hearing panel.
- d. The ICC believes that this procedural problem may be corrected by one of two changes to process. Either a person appealing from the ICC should only be permitted to adduce new material where he/she can demonstrate why it was not available at the original ICC hearing; or the BSB should refer the case back to the original ICC panel who can review their original decision at a further hearing in light of the new material. It is recommended that COIC reviews the policy on production of new material on appeal.

20. **Higher Appeal.** Review by the BSB is not the end of the appellate route, as there is a second appeal process, viz. an appeal to the Visitors. We understand that this route of appeal is expected to be replaced by statute by appeal to a Judge of the High Court, a change which we support. The ICC has two comments on the appeal from BSB to the Visitor:

- a. The ICC should have a *locus standi* in any appeal to the Visitor/ Judge of the High Court. The current position, which we consider unsatisfactory, is that any response to final appeals has to be via the BSB which has neither seen the applicant/ student nor been present at the original ICC panel hearing.
- b. In addition, under the present arrangements, the ICC is not routinely notified of appeals to the Visitor from BSB reviews which originate from ICC panel hearings. This is plainly liable to give rise to problems, not least in the Court being unaware of relevant circumstances. Arguably this has already happened (in the case of *Raza* (2011) EWHC 888 (Ch))

21. The current appeals structure is subject to statutory change as referred to above, and in consequence we understand that the appeals structure for ICC matters may itself be reassessed. In anticipation of these changes, these problems may be noted for future consideration.

Plagiarism

22. The issue of plagiarism (its definition and the way it is dealt with in academic institutions) remains an area of extreme concern for the ICC. In particular we have observed that some students found guilty of plagiarism offences by their academic

provider have subsequently tried to argue their innocence before an ICC hearing. There are examples of students suggesting that the disciplinary process at their provider was flawed, or that they did not understand it, or that they were led to believe that no further action would be taken afterwards.

23. Students who have been found guilty of plagiarism offences by their academic provider have argued before an ICC hearing that by being allowed to complete the BPTC they have a legitimate expectation that they will be permitted to be called to the Bar. Procedures at academic institutions and course providers for dealing with allegations of plagiarism are often very long drawn out, often with appeals being heard after the student has completed the course. The BPTC providers are aware of our concerns on this, and we are grateful that they and the BSB have [at the Bar Course conference in Oxford in July] permitted us to exchange information on this topic; nevertheless it remains the case that on the whole they do not suspend students pending the outcome of disciplinary proceedings.

24. We repeat our previously expressed view that it is important for BPTC providers to ensure that their students are made aware that their Call to the Bar is in jeopardy if they are found guilty of any plagiarism offence even if they are permitted to complete the course. We also urge BPTC providers to ensure that their disciplinary processes are expedited. We are grateful to Dr Valerie Shrimplin for conveying these comments to BPTC providers.

25. The ICC notes that the term plagiarism connotes cheating and dishonesty, but there are levels of seriousness which should attract different levels of sanction: for example in the first year of a first degree the offence may be no more than poor or wrong citation or attribution. Such offences would be very minor and actually hardly merit the description of plagiarism. This issue is explained usefully in the BPTC Handbook 2011-2, at section B6 (Academic Offences). We have this year addressed this issue in the draft Decision Guidance appended to this report.

Representation for those referred to the ICC

26. The ICC are concerned that applicants and students who appear before the ICC should have access to legal representation. Initially Inns were happy to arrange representation by one of their members, but this practice was called into question. Representation is now available through the Bar Pro Bono Unit and each Inn has developed a pool of eight barristers who are available to provide representation for students. Six students were represented by barristers through this scheme.

27. The Inns are not obliged either to arrange or pay for the representation of applicants but the Bar Pro Bono Unit has indicated a willingness to provide representation for applicants.

28. We are, therefore, satisfied that those who need legal representation before ICC hearings are able to obtain it.

Standard of English

29. Until July 2011, Lincoln's Inn required applicants to demonstrate a minimum standard of English. This was not required by BTRs so there was a different entry standard between the Inns. This came to the attention of the ICC when an applicant who had been rejected by Lincoln's Inn on the grounds that he had failed to demonstrate a sufficient standard of English, applied to join another Inn. As he had

been rejected previously his case was referred to the ICC. Subsequently Lincoln's Inn withdrew this requirement to align themselves with the other Inns.

30. The ICC is concerned about the lack of a minimum standard of English for entry to the Inns. We have seen a number of applicants and students whose standard of English is inadequate and believe that a minimum standard should be a requirement before admission. This is not strictly a matter for the ICC, but we make the point in the hope that COIC may readdress the issue.

Diversity and equal opportunity training

31. There is as yet no formal training for ICC members currently in place, on the grounds that of their previous general experience and levels of training. The ICC is currently in the process of establishing whether there is an actual requirement for updating members' training, in which event it will seek the most cost-effective means of obtaining it, possibly requesting some financial support, or assistance with provision, from the Inns.

Sanctions and Admission Guidance

32. During the course of this year the ICC established a **Working Group** to deal with potential rule amendments. They undertook extensive research, including examining tests of fitness to practise from other jurisdictions and I would like to thank them for their work. The Working Group was chaired by the ICC Vice-Chair, Margaret Bickford-Smith QC, with the following members:

Anand Beharrylal
Sophia Lambert (lay representative)
David Madel (lay representative)
David Povall
David Streatfeild-James QC

33. The Group has produced three documents:

- (a) Statement of Principles and Guidelines: Introductory and General
- (b) Appendix A: Fitness to become a Practising Barrister
- (c) Appendix B: Decision Guidelines

34. The purpose of these documents is to achieve greater harmonisation as well as proportionality in the imposition of sanctions, and also to achieve greater transparency in decision-making. The Guidelines, which are intended to be made publicly available, are also for the benefit of applicants/ students and other interested persons. They are not intended to fetter or restrict members of the ICC in the proper and reasonable exercise of their discretion when going about their work, and in particular in the exercise of their functions hearing cases when appointed as members of its hearing panels.

35. The finalised drafts of these documents appear at Annex G to this Annual Report. These reflect documentation approved by the full Committee on 9 November 2011; it is intended that they will be formally approved so as to come into force at the ICC's first Committee meeting in 2012 and used until further guidance in relation to barristers is provided by the BSB. In the interim they will be available to be used by panels and those appearing before them. It is anticipated that in the light of further case experience amendments may need to be made to the guidance text from time to time. The Working Group will therefore remain in being. We recommend that

COIC endorses these documents as an interim measure pending further guidance from the BSB, and that they be available to the BSB Qualifications Committee and Visitors during the consideration of any appeal.

36. The Working Group will also be available to assess any Regulatory matters which may need consideration or action in the light of the developing Legal Service Board and BSB regulatory framework.

Conclusions and Recommendations

37. 2010/11 was a busy year for the ICC but we believe we operated efficiently to provide a consistent service to the Inns. Experience has enabled us to produce better guidelines, and during 2011/12 we should look more closely at whether we can give wider guidance to the Inns about matters which they need not refer to the ICC. In our view the ICC gives good value for money.

38. We recommend that COIC:

- a. considers whether Formal Police Cautions should be declared by applicants and students, and if so make the appropriate Rule changes (paragraph 14);
- b. reviews the policy on production of new material by applicants/students at appeals (paragraph 19d);
- c. endorses the documents at Annex G for the time being and that they be available to the BSB Qualifications Committee and Visitor during the consideration of any appeal; and
- d. notes the ICC's views on appeals to the Visitors (paragraph 20) and minimum standards of English (paragraph 30).

SIGNATURE ON ORIGINAL

HHJ Jeff Blackett
Chair ICC

11 January 2012

Annexes:

- A. ICC Committee . list of members 2010/11
- B. Applicants dealt with by ICC 2010/11
- C. Transferring solicitors dealt with by ICC 2010/11
- D. Students dealt with by ICC 2010/11
- E. Cost of running the ICC 2010/11
- F. Minor matters which may be retained by the Inns
- G. Guidance on fitness to practice and sanctions

Annex A

List of ICC Legal Members (2010/2011)

Name	Surname	Title	Inn	Chambers	No of hearings
Charles	Gray	Sir	LI	Retired	xxx
Anand	Beharrylal	Esq	LI	15 Newbridge Street	xx
David	Povall	Esq	LI	23 Essex Street	xx
Gordon	Catford	Esq	LI	Crown Office Chambers	xxxxx
Jonathan	Klein	Esq	LI	Enterprise Chambers, Leeds	xxx
Margaret	Bickford-Smith	QC	IT	Crown Office Row	xxx
David	Streatfeild-James	QC	IT	Atkin Chambers	xx
Daniel	Matovu	Esq	IT	2 Temple Gardens	xxxxx
Karon	Monaghan	QC	IT	Matrix Chambers	x
Simon	Russell Flint	QC	IT	23 Essex Street	xx
Richard	Wilmot-Smith	QC	MT	39 Essex Street	x
Heather	Rogers	QC	MT	54 Doughty Street Chambers	xxx
Jeremy	Carter-Manning	QC	MT	Furnival Chambers	xxxx
Christopher	Morcom	QC	MT	Hogarth Chambers	xxx
Robert	Jay	QC	MT	39 Essex Street	xx
Jeff	Blackett	HHJ	GI	The Royal Courts of Justice	xxxx
Christopher	Jeans	QC	GI	11 KBW	xx
Hodge	Malek	QC	GI	4 . 5 Grays Inn	x
Oba	Nsugbe	QC	GI	Pump Court Chambers	x
Timothy	Young	QC	GI	20 Essex Street	xx

List of ICC Lay Representatives (2010/11)

Name	No of hearings
Sir Christopher Benson	x
Miss Beverley Brown	xx
Emir K Feisal Esq	xxx
Ms Beryl Hobson	xxx
Ms Sophia J Lambert	xxx
Ms Hazelanne Lewis	x

Mr Roger W Lucking	xxxx
Sir David Madel	xx
Ms Lucy Melrose	xxx
Ms Patricia Steel OBE	x
Ms Veronica Thompson	x
Professor Ken Young	x

APPLICANTS DEALT WITH IN THE OPERATION OF YEAR 2 (2010/11) (79)

Applicants Returned To Inn (RTI) (48)									
	Inn	Offence	Age at time of offence	Age	Nat C	Ethnicity	Sex	Sc Panel	ICC Decision
	Lincolns Inn	1. Drink Drive 2. Breach of Public Order Section	21yrs	41yrs	10	10	M	29/09/2010	RTI for admission
	Lincolns Inn	Police Caution - possession of marijuana	15yrs	25yrs	10	10	M	21/01/2011	RTI for admission
	Lincolns Inn	Shoplifting - police warning	15yrs	28yrs	10	30	M	21/01/2011	RTI for admission
	Lincolns Inn	Drink Drive	18yrs	22yrs	10	10	M	21/01/2011	RTI for admission
	Lincolns Inn	Caution for shoplifting	11yrs	22yrs	10	10	M	16/03/2011	RTI for admission
	Lincolns Inn	Drink Drive	19yrs	24yrs	10	10	F	14/04/2011	RTI for admission
	Lincolns Inn	Bankruptcy	32yrs	35yrs	10	10	M	06/07/2011	RTI for admission
	Inner Temple	Driving without due care	27yrs	47yrs	10	10	M	19/11/2010	RTI for admission
	Inner Temple	Drink Drive	35yrs	36yrs	10	22	M	19/11/2010	RTI for admission

Applicants Returned To Inn (RTI) (48)

	Inn	Offence	Age at time of offence	Age	Nat C	Ethnicity	Sex	Sc Panel	ICC Decision
	Inner Temple	Driving without Insurance	22yrs	23yrs	10	12	M	19/11/2010	RTI for admission
	Inner Temple	Drink Drive	27yrs	39yrs	10	10	M	21/01/2011	RTI for admission
	Inner Temple	Shoplifting - reprimand	17yrs	22yrs	10	30	F	21/01/2011	RTI for admission
	Inner Temple	Drink Drive	21yrs	30yrs	10	21	F	21/01/2011	RTI for admission
	Inner Temple	Drink Drive	22yrs	33yrs	10	30	M	16/03/2011	RTI for admission
	Inner Temple	1. Breach of the Peace(2) 2. Obstruction	20yrs	29yrs	10	10	M	19/05/2011	RTI for admission
	Inner Temple	Motoring offence: Speeding	31yrs	32yrs	10	10	M	19/05/2011	RTI for admission
	Inner Temple	Motoring offence: Drink Drive	18yrs	24yrs	10	10	F	19/05/2011	RTI for admission
	Inner Temple	Drink Drive	19yrs	22yrs	10	10	M	06/07/2011	RTI for admission
	Inner Temple	Aiding, Abetting, counselling and procuring someone to drive a motor vehicle contrary to section 87 of Road Traffic Act	19yrs	30yrs	10	10	F	06/07/2011	RTI for admission

Applicants Returned To Inn (RTI) (48)

	Inn	Offence	Age at time of offence	Age	Nat C	Ethnicity	Sex	Sc Panel	ICC Decision
	Inner Temple	Railway Fraud	28yrs	38yrs	10	22	M	06/07/2011	RTI for admission
	Inner Temple	Shoplifting	12yrs	27yrs	10	10	F	06/07/2011	RTI for admission
	Inner Temple	1. Motor Offence: Speeding (x3) 2. Motor Offence: Mobile phone use	1. 31yrs, 34yrs 2. 36yrs	36yrs	10	10	M	06/07/2011	RTI for admission
	Inner Temple	Taking conveyance without authority - section S.12 of Theft Act	19yrs	40yrs	10	10	M	14/07/2011	RTI for admission
	Inner Temple	Motor Offence: Driving other than in accordance with a licence	15yrs	27yrs	10	10	M	06/07/2011	RTI for admission
	Inner Temple	Speeding (x2)	37yrs	40yrs	10	10	F	20/07/2011	RTI for admission
	Middle Temple	Police Caution - assaulting a police officer	21yrs	34yrs	10	10	F	29/09/2010	RTI for admission
	Middle Temple	Bus Fare Evasion	32yrs	39yrs	10	10	M	29/09/2010	RTI for admission
	Middle Temple	IVA	35yrs	47yrs	10	10	M	21/01/2011	RTI for admission
	Middle Temple	Police Caution- Assault	34yrs	43yrs	10	10	M	27/10/2010	RTI to be admitted

Applicants Returned To Inn (RTI) (48)

	Inn	Offence	Age at time of offence	Age	Nat C	Ethnicity	Sex	Sc Panel	ICC Decision
	Middle Temple	CCJ	28yrs	31yrs	10	10	M	19/11/2010	RTI to be admitted
	Middle Temple	IVA	21yrs	24yrs	10	30	F	29/09/2010	RTI for admission
	Middle Temple	Theft	16yrs	49yrs	10	21	F	29/09/2010	RTI for admission
	Middle Temple	Default on bank account	22yrs	25yrs	10	10	F	16/03/2011	RTI for admission
	Middle Temple	Caution for Cannabis	19yrs	21yrs	10	30	M	12/04/2011	RTI for admission
	Middle Temple	1. Theft 2. Attempted Burglary 3. Handling on Theft Act 4. Attempt/Possessing controlled drub	19yrs	46yrs	10	10	F	14/04/2011	RTI for admission
	Middle Temple	Motoring offence: Speeding	23yrs	30yrs	10	10	F	19/05/2011	RTI for admission
	Middle Temple	Assault	16yrs	22yrs	10	10	M	19/05/2011	RTI for admission
	Middle Temple	Vandalising a Community Centre	13yrs	35yrs	10	10	M	19/05/2011	RTI for admission
	Middle Temple	Drink Drive	23yrs	24yrs	10	10	M	14/07/2011	RTI for admission

Applicants Returned To Inn (RTI) (48)

	Inn	Offence	Age at time of offence	Age	Nat C	Ethnicity	Sex	Sc Panel	ICC Decision
	Middle Temple	Battery	18yrs	21yrs	10	10	M	14/07/2011	RTI for admission
	Middle Temple	Repeated Speeding	17yrs	23yrs	10	10	M	06/07/2011	RTI for admission
	Middle Temple	1. Domestic Violence 2. Driving without Insurance	1. 36yrs 2. 38yrs	39yrs	10	22	F	06/07/2011	RTI for admission
	Middle Temple	Summons for driving a vehicle without third party insurance	40yrs	40yrs	10	10	M	06/07/2011	RTI for admission
	Middle Temple	Disqualified from driving for 6 months	36yrs	42yrs	10	10	F	06/07/2011	RTI for admission
	Grays Inn	Railway Fare Evasion	28yrs	30yrs	10	32	M	29/09/2010	RTI for admission
	Grays Inn	Police Caution - Theft and Kindred Offences	19yrs	25yrs	10	10	F	21/01/2011	RTI for admission
	Grays Inn	1. Reprimand for Use of threatening, Abusive, insulting words or behaviour 2. Caution for being drunk and disorderly	16yrs	28yrs	10	10	M	17/02/2011	RTI for admission
	Grays Inn	Disciplinary - Rugby	17yrs	24yrs	10	10	M	14/07/2011	RTI for admission

Applicants referred to an ICC Hearing Panel (31)											
	Inn	Offence	Age at time of offence	Age	Nat	Ethnicity	Sex	Sc Panel	Panel Date	ICC Decision	Appeal
	Lincolns Inn	Theft (6 counts)	25yrs	31yrs	10	30	M	29/09/2010	12/01/2011	Not Fit and Proper	ICC Decision Upheld
	Lincolns Inn	1. Assault 2. Threatening abusive behaviour 3. Wounding with intent 4. Drink Driving	1 - 15yrs 2. 17yrs 3. 22yrs 4. 30yrs	32yrs	10	31	M	21/01/2011	23/02/2011	Not Fit and Proper	No Appeal
	Middle Temple	Assault occasioning Actual Bodily Harm	19yrs	31yrs	10	12	M	06/07/2011	03/08/2011	Not Fit and Proper	Appeal heard Nov 11 . ICC decision overturned
	Middle Temple	1. Assault occasioning Actual Bodily Harm 2. Common Assault 3. Bankruptcy	1. 43yrs 2. 45yrs 3. 56yrs	63yrs	10	30	M	06/07/2011	31/07/2011	Not Fit and Proper	ICC Decision upheld
	Lincolns Inn	1. Drink Drive 2. Driving whilst disqualified in 1988	21yrs	44yrs	10	10	M	29/09/2010	28/10/2011 30/03/2011	FAP RTI for admission	N/A

Applicants referred to an ICC Hearing Panel (31)

	Inn	Offence	Age at time of offence	Age	Nat	Ethnicity	Sex	Sc Panel	Panel Date	ICC Decision	Appeal
		(together with other ancillary matters) for which he received a 2-month suspended sentence of imprisonment.									
	Lincolns Inn	Police Caution-Warning for Harassment	36yrs	39yrs	10	30	F	19/11/2010	02/02/2011	FAP RTI for admission	N/A
	Lincolns Inn	Bankruptcy (2005)	21yrs	27yrs	10	10	F	19/05/2011	16/06/2011	FAP RTI for admission	N/A
	Inner Temple	Drink Drive	34yrs	35yrs	10	30	M	14/07/2010	15/09/2010	FAP RTI for admission	N/A
	Inner Temple	IVA	28yrs	29yrs	10	10	F	17/02/2011	06/04/2011	FAP RTI for admission	N/A
	Inner Temple	Assault	33yrs	38yrs	10	31	M	19/05/2011	29/06/2011	FAP RTI for admission	N/A

Applicants referred to an ICC Hearing Panel (31)

	Inn	Offence	Age at time of offence	Age	Nat	Ethnicity	Sex	Sc Panel	Panel Date	ICC Decision	Appeal
	Inner Temple	1. Robbery (March 2000) 2. Shoplifting (Sept 2000)	14yrs	25yrs	10	22	F	19/05/2011	29/06/2011	FAP RTI for admission	N/A
	Inner Temple	Failure to notify change of circumstances under S112 Social Security Admin Act	39yrs	44yrs	10	10	M	06/07/2011	03/08/2011	FAP RTI for admission	N/A
	Inner Temple	Plagiarism	20yrs	22yrs	10	30	M	06/07/2011	20/07/2011	FAP RTI for admission	N/A
	Inner Temple	1. Reckless Behaviour (1979) 2. Theft (1984, 1988) 3. Assault Occasioning Actual Bodily Harm (1980, 1988) 4. Wounding (1985) 5. Various traffic	1. 14yrs 2. 19yrs, 23yrs 3. 20yrs	46yrs	10	10	M	06/07/2011	31/08/2011	FAP RTI for admission	N/A

Applicants referred to an ICC Hearing Panel (31)

	Inn	Offence	Age at time of offence	Age	Nat	Ethnicity	Sex	Sc Panel	Panel Date	ICC Decision	Appeal
		offences (1984 - 1988)									
	Inner Temple	Non Molestation Order	36yrs	36yrs	10	12		22/07/2011	31/08/2011	FAP RTI for admission	N/A
	Inner Temple	Mental Health Issues	ns/	41	10	10	M	16/03/2011	n/a	Withdrew application due to mental health issues	N/A
	Inner Temple	Drink Drive				10	10	M	n/a	withdrew application as he wished to pursue the solicitor route	N/A
	Middle Temple	Police Caution - Common Assault	32yrs	33yrs	10	22	M	29/09/2010	07/10/2010	FAP RTI for admission	N/A
	Middle Temple	Disciplinary - General Medical Council	53yrs	53yrs	10	10	M	29/09/2010	07/10/2010	FAP RTI for admission	N/A

Applicants referred to an ICC Hearing Panel (31)

	Inn	Offence	Age at time of offence	Age	Nat	Ethnicity	Sex	Sc Panel	Panel Date	ICC Decision	Appeal
	Middle Temple	Police Caution for Harassment			10	30	F		28/10/2010	FAP RTI for admission	N/A
	Middle Temple	Drink Drive	21yrs	22yrs	10	23	M	12/04/2011	22/06/2011	FAP RTI for admission	N/A
	Middle Temple	IVA	30yrs	35yrs	10	15	F	12/04/2011	16/06/2011	FAP RTI for admission	N/A
	Middle Temple	Plagiarism	45yrs	47yrs	10	10	F	12/04/2011	26/05/2011 09/06/2011	FAP RTI for admission	N/A
	Middle Temple	Driving without insurance - 6 penalty points (March 2011)	20yrs	21yrs	10	31	M	19/05/2011	22/06/2011	FAP RTI for admission	N/A
	Middle Temple	1. Theft (1989) 2. Bankruptcy (2008)	1. 23yrs 2. 42yrs	45yrs	10	10	F	19/05/2011	16/06/2011	FAP RTI for admission	N/A
	Middle Temple	Wounding	14yrs	25yrs	10	21	F	06/07/2011	31/07/2011	FAP RTI for admission	N/A

Applicants referred to an ICC Hearing Panel (31)

	Inn	Offence	Age at time of offence	Age	Nat	Ethnicity	Sex	Sc Panel	Panel Date	ICC Decision	Appeal
	Middle Temple	Plagiarism	Not stated on application form	Not stated on application form	10	30	M	06/07/2011	n/a	withdrew application as he decided not to do the BPTC	N/A
	Grays Inn	1. Driving without due care - Dec 2009 2. Bankruptcy Order - 15 May 2008	1. 33yrs old 2. 31 yrs old	34yrs	10	10	F	17/02/2011	06/04/2011	FAP RTI for admission	N/A
	Grays Inn	1. Shoplifting (Dec 1979) 2. Criminal Damage and Possessing offensive weapon (July 1983) 3. non-reportable offences (July 1983)	1. 14yrs 2. 18yrs	46yrs	10	10	M	19/05/2011	29/06/2011	FAP RTI for admission	N/A
	Grays Inn	Plagiarism	20yrs	22yrs	10	23	F	06/07/2011	20/07/2011	FAP RTI for admission	N/A

Applicants referred to an ICC Hearing Panel (31)

	Inn	Offence	Age at time of offence	Age	Nat	Ethnicity	Sex	Sc Panel	Panel Date	ICC Decision	Appeal
	Grays Inn	1. IVA 2. Prohibited steps, Residence & Specific Issue Order 3. Non-Molestation Order	(1) 42yrs (2) 41yrs (3) 44yrs	45yrs	10	31	M	21/01/2011	03/03/2011	FAP RTI for admission	N/A

TRANSFERRING SOLICITORS DEALT WITH IN THE OPERATION OF YEAR 2 (2010/11) (2)

	Inn	Offence	Age at time of offence	Age	Nat	Ethnicity	Sex	Sc Panel	ICC Decision
	Inner Temple	Exceeding the Speed limit	41yrs	51yrs	10	10	M	27/10/2011	RTI for admission
	Middle Temple	Caution for possession of Cannabis	17yrs	34yrs	10	10	F	06/07/2011	RTI for admission

ANNEX F

STUDENTS DEALT WITH IN THE OPERATION OF YEAR 2 (2010/11) (22)

STUDENTS RTI WITH NO SANCTION TO PROCEED TO CALL (14)									
	Inn	Offence	Age at time of offence	Age	Nat	Ethnicity	Sex	Sc Panel	ICC Decision
	Lincoln Inn	Caution for possession of stun gun	28yrs	38yrs	10	21	F	17/02/2011	RTI Proceed to Call
	Lincoln Inn	Penalty Notice for being Drunk & Disorderly	19yrs	24yrs	10	10	M	16/03/2011	RTI Proceed to Call
	Lincoln Inn	Caution for Common Assault	30yrs	35yrs	10	32	M	16/03/2011	RTI Proceed to Call
	Inner Temple	1. Driving a defective vehicle 2. Failure to pay fixed penalty speeding ticket	27yrs	27yrs	10	30	F	29/09/2010	RTI Proceed to Call
	Inner Temple	Driving a Motor Vehicle without due care and attention	21yrs	22yrs	10	10	M	17/02/2011	RTI Proceed to Call
	Inner Temple	Attempt to avoid paying fare	31yrs	37rs	10	10	F	19/05/2011	RTI Proceed to Call
	Inner Temple	Motor Offence: Careless Driving	21yrs	22yrs	10	10	F	17/02/2011	RTI Proceed to Call
	Middle Temple	1. Exceeding Speed limit 2. Not declaring offence on admission form	18yrs	26yrs	10	10	M	29/09/2010	RTI Proceed to Call
	Middle Temple	Prosecution by Westminster Council for urinating in public	24yrs	24yrs	10	10	M	19/11/2010	RTI Proceed to Call
	Middle Temple	1. Bankruptcy Order 2. Bankruptcy Order	1. 38yrs 2. 45yrs	54yrs	10	10	M	Paper Decision	RTI Proceed to Call
	Middle Temple	Penalty Notice for Disorder - shoplifting	20yrs	23yrs	10	10	F	06/07/2011	RTI Proceed to Call
	Gray Inn	IVA	32yrs	35yrs	10	10	F	Paper Decision	RTI Proceed to Call

STUDENTS RTI WITH NO SANCTION TO PROCEED TO CALL (14)									
	Inn	Offence	Age at time of offence	Age	Nat	Ethnicity	Sex	Sc Panel	ICC Decision
	Gray\$ Inn	Plagiarism	22yrs	23yrs	10	10	M	19/11/2010	RTI Proceed to Call
	Gray\$ Inn	Driving without Insurance	18yrs	31yrs	10	10	F	Paper Decision	RTI Proceed to Call

STUDENTS ATTENDED A HEARING PANEL (8)											
		Inn	Offence	Age at time of offence	Age	Nat C	Ethnicity	Sex	Panel Date	ICC Decision	Appeal
		Grays Inn	False statement (x3)	24yrs	24yrs	10	22	M	14/10/2010	Expulsion	No Appeal
		Inner Temple	1. Drink Drive 2. Assault occasioning actual bodily harm (x2) 3. Assault of a constable on duty (x2)	27yrs	28yrs	10	12	F	27/01/2011	Expulsion	ICC Decision upheld
		Middle Temple	Plagiarism	31yrs	32yrs	30	30	M	07/07/2011	Expulsion	ICC Decision upheld
		Lincolns Inn	Plagiarism	38yrs	39yrs	10		M	25/05/2011	Postponement for 12 months from the date of his hearing (14 July 2011), in accordance with ICC Rule 42©	No Appeal
		Lincolns Inn	Plagiarism	33yrs	34yrs	10		M	25/05/2011	Postponement of Call for 6 months from panel date ICC Rule 42©	No Appeal

STUDENTS ATTENDED A HEARING PANEL (8)

		Inn	Offence	Age at time of offence	Age	Nat C	Ethnicity	Sex	Panel Date	ICC Decision	Appeal
		Lincolns Inn	Driving whilst uninsured	23yrs	24yrs	31	10	M	21/10/2010	Postponement for 20 months from the date of conviction, that is until after 29 September 2011 ICC Rule 42©	No Appeal
		Lincolns Inn	Plagiarism	23yrs	24yrs	10	14	M	31/03/2011	Panel due on 29 September 2012	No Appeal
		Inner Temple	Failing to provide info or evidence needed for the making of a decision contrary to section 14 (i) of the Child Support Act (1991)	371/2yrs	39yrs	10	10	M	17/03/2011	Reprimand	No Appeal

Annex E

ICC Financial Report 2010/11

Outgoing	Amount
Lay Representatives	£3998.40
Office (including catering)	£18,905
TOTAL	£22903.40
Office equipment, stationary etc Provided free of charge by Lincoln's Inn	* Pd by Lincolns' Inn

* This should be divided amongst the Inns but we are unable to ascertain the value

Annex F

Practice Direction on minor matters which may be automatically be retained by the Inns for determination (ICC Rule 47)

1. This direction is given subject to the overriding principles that the Inns should refer any case to the ICC where there is any doubt about the appropriate disposal or a person's fitness to practice as a barrister.
2. Reference may now be made, for information and background, to the ICC's Decisions Guidance (Appendix B to the Statement of Principles and Guidance). In particular, this sets out at section II the Offences and Actions that are likely to be screened out by the ICC's Screening Panel and will not normally go forward to a panel hearing unless there are aggravating circumstances or other concerns about the applicant/ student's fitness to practise, or an Inn has raised specific concerns or made a specific recommendation for a panel hearing in its letter of referral, namely:
 - (1) Fixed penalty traffic offences (save those resulting in disqualification);
 - (2) Fixed penalty notices for a single non-traffic criminal offence, where the offence is at least three years old and the applicant/ student has not committed any further offences;
 - (3) Bankruptcy orders or other debt arrangements which are over ten years old and completed/discharged;
 - (4) Any other matter that the Screening Panel considers to be of a minor nature, or does not merit a panel hearing on account of the age of the offence and its circumstances..
3. Subject to paragraph 1, the ICC directs as follows:

The following Admission/ Student misconduct cases may be automatically retained by the Inn for determination:

 - Fixed penalty traffic offences

Annex G

Statement of Principles and Guidelines: Introductory and General Appendix A: Fitness to become a Practising Barrister Appendix B: Decision Guidelines.

STATEMENT OF PRINCIPLES AND GUIDELINES

Introduction

1. The InnsqConduct Committee (the ICC¹) is required to determine whether in certain cases an Inn of Court should refuse to admit an applicant, or should refuse to call a student to the Bar. In doing so, it may be required to determine:

- (1) Whether an applicant or student is a fit and proper person to become a practising barrister;
- (2) Whether a Serious Matter (within the meaning of the Bar Training Regulations) has been proved;
- (3) What sanction (if any) it is appropriate to impose.

2. This document has been developed by the ICC. Its purpose is to set out guidelines for the assistance of hearing panels of the ICC in deciding any such issues. It is intended to promote proportionality, consistency and transparency in sentencing. It is not however intended to deflect hearing panel members from the independent exercise of their discretion and judgment in arriving at their determinations.

3. The guidance is intended to be made publicly available via an ICC website¹. It is freely available in hard copy from the ICC Administrator upon request. It is intended to allow applicants/ students and other interested parties to be aware of and, as required, assess material factors about the principles and practice of the ICC, and to consider its likely approach to a particular applicant's or student's conduct, in particular in relation to an anticipated hearing, so as to prepare themselves for any such hearing.

General Principles

4. To be a fit and proper person to practise at the Bar, that person must be honest, of integrity and of good reputation and character. Appendix A (Fitness to become a practising barrister¹) contains a statement of the principles to be applied in determining whether an applicant or a student is a fit and proper person.

5. In general, any criminal conduct or other reprehensible behaviour will be powerful evidence of the lack of one or more of these essential qualities. Nevertheless, it is accepted that there are circumstances in which individuals who have been guilty of even serious offences or other relevant reprehensible conduct will nonetheless be fit and proper persons to practise at the Bar. Furthermore, while the ICC's decision making can be properly informed by the approach taken by other bodies, including academic institutions, the police and the courts, and the treatment of conduct elsewhere may assist in the determination by the ICC of the approach to be taken, it will not be determinative of the ICC's treatment of the applicant or student. Accordingly, Appendix A refers to ICC Decision Guidelines which are

¹ Not yet constructed

attached as Appendix B. The ICC, and in particular its members who constitute hearing panels to hear individual cases referred to them, should make such reference to Appendix B as may be appropriate in any particular case.

6. In addition, in determining what if any sanction should be applied in the event that a Serious Matter (within the meaning of the Bar Training Regulations) is found proved, the guidelines in Appendix B should be considered.

FITNESS TO BECOME A PRACTISING BARRISTER

In determining whether an applicant/ student is a fit and proper person to become a practising barrister in accordance with BTR 6, the following matters will be taken into account.

General

1. The proper administration of justice requires that:
 - (1) Clients must feel and be secure in confiding their most personal affairs to a barrister;
 - (2) The public must have confidence in barristers because of the central role which they play in the administration of justice;
 - (3) The judiciary must have confidence in those who appear before them in court.
 - (4) Fellow lawyers must be able to depend totally on the behaviour of their colleagues.

In considering whether an applicant/ student is a fit and proper person to become a practising barrister, the Panel must be satisfied that the applicant/ student will be able to fulfil these requirements.
2. Without prejudice to Paragraph 1 above, there are three fundamental characteristics of any applicant/ student: that he or she is
 - (1) Honest;
 - (2) A person of integrity; and
 - (3) Currently of good reputation and character.

The Panel must be satisfied that any applicant/ student has all of these characteristics in order to be satisfied that he or she is a fit and proper person to become a practising barrister.

3. While it is recognised that each consideration by a Panel will be based on the individual facts and circumstances of the case, in order to facilitate consistent decision making reference should be made to the ICC Decision Guidelines and to the matters set out below. These are not intended to be applied inflexibly but should provide the starting point for consideration as to whether an applicant/ student is a fit and proper person to become a practising barrister.

Honesty

4. A person will not normally be considered a fit and proper person where he or she has proved to be dishonest. This general statement is however subject to exceptions. The ICC Decision Guidelines provide examples of exceptional circumstances in which offences of dishonesty or conduct involving dishonesty may be treated leniently.

Integrity

5. The integrity of the applicant/ student is of the highest importance. The circumstances which will be relevant to the issue of integrity may vary but can be expected to include (in the absence of justification and/or explanation):

- (1) Whether the applicant/ student has a history of conduct which indicates a lack of regard for the law, or which is capable of harming the integrity of the legal profession;
- (2) Whether the applicant/ student is the subject of disciplinary proceedings or action (however expressed) in another profession or occupation (whether in England & Wales or elsewhere);
- (3) Whether the applicant/ student has been the subject of disciplinary proceedings or action (however expressed) in another profession or occupation (whether in England & Wales or elsewhere) which involved a finding of guilt.
- (4) Any other matter which tends to indicate a material risk of harm to users of legal services.

Reputation and Character

6. The applicant/ student must be of good reputation and character at the date of the application. In making a determination of reputation and character, however, past actions may be taken into account as indicative of future behaviour, unless that inference is rebutted by any relevant or mitigating circumstances.

The matters which may be relevant to the applicant/ student's reputation and character will include the following:

- (1) Whether the applicant/ student has been convicted of any criminal offence or been the subject of a court order limiting his or her conduct. In such circumstances the approach to be taken should normally be that set out in the ICC Decision Guidelines.
- (2) Whether the applicant/ student has been found to have committed any act of dishonesty not dealt with as a criminal offence. In such circumstances the approach to be taken should normally be that set out in the ICC Decision Guidelines.
- (3) A prior history of multiple offences or a series of offences, or a course or pattern of conduct, which is relevant to an assessment of the applicant/ student's reputation or character.
- (4) Any other matter which might tend to bring the profession into disrepute.

ICC DECISION GUIDELINES

I. REGULATORY BACKGROUND:

1. The functions of the ICC are carried out pursuant to the provisions of **the Bar Training Regulations** and **the ICC Rules**.

2. A person applying for admission is required to declare²:

(a) I have never been convicted of any criminal offence nor are there any proceedings pending against me anywhere in respect of any criminal offence.

(b) I have never been convicted of a disciplinary offence by a professional or regulatory body nor are there any disciplinary proceedings pending against me anywhere in respect of any such offence.

(c) I have never had any bankruptcy order or directors disqualification order made against me nor entered into an individual voluntary arrangement with creditors.

(d) I have not previously been refused admission to or expelled from an Inn.

(e) I do not suffer from serious incapacity due to mental disorder (within the meaning of the Mental Health Act 1983) nor addiction to alcohol or drugs, nor from any other condition which might impair my fitness to become a practising barrister.⁶

3. *Except as disclosed below, I am not aware of any matter which might reasonably be thought to call into question my fitness to become a practising barrister.*

4. A person applying for call is required to declare:

1. *I confirm that the declaration which I made for the purpose of obtaining admission to this Inn was true in every respect when I made it.*

2. *Since I made [the] admission declaration:*

(a) I have not been convicted of any criminal offence (nor been the subject of any pending proceedings for such an offence);

² It is our understanding (see paragraph 14 of the Annual report) that there may be some variations in interpretation by individual Inns as to what in practice this requirement means, and in particular whether an applicant is required to declare (i) offences for which a caution has been administered and (ii) fixed penalty motoring offences. Such variations are not for us to comment on, and we understand that they are currently the subject of joint review by the Inns. We proceed upon the assumption that declarations are made by all applicants in relation to all such matters.

(b) I have not been convicted of a disciplinary offence by a professional or regulatory body (nor been the subject of any pending proceedings for such an offence);

(c) I have not been the subject of any bankruptcy order or directors disqualification order nor have I entered into an individual voluntary arrangement with creditors;

3. I do not suffer from serious incapacity due to mental disorder (within the meaning of the Mental Health Act 1983) nor addiction to alcohol or drugs, nor from any other condition which might impair my fitness to become a practising barrister.

4. Except as disclosed below, I am not aware of any circumstance which has occurred while I have been a Student member of the Inn which might reasonably be thought to call into question my fitness to become a practising barrister.

5. The ICC's powers, in the event that a Serious Matter is proved in respect of an applicant/ student, are that it may:

a. advise as to future conduct;

b. reprimand;

c. order postponement of Admission to the Inn/ Call to the Bar

d. direct expulsion from the Inn or refusal of Admission to the Inn

e. make orders putting into effect any combination of the above.

II. OFFENCES AND ACTIONS THAT ARE LIKELY TO BE SCREENED OUT BY THE SCREENING PANEL

The Screening Panel will not normally refer applicants/ students to an ICC Panel for the following, unless there are aggravating circumstances or other concerns about the applicant/ student's fitness to practise, or an Inn has raised specific concerns or made a specific recommendation for a panel hearing in its letter of referral:

- Fixed penalty traffic offences (save those resulting in disqualification);
- Fixed penalty notices for a single non-traffic criminal offence, where the offence is at least three years old and the applicant/ student has not committed any further offences;
- Bankruptcy orders or other debt arrangements which are over ten years old and completed/discharged;
- Any other matter that the Screening Panel considers to be of a minor nature, or does not merit a panel hearing on account of the age of the offence and its circumstances.

The following guidelines refer to cases that have been referred to an ICC Panel

III. CRIMINAL OFFENCES

THE DECISION MAKING PROCESS

Whether disposal of the criminal matter which has given rise to the referral to the ICC was by conviction, caution, reprimand, or warning, a three-stage process is envisaged:

1. The offence: Classification according to seriousness
2. The offence: Assessment of individual circumstances
3. The applicant/ student: Assessment of character, circumstances and length of time since offence.

1. THE OFFENCE: CLASSIFICATION

First, the particular offence by the applicant/student will be assigned to a class of seriousness, in accordance with the table below.

OFFENCES
CLASS 1 Murder; Wounding/GBH with intent; Rape/assault by penetration; All offences of theft , including robbery and burglary; All offences of fraud and dishonesty, including bribery. Supply/possession with intent to supply/production/importation of any Class A drug. Unlawful use of a firearm/imitation firearm; Perjury, perverting, assisting an offender, intimidation and revenge.
CLASS 2 Violence not involving deliberate intent to cause serious physical harm; Public order offences; Possession of Offensive weapon/Bladed article; Other firearms offences; Possession, production or supply of non-Class A controlled drugs; Possession of Class A drugs; Driving offences requiring mandatory disqualification; Other sexual offences; Financial, insolvency and company management offences not requiring proof of dishonesty; Breach of a court order/contempt of court; All other offences, not listed.
CLASS 3 Road traffic offences where endorsement obligatory but not requiring mandatory disqualification.

2. THE OFFENCE: ASSESSMENT OF INDIVIDUAL CIRCUMSTANCES.

The panel will then assess the circumstances of the individual case. They will be informed by the sentence imposed, but will take into account all the extenuating or aggravating facts and circumstances of the offence.

In the case of all offences or other actions likely to be of concern, **full disclosure of the facts and circumstances at the earliest opportunity will be considered by the Panel as of great importance.** Applicants/ students and students should not wait to have information extracted from them by questioning from the Panel.

In the case of offences in Class 1, whatever the extenuating circumstances, the offence is always likely to be considered extremely grave. The **starting point** will be that a person who has committed a Class 1 offence will usually be refused admission or expelled.

The **Class 2 criminal offences** include a number of offences that depending on the individual case, can range from the extremely grave to the relatively trivial. So in judging such offences, the particular facts and circumstances of the case and the nature of the conduct will be especially important in determining how the offence

should be treated. A useful indication will be the disposal/sentence. A caution/discharge/fine will normally indicate a lower degree of gravity. A custodial sentence, whether immediate or suspended, will indicate a higher degree of gravity. However, the panel will also make its own assessment of the circumstances. The panel will in particular exercise its own discretion based on its assessment of all the circumstances known to it in cases involving mandatory sentences; in cases of causing death by careless driving and manslaughter; in cases of mercy killing; and in cases involving non-Class A drugs (where the amount of the drug will be an important factor).

There is no assumed starting point for Class 2 offences, as much will depend on the assessment of the circumstances. The decision which the panel considers appropriate could therefore range (in the case of an applicant) from refusal of admission to admission with or without time delay, and (in the case of a student) from expulsion to permission to proceed to Call, or continuation of studies, with or without time delay.

For example: A first time offence for drink-driving only will not necessarily lead to non-admission or expulsion. A more serious view will be taken of a conviction involving an element of dangerous driving or accompanied by associated convictions (e.g. leaving the scene, driving while disqualified). A particularly serious view will be taken of cases involving injury to persons; a high alcohol content; or lack of cooperation with the police. The panel will have regard to mitigating circumstances put before it: in particular a compelling emergency situation could be strong mitigation.

As a **starting point**, a person who has committed a **Class 3 offence** will usually be admitted, or permitted to proceed to Call (possibly after a specified period) or to continue their membership of their Inn.

The relevance of a custodial sentence.

The starting point will be that a person will not be admitted to an Inn while subject to any portion of a custodial sentence, whether immediate or suspended.

The rare case of an applicant subject to life licence for an offence committed many years earlier will require special attention.

Cautions

The administering and receipt of a caution requires an admission of guilt. Therefore, the panel will treat a caution, like a conviction, as establishing that the person committed the offence. As noted above, the fact that an offence has been dealt with by a caution rather than by prosecution will be of assistance to the person under consideration as indicating

- Firstly, timely admission of wrongdoing, and
- Secondly, that the wrongdoing was of such a nature as to merit this method of disposal in the view of the relevant officer or official.

However, even a caution, if administered for a more serious offence, will be a matter of great concern.

3. THE APPLICANT/ STUDENT: ASSESSMENT OF CHARACTER, CIRCUMSTANCES AND LENGTH OF TIME SINCE OFFENCE.

The panel will in arriving at its determination take account of the length of time since the offence was committed and the character of the person considered. A person with a conviction for a particularly serious offence whilst a youth but with positively good character over many years thereafter may well be considered in a better light than a person with a number of recent disposals for less serious offences. Similarly, in the case of a recent less serious offence, a person who can demonstrate consistent good character apart from the one lapse will be considered more favourably than someone who cannot.

Offences of dishonesty always fall into Class 1. However, there may be special cases of single instances of un-aggravated minor shoplifting or fare evasion, particularly in youth, that can be treated leniently.

A harsh view is likely to be taken of any case where the panel considers that the applicant/student has failed to make full disclosure of all the facts and circumstances of the offence, has been evasive or reticent as to the circumstances, or has failed to acknowledge the severity of the conduct in question and show appropriate remorse and contrition.

Character references

In demonstrating good character, references from persons of good standing with whom the person has worked or studied will be taken into account. Referees providing written references should be warned that the panel may wish to speak to them personally. More weight will be given to material received from referees who have:

- had a close association with the person, allowing them to make a reliable assessment of their character and activities.
- known the person well over a long period and in the recent past.

Conversely, less weight will be given to references from those who have known the applicant/ student in the more distant past, who have been associated with the person only for a brief period, and who have not had recent contact with the applicant/ student.

Any reference must include a signed statement that the referee:

- a. knows the purpose for which it is provided and
- b. is aware of the details of the conduct that has led to the ICC referral.

Generally, the following positive and negative factors will be taken into account:

Plus factors	Minus factors
Substantial passage of time since offending	Recent Offending
Full disclosure of all facts at the earliest opportunity	Reticence as to facts and circumstances
Guilty plea and/or genuine remorse	Contesting a trial and/or Lack of remorse
Single offence, out of character	Commission of multiple offences, whether on a single or more than one occasion
Good references as to good character over a long period	Failure to provide good references from referees with appropriate knowledge of the applicant/ student
Personal progress since offending, including significant voluntary work in the community	

IV. NON-CRIMINAL CONDUCT

THE DECISION MAKING PROCESS

In the case of reprehensible, non-criminal conduct, the ICC Panel will consider the particular facts of the conduct and then the character of the person considered, including character references, as at stages 2 and 3 relating to **III. (CRIMINAL OFFENCES)** above.

The panel will consider all matters relevant to its determination whether the applicant/student is a fit and proper person to be called to the bar, within the meaning of Regulation 6 of **the Bar Training Regulations**.

The making its determination as to fitness to practise, the panel will have regard generally to the contents of

- the **STATEMENT OF PRINCIPLES AND GUIDELINES** to which these Decision Guidelines stand as Appendix B;
- in particular, Appendix A **PRINCIPLES AND GUIDELINES**:

PARTICULAR MATTERS REFERRED FOR ICC CONSIDERATION:

A. PROFESSIONAL DISCIPLINARY MATTERS (applies to declaration 2(b) (admission and call))

In assessing a person's fitness, careful attention will be given to the precise facts and circumstances of any professional disciplinary finding or proceedings and to any personal mitigation. A finding of misconduct in another profession will strongly militate against a finding that a person is fit and proper to pursue a career at the Bar.

B. BANKRUPTCY AND DEBT ARRANGEMENTS (applies to declaration 2(c) (admission and call))

Bankruptcies more than ten years old which have been discharged will not normally be referred to a hearing Panel. Similarly, arrangements with creditors more than ten years old and that have been completed will normally be screened out.

A person will not normally be admitted while an undischarged bankrupt or whilst subject to an IVA or similar arrangement.

In looking at cases where the person has been declared bankrupt, or who has entered into a IVA or other debt arrangement, the particular circumstances will be examined. Factors in favour of such applicants will include:

- honest attempts to repay creditors;
- conduct not resulting in substantial financial harm to vulnerable creditors.

The ICC will be particularly concerned about those who appear to have used the debt laws to escape the consequences of their own conduct. As always, evidence of dishonesty or unfair dealing with others will strongly indicate that a person is not fit and proper to be a barrister.

C. DIRECTORS DISQUALIFICATION AND OTHER ORDERS AND INJUNCTIONS LIMITING A PERSON'S CONDUCT (applies to declaration 2(c) (admission and call), and 3 (admission) or 4 (call))

Such orders include, but are not limited to, disqualification from being a director, a sexual offences notification requirement, an anti-social behaviour order, a non-molestation order, a financial reporting order, a sexual offences prevention order, disqualification from working with children, a football banning order, and a serious crime prevention order.

Where an order limiting a person's conduct has been imposed, the ICC Panel will first consider what its view is as to the conduct (whether criminal or non-criminal) that led to the imposition of the order, and will make the appropriate decision as to the person's fitness.

In any event:

A person will not normally be admitted while subject to a court order limiting his/her conduct.

Unless a more severe decision has been made as a result of the substantive offence/conduct, admission will usually be delayed until at least three years from the end of the order.

A person made subject to such an order whilst a student can generally expect to be expelled, although, in exceptional circumstances, delayed call may be considered.

D. OTHER NON-CRIMINAL CONDUCT, INCLUDING PLAGIARISM (applies to declaration 1 (call), and 3 (admission) or 4 (call))

A person found to have committed any act of dishonesty, not dealt with as a criminal offence, should be prepared to be expelled or refused admission.

Only where the conduct is minor, fully explained, and there is genuine remorse for the dishonesty, will an alternative be considered.

Such dishonest conduct will include false declarations and concealment of convictions or other relevant matters in an application to join an Inn. Any past failure in making a declaration to an Inn will necessitate a full explanation from the student as to why the failure occurred, in addition to the facts of whatever matter it was that should have been declared.

PLAGIARISM

Plagiarism is generally understood as cheating. In this sense, a student who passes off the work of others as his or her own commits a deliberate and dishonest act; as such, any instance of such conduct will be treated by panels as akin to an offence of dishonesty.

It follows that the **starting point** will be that a person who has committed an offence of plagiarism where there is significant, deliberate and dishonest unacknowledged use of the work of others will be refused admission to an Inn, or expelled from the Inn and not permitted to proceed to Call.

However, the ICC recognises that a range of conduct may be encompassed in the definition, which can vary from one academic institution or course provider to another.

Because of

- the variation in terminology referred to, and
- the variable circumstances of academic offences

it is important that full disclosure be made by the applicant/ student of all facts relating to the conduct under review by the hearing panel. This will include all paperwork relating to that conduct, including all records of hearings before and determinations of the relevant academic institution, insofar as they are available to the applicant/ student. (The panel will have regard in assessing the the good faith of the applicant/ student to the extent of their cooperation in the obtaining of relevant records and material from the relevant institution prior to the panel hearing.)

For the same reason, it is important and in the interests of the student/ applicant that their fullest possible statement of facts and contentions should be made available in advance of the panel hearing.

A hearing panel is not able to re-open the determination of an academic institution, or to hear submissions as to whether any academic offence found to have been committed has been committed. It proceeds upon the basis that all possible appeal avenues have been exhausted, and it determines the level of wrongdoing, so far as is relevant to the imposition of sanctions, upon the material available to it.

Cheating at Bar course provider institutions will generally be regarded as more serious than similar conduct at prior degree course institutions. Academic Offences, and Plagiarism, at Bar course provider institutions is defined, and their consequences are explained, at B6 of the BPTC handbook to which panels will have regard.

Factors militating in favour of persons under consideration will include:

- a first offence (unless this was an instance of significant, deliberate dishonesty)
- defective citation (use of small amounts of text not properly referenced or attributed) or minor instances of mutual assistance by students;
- prompt and candid admission of guilt.

Factors militating against include:

- reproduction of large amounts of text without attribution or reference
- substantial and deliberate passing off of others work;
- knowing collaboration or collusion;
- a second or subsequent offence;
- denial of guilt or blaming another.

In cases of plagiarism involving collusion between two or more students, consideration will be given to whether each should be required to appear separately before the same Panel.

All other non-criminal reprehensible conduct will be considered on its particular facts, informed by the general principles in Appendix A.