



Inns' Conduct Committee **First Annual Report to COIC**

Introduction

1. This report is submitted in accordance with the Rules for the Inns' Conduct Committee (ICC Rules) r15. It also contains:

- A Practice Direction on minor matters which may be retained by the Inns for determination, pursuant to the Bar Training Rules (BTR) r113 and ICC Rules r 47 (Annex E)
- a statement of Threshold Criteria developed pursuant to the Bar Training Rules (BTR) r113, setting out which cases are sufficiently minor in nature to be determined by the Screening Panel without referral to a Panel (paragraphs 24-28 of this report), and
- Guideline Sanctions for certain common offences considered by ICC Panels (Annex F).

2. Traditionally the Inns of Court have been responsible for deciding whether a candidate for admission to their Inn was a fit and proper person to become a practising barrister, and for the discipline of student barristers. This led to inconsistency between the Inns and a lack of clarity among those who applied to the Inns (where applicants made a declaration about their past which may affect their suitability for admission) and those students who were guilty of acts of misconduct. The Bar Standards Board, BSB, was created by the Bar Council following the Legal Services Act 2007 to regulate barristers and those wishing to become barristers. In turn, the Council of the Inns of Court, COIC, decided to create a further body to carry out some of these functions on its behalf, and the ICC was established on 1 September 2009. Any relevant cases coming to the attention of the Inns after this date were to be referred to the ICC. A set of rules to regulate the activities of the ICC was drafted by the Under Treasurer of Lincoln's Inn (Colonel David Hills MBE) and the Assistant Secretary to COIC (Rachel O'Driscoll). A Hearings Administrator, Linda de Klerk, was employed on a part-time basis (three days per week) to provide secretarial support to the ICC and she has been provided with office facilities in Lincoln's Inn.

3. The Inns were each requested to nominate seven barristers to serve on the ICC to ensure a total complement of 28 from which ICC Panels would be selected to hear individual cases. In the event a total of 29 nominees were selected and those personnel are listed in Annex A. On 14 October 2009 the COIC approved the draft ICC Rules and the appointment of the 29 nominees. The President of COIC, Lord Justice Etherton, also announced that the first Chair of the ICC, who would serve for a term of three years, would be His Honour Judge Jeff Blackett, the Judge Advocate General of Her Majesty's Armed Forces, and a Bencher of Gray's Inn. A pool of 24 lay representatives were appointed, drawn from volunteers from the panel of lay representatives retained by COIC for hearing cases of breaches of the Code of Conduct by barristers.

4. The work of the ICC commenced before the first Committee meeting and so the Chair made a number of decisions which would subsequently require retrospective approval from the Committee. He appointed a Vice Chair (Margaret Bickford-Smith QC, Crown Office Chambers and a Bencher of Inner Temple) and he convened a Screening Panel (as required by ICC Rules r16 . 18) on 30 October 2009 to deal with the backlog of cases which had been caused by the change in arrangements for handling.

Functions and Powers of the ICC

5. The ICC has power to deal with three types of cases:

- a. Determination on any question of whether an applicant to join an Inn is a fit and proper person to become a practising barrister;
- b. Determination of whether the conduct of a student of an Inn is so serious as to call into question his or her fitness to practice as a practising barrister and to administer appropriate sanctions;
- c. Determination of appeals by students who have been dealt with by the Inns' internal disciplinary procedures for minor matters.

6. The ICC was concerned that some cases were referred to it where a matter of fact had not yet been determined. For example, a police investigation had not been concluded into an allegation falsifying a medical certificate. The student concerned had returned to Bangladesh and, although denying any wrongdoing, stated that she was unable to return to the UK to deal with the matter. The initial reaction of the ICC was to adjourn the case until the matter had been resolved, but on reflection we believe the ICC should take a view of a student's fitness to practise based on the contested evidence and the matter can be re-opened if appropriate once the matter is finally resolved. Thus if the ICC determine that, notwithstanding the outstanding matter, the student is a fit and proper person it can direct that the student be called to the bar. However if, subsequently, the student is convicted then the BSB can reconsider the matter.

Operation of ICC

7. The Inns decided that in the first year of operation all matters would be referred to the ICC even those which, on any account, were minor. The ICC Chair requested that each Inn should include its own recommendation as to disposal when forwarding the case, but not all of the Inns felt comfortable with such an approach because they would effectively have to hold their own hearing in advance of referral to the ICC. On reflection the ICC accept this view and accept that cases referred from the Inn will not contain any recommendation. However the Inns have the right, but no obligation, to be represented at a panel hearing to make any representations as to disposal or any other comment if they so wish.

8. All cases referred to the ICC are first considered by a Screening Panel which either returns the matter to the Inn or refers it to a panel hearing. The Screening Panel comprises two barrister members of the ICC and is chaired by either the Chair or Vice Chair. In the first year of operation the Inns referred 83 individual cases to the ICC. 6 were too late to be included within the first year of operation and will be dealt with after 1 September 2010. The remaining 77 cases were considered in 7 Screening Panels and of these 34 were referred to ICC Panel hearings and 43 were returned to the Inn without a hearing.

9. During the first year of operation only 22 out of 29 barrister members of the ICC sat on a Panel hearing. It is important that the ICC develops a core of expertise which can ensure consistency while having sufficient membership to fulfil all of its commitments. In the

light of experience of the first year of operation the ICC considers that this can be achieved with a total barrister membership of 20 . that is five from each Inn. We have consulted with each Inn and all the members of the ICC and agreed to nominate two from each Inn to retire at the end of the first year of operation without replacement. Ten of the remainder will be replaced in September 2011 with the remaining ten being replaced in September 2012. Thereafter we propose that 7 are replaced each year by selection rather than ballot. This required a change to the ICC Rules which specified that one third of the membership will be selected to retire by ballot, and the Rules were duly amended.

10. The efficient operation of the ICC has been hampered because of difficulties in communication with some overseas students. We recommend that COIC amends the BTRs so that students are required to update their contact details with their respective Inns whenever they move, such updates to include any moves or change of contact details after they have finished sitting their examinations.

ICC Meetings

11. The first ICC meeting was held in Lincoln's Inn on 13 November. It was well attended by three quarters of the nominated barristers, but there were no lay representatives. Notwithstanding the requirement of ICC Rules r13 that, *inter alia*, one lay representative should ~~generally~~ attend, the Chair directed that the meeting was properly constituted as ~~generally~~ in ICC r13 provides sufficient discretion for these purposes. This was subsequently endorsed by the ICC. At the first meeting the ICC resolved that:

- a. The ICC should meet twice each year, normally in September and March. The annual report would be approved at the September meeting. During the first year of operation the meetings were in November and May;
- b. The appointment of Margaret Bickford-Smith QC as Vice Chair be confirmed;
- c. Recommendations from the Screening Panel of 30 October 2009 in relation to the first ten cases referred to the ICC be approved;
- d. Authority be delegated to the Screening Panel to develop threshold criteria setting out which cases are sufficiently minor to be determined by the Screening Panel;
- e. ICC Rules be reviewed during the first year of operation before any changes are proposed;
- f. Sanction guidelines be developed for approval at the next ICC meeting.

12. The second meeting of the ICC was held in Lincoln's Inn on 26 May 2010. It was also well attended by the barrister and lay members. The main purpose of that meeting was to agree proposed changes to the ICC Rules for submission to COIC and the BSB, agree the threshold criteria and comment on the draft annual report. The third meeting was held on 9 September 2010 to approve the annual report and to agree ICC policy in relation to certain matters contained in the report.

Representation for those referred to the ICC

13. In cases where a student appears before the ICC for misconduct, it is important that they be properly represented because their future career may be in jeopardy. Historically the Inns have endorsed a system whereby they nominate barristers to represent students without the intervention of a professional client notwithstanding paragraph 401 of the Bar's Code of Conduct which states that a barrister cannot act unless s/he is instructed by a professional client or practice licence user or s/he is a Public Access barrister. In order to comply with the Code of Conduct, Lincoln's Inn, Gray's Inn and Inner Temple have all recently obtained a Practice Licence [see CC paragraph 401(ii)] which makes it possible for

those Inns to instruct a barrister directly. The Bar Standards Board (BSB) has limited the grant of the licence to one year in the first instance, on the grounds that it will be seeking a different solution to the question of representation in the longer term.

14. The ICC notes that a BSB working party is actively looking to identify a long-term, simple and consistent approach to the issue of Inns instructing Barristers to represent students on ICC Panels, possibly through the Pro Bono unit. Whilst it is not within our terms of reference to make any recommendations in relation to this issue, we believe that students must have access to free legal representation and that those barristers who undertake the work must have the appropriate expertise in criminal and regulatory law. We do have concerns about any solution whereby the pool of representation is limited to any single operating unit, and would be happy to give our own input on this issue in the light of our developing experience.

Referrals to the ICC

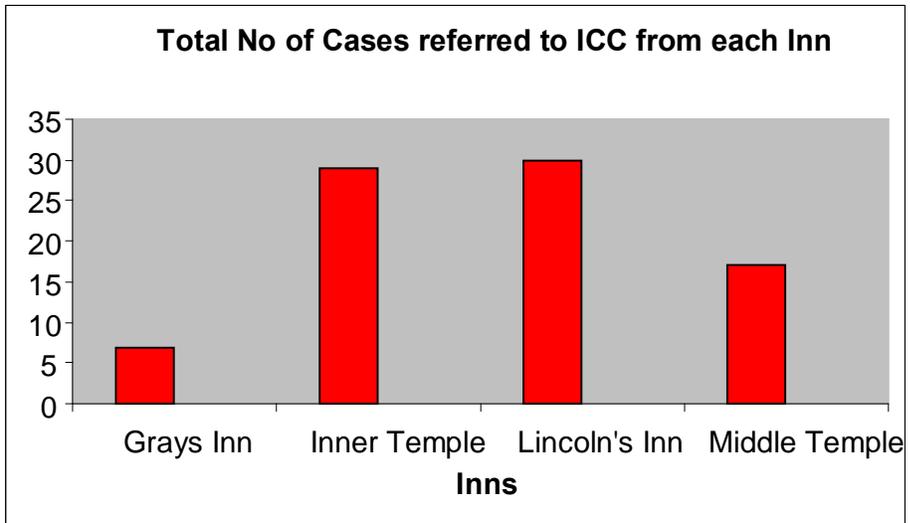
15. During the first year of operation **83** individual cases have been referred to the ICC by the Inns. Consideration of **6** of these cases has been delayed to the second year of the operation of the ICC because they were received too late for determination in August 2010. Of the 77 cases dealt with:

- a. **57** were applicants to join an Inn, of whom 33 were determined to be fit and proper by the Screening Panel and returned to the Inns to be admitted. 24 appeared before a Hearing Panel: two were rejected, three had their admission delayed and 19 were determined to be fit and proper to be admitted by their respective Inns.
- b. **6** were transferring solicitors of whom five were returned to the Inns for admission by the Screening Panel and one appeared before a Hearing Panel which determined he was a fit and proper person.
- c. **14** were students of whom five were returned to the Inns by the Screening Panel with no sanction. Nine were referred to a Hearing Panel: three were expelled from their Inns, six received other sanctions.

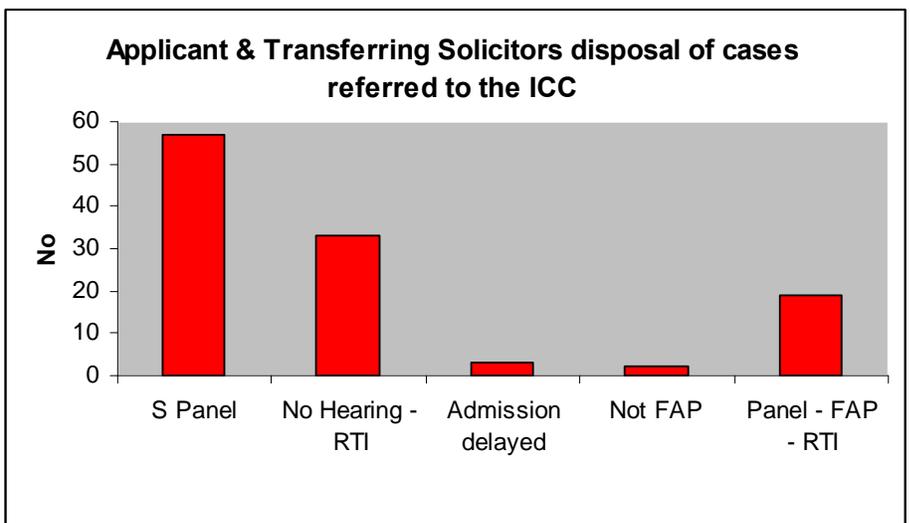
16. These 77 cases were considered by 7 Screening Panels and the 34 individual cases referred by the Screening Panels to Hearing Panels were considered in 22 sittings of the Hearing Panels.

17. The Screening Panel has decided, and the ICC at its meeting on 9 September 2010 confirmed, that any cases referred from the Inns after 1 August each year will not be considered until after 1 September of that year; they will be counted for statistical purposes in the subsequent year. To date the ICC has satisfied most requests by the Inns for urgent consideration of cases to fit in with the next Call date, but would ask the Inns to keep such requests down to the absolute minimum.

18. The Statistics in paragraphs 14 and 15 are shown graphically as follows:

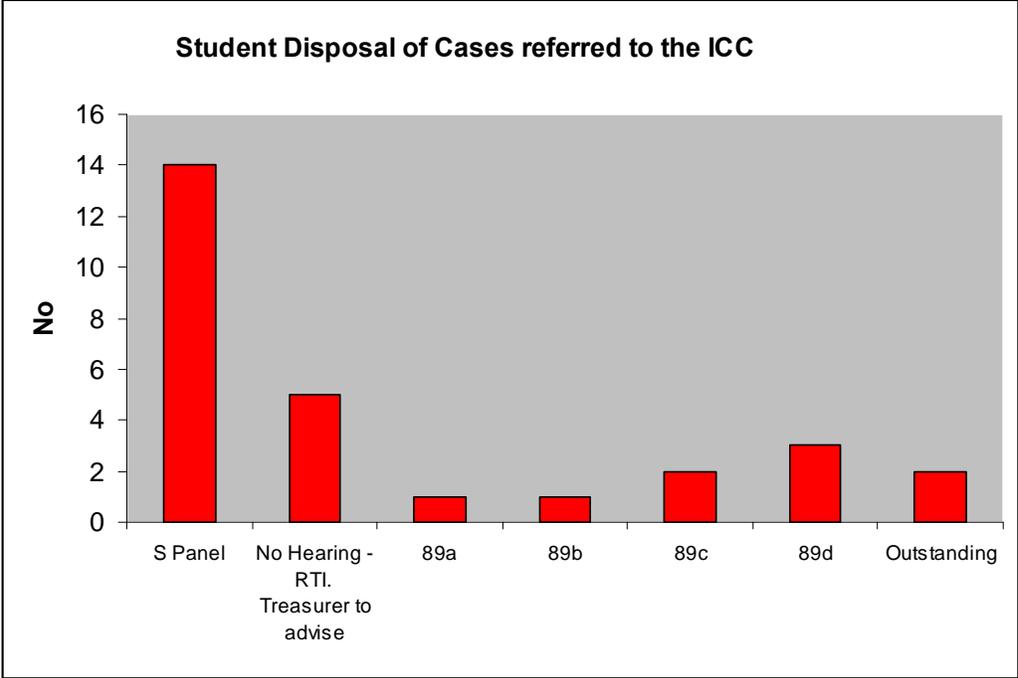


*Intake numbers for each Inn for BVC 2009/10
 Grays Inn = 302
 Inner Temple = 359
 Lincoln's Inn = 747
 Middle Temple = 524



Note
 RTI = Returned to Inn for admission

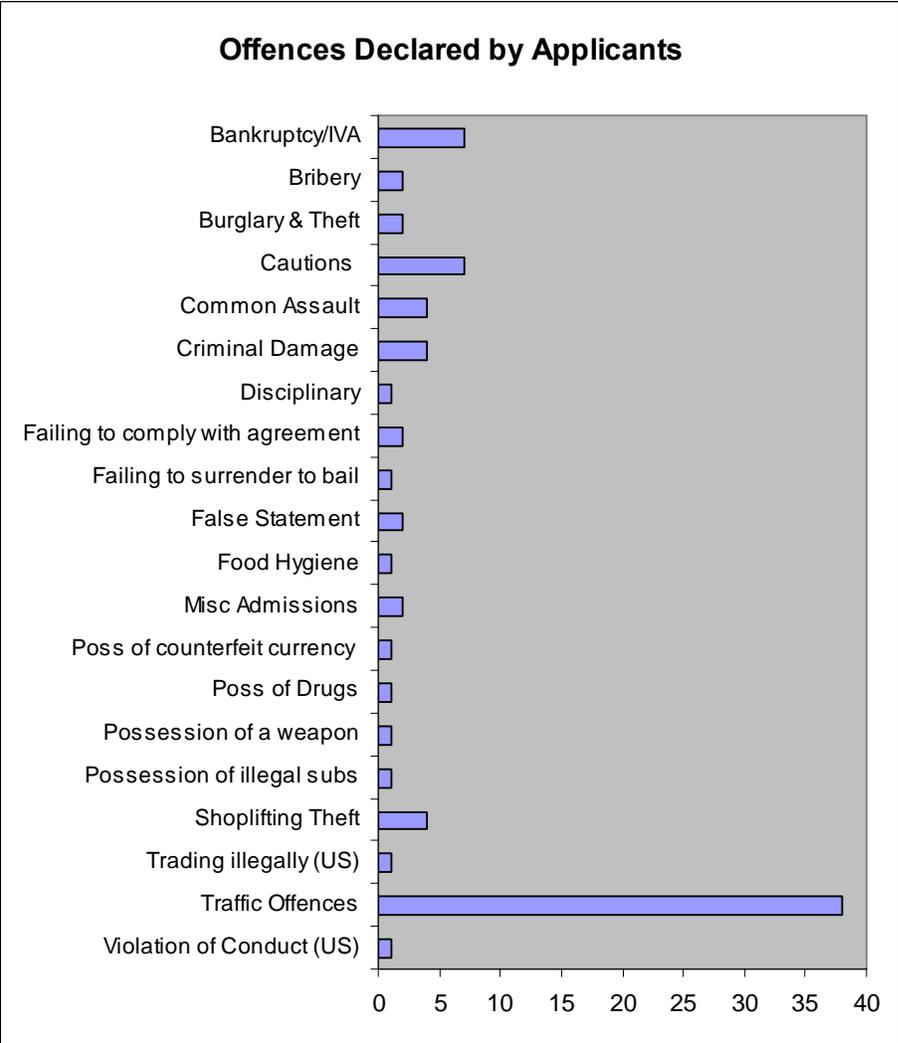
FAP= Considered Fit and Proper



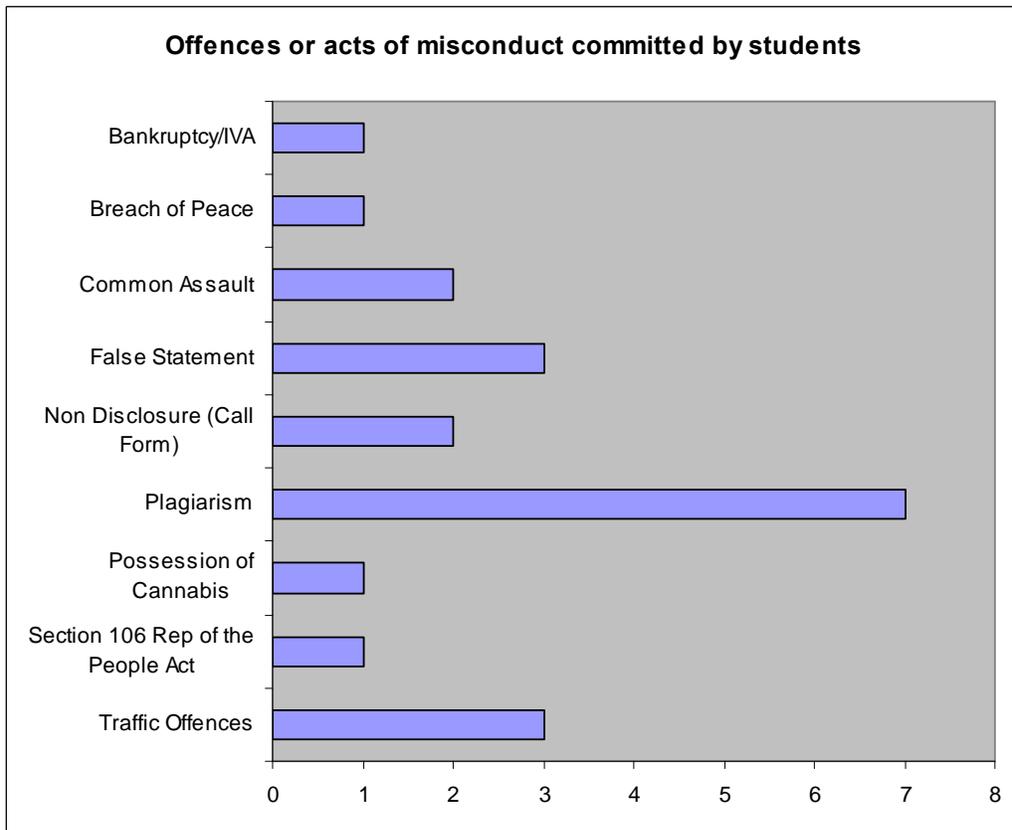
Note

- 89a - student advised as to future conduct
- 89b - Reprimand the Student
- 89c - Student's Call to the Bar postponed
- 89d - Expulsion

List of Offences declared by referrals



*Out of the 36 traffic offences listed the most prevalent were Drink Driving (10) and Driving with No Insurance (7)



*The cases of some applicants and students have related to more than one offence

Plagiarism

19. Plagiarism is considered to be very serious because, on the general understanding of the word, it connotes dishonesty. The essential element of plagiarism is that a student copies the work of others and then attempts to pass it off as his or her own. Our experience has however shown that plagiarism is a generic description of a number of different activities, and the definitions of the various classes of plagiarism in BPTC Handbook paragraph 6.2.5 are helpful. Cases referred to us generally relate to student misconduct in the course of preparation for the bar examination. In this situation the student will have been found guilty by the course provider, so that the ICC is concerned solely with sanction. The ICC has the following observations:

- a. Some providers appear to be stricter than others about the way in which they deal with those found by them to have committed plagiarism. Some allow them to continue their course and obtain an academic qualification whereas others suspend or expel such students. The ICC intends to discuss this with course providers to establish whether they can all take a consistent approach. The ICC considers that a student should be aware that, whatever the disposal by the course provider, s/he will still be referred to the Inns Conduct Committee which has a range of available sanctions, and that there is a real risk that call to the Bar

may be refused on this ground. We recommend that course providers and Inns specifically refer to this potential outcome in any correspondence with the student relating to plagiarism.

- b. The E & T Committee of the BSB Board have issued guidance to BVC Providers entitled *'A Common Approach to Plagiarism and Collusion'*. Paragraph 12 requires them to compile a report where there was an intention to deceive by the student. That report should include a recommendation as to whether the student should be Called to the Bar. The ICC experience is that BVC Providers are not making that recommendation and they should be reminded of that obligation.
- c. Some students involved in plagiarism offences act alone, others collude. In the latter case ICC practice is for the students to appear separately before the same Panel on the same occasion. Experience has shown that this approach assists the Panel in arriving at a reliable conclusion on the facts which is relevant to the culpability of the offender, and also throws light on whether the offender is genuinely seeking to give a truthful account to the Panel. Any failure to give a truthful account to the Panel is relevant to the question whether the offender is a fit and proper person to be called to the Bar and to remain a member of their Inn.

Appeals from the ICC

20. Applicants and Students may appeal a decision of the ICC to the BSB under ICC Rules r34 and r35. In the first year of operation five students and two applicants asked for their cases to be referred to the BSB for review. On each occasion the Chair of ICC was asked whether he wished to make any further observations before the matter was dealt with by the BSB, but he declined the opportunity on the basis that the written ICC Panel judgments should stand on their own. Six of the ICC Panel judgments were upheld on review by the Qualifications Committee at the BSB and one appeal (from an applicant) was not upheld and the sanction varied by the BSB. In that case the BSB did not provide written reasons for their decision apart from expressing the view that they thought that the sanction was too harsh. The ICC are concerned the BSB substituted their own view for that of the ICC Hearing Panel rather than reviewing whether the original decision was within reasonable parameters. We recommend that all review decisions of the BSB must contain comprehensive reasons for any variation.

Threshold Criteria – General Comments

21. As a matter of policy the Inns decided that, while the ICC is developing threshold criteria, they would refer all matters of student misconduct or applicants where there may be a question as to suitability to practise which came to their attention. The requirement was for the ICC to provide a Practice Direction as to which matters were minor (and could therefore be dealt with by the Inn) and which were serious (and must be referred to the ICC). The ICC would then issue Threshold Criteria in relation to which serious matters were sufficiently minor to be dealt with by the Screening Panel, and which required a hearing before a Panel.

22. In relation to applicants to join an Inn, or transferring solicitors, the ICC considers that **all** cases should be referred to the ICC. Absolute consistency in this area is essential because it is in the public interest that any matter which concerns fitness to practise should be considered as sufficiently serious to be elevated to a central professional body. This is so even though many such cases will be referred back to the Inn by the Screening Panel without any need for a hearing.

23. However, in relation to misconduct by students, there may be circumstances where a minor reprimand by an Inn is appropriate without referral to the ICC. Guidelines on those circumstances are being developed and the Practice Direction at Annex E will be updated with experience: any matter which falls within the Direction may be dealt with by the relevant Inn without referral to the ICC. The ICC would only expect to become engaged in such matters where the student wishes to appeal against the Inn's decision for final determination by the ICC.

24. There have been cases where the Screening Panel has decided that an applicant is a fit and proper person but that he or she would benefit from some further direction from the relevant Under Treasurer. We intend to include in our letters returning such cases to the Inn a recommendation that the Under Treasurer should formally meet the applicant, to inform the applicant that s/he is a fit and proper person, but to remind him/her how to behave in future. This is a similar mechanism to, and in the ICC's view consistent with, the ICC's jurisdiction pursuant to ICC Rules r 42(a) to administer to a student in a case of misconduct a formal warning as to future conduct (such warning being delivered in a formal setting by the Under Treasurer).

Threshold Criteria – Applicants

25. The Screening Panel is required either to decide that a referred applicant is a fit and proper person to practise, in which case it directs the referring Inn to admit the applicant, or to pass the case to an ICC Panel for a hearing. The ICC Panel must decide whether or not the referred applicant is a fit and proper person to practise. A Panel will either determine that the referred applicant is a fit and proper person and direct the referring Inn to admit him/her, or determine that s/he is not a fit and proper person and direct that his/her application should be refused.

26. Subject to the proviso that the Screening Panel will refer any case to a Panel hearing if it has any concerns about an applicant's fitness to practise (however minor the matter referred), the ICC considers that the following may be dealt with by the Screening Panel:

- a. Fixed Penalty Traffic Offences
- b. Fixed Penalty Fines for minor public order offences . where the relevant offence is at least three years old and the applicant has not committed any further offences.
- c. Formal Police Cautions . where the caution is at least three years old and the applicant has not committed any further offences.
- d. Bankruptcy orders . where the bankruptcy is over ten years old and the applicant is discharged.
- e. Miscellaneous minor matters referred to in admission statements (see Schedule D para 4 of the BTRs)

27. Where an applicant has served a custodial sentence, the presumption is that s/he will not be admitted to an Inn unless there are exceptional mitigating circumstances, such as that the conviction is very old, that the applicant has been an outstanding citizen since release from custody, or that the applicant has demonstrated exceptional ability and motivation towards practice at the Bar and it is in the best interests of the profession that s/he be admitted, and there is no perceived threat to the public by his/her admission.

Threshold Criteria – misconduct by students

28. The Screening Panel is required to consider any case of misconduct referred by the student's Inn as a Serious Matter within the meaning of BTR r 84 or 86, and to consider the gravity of the referred matter. If it considers the matter to be minor in nature it may return it to the referring Inn marked as requiring no action. If it considers the matter to be more substantial it decides whether it is of a sufficiently minor nature that it can deal with it without a hearing, or is of such significance as to require a hearing before an ICC Panel.

29. Subject to the proviso that the Screening Panel will refer any case of student misconduct to a Panel hearing if it considers that to be appropriate, the ICC considers that the only sanction which the Screening Panel may award is to advise (or, there being no formal ICC hearing, to refer the matter back to the student's Inn for the Under Treasurer of the Inn formally to advise) a referred student as to his/her future conduct. Such an award may be appropriate for:

- a. Fixed Penalty Traffic Offences;
- b. Fixed Penalty Fines for minor public order offences; and
- c. Any other matter which the Screening Panel considers to be of a minor nature.

Guideline Sanctions for serious matters of misconduct by students

30. In the light of experience of the first year of operation the ICC has developed guideline sanctions for cases of misconduct by students. They are attached at Annex F.

Publication of ICC decisions

31. The ICC notes that Panel hearings are public and have discussed whether the findings of those hearings should be published. We have noted the BSB policy on publication of disciplinary findings (dated 22 December 2009) but feel that there may be a case for a different approach from the ICC which is dealing with applicants and students only. We feel it is important to balance the requirement for openness with an individual's right of privacy. Our main concern being that if the results are placed on a website then the individual may be adversely and disproportionately affected in the future for conduct before the individual was called to the Bar. Our view, upon which we would welcome guidance from the BSB, is that judgments of the ICC should be retained in hard copy only by the Hearings Administrator and be available for inspection on request. The names of students who are expelled from an Inn should be published on the Inn's website but adverse decisions on applicants or lesser sanctions against students should not be published on any website.

Conclusions and Recommendations

32. The first year of the operation has been a success not least because there is already greater transparency and consistency than before. The workload is higher than originally envisaged, but this may reduce as guidelines are developed and adopted. I would like to thank the Hearings Administrator for her dedication and industry, and the members of the ICC who have taken on their role very seriously and been fully engaged in developing a professional body in which the Bar can have confidence. The total cost of operating the ICC is £21,500 (see Annex D) which, at less than £5,400 per Inn is considered to be good value for money.

33. A summary of our conclusions and recommendations is as follows:
- a. Inns have the right, but no obligation, to be represented at ICC panel hearings and to make submissions as to the disposal of the case or make any other comment (paragraph 7);
 - b. BTRs should be amended so that students will be told that they need to update their contact details with their respective Inns whenever they move, such updates to include any moves or change of contact details after they have finished sitting their examinations (paragraph 10);
 - c. Students charged with misconduct should be provided with free legal assistance, preferably by their Inns (paragraphs 13 & 14);
 - d. Course providers and Inns should specifically remind students found guilty of plagiarism that even if they complete the academic course and receive a post graduate diploma they will still be subject to referral to the Inns Conduct Committee and a range of possible sanctions and that they may still be expelled by their Inn (paragraph 19a);
 - e. BVC Providers should be reminded of their obligation under paragraph 12 of the advice on plagiarism (para 19b);
 - f. BSB review decisions should contain full written reasons for any variation to an ICC decision (para 20);
 - g. Inns should refer to the ICC for determination all cases of applicants for admission where their fitness to practice is in issue (paragraph 22);
 - h. It is appropriate that, where the ICC thinks the case merits it, Under Treasurers should interview in person in a formal setting an applicant or a student to deliver advice as to future conduct (paragraph 24);
 - i. COIC should note
 - a. the Practice Direction on minor matters which may be retained by the Inns for determination, pursuant to the Bar Training Rules (BTR) r113 and ICC Rules r 47, set out at Annex E
 - b. the Guideline Sanctions for certain common offences considered by ICC Panels set out at Annex F.
 - j. COIC should note and agree the statement of Threshold Criteria developed pursuant to the Bar Training Rules (BTR) r113, setting out which cases are sufficiently minor in nature to be determined by the Screening Panel without referral to a Panel (paragraphs 25-29 of this report),

SIGNATURE ON ORIGINAL

HHJ Jeff Blackett
Chair ICC

28 September 2010

Annexes:

- A. List of members of ICC and Lay Representatives
- B. List of cases referred to ICC
- C. List of those returned to their Inn by the Screening Panel
- D. Financial report
- E. Practice Direction on minor matters
- F. Guideline Sanctions for serious matters of misconduct by students and guidelines on admission criteria for applicants
- G. Proposed amendments to ICC Rules

Annex A

List of ICC Committee Members and Lay Representatives (*) indicates volunteer to retire from the ICC)**

Name	Surname	Title	Inn	Chambers	Panel
Charles	Gray	Sir	LI	Retired	1/1/1
Anthony	Bate***	HHJ	LI	Cambridge Crown Court	
Anand	Beharrylal	Esq	LI	15 Newbridge Street	1/1/1
David	Povall	Esq	LI	23 Essex Street	1/2
Gordon	Catford	Esq	LI	Crown Office Chambers	1/1/2
Graham	Cooke ***	Esq	LI	Kings Bench, Bournemouth	
Jonathan	Klein	Esq	LI	Enterprise Chambers, Leeds	1/1
Jeremy	Sullivan***	Lord Justice	IT	Royal Courts of Justice	1/2
Margaret	Bickford-Smith	QC	IT	Crown Office Row	1/2/2/2
David	Streatfeild-James	QC	IT	Atkin Chambers	1/2
Daniel	Matovu	Esq	IT	2 Temple Gardens	1/1
Karon	Monaghan	QC	IT	Matrix Chambers	1/2
Rosemary	Burns***	Ms	IT	4 Breams Building	
Simon	Russell Flint	QC	IT	23 Essex Street	1/2
Jeremy	Connor***	HH	MT	Retired	
Richard	Wilmot-Smith	QC	MT	39 Essex Street	1/1/2
Heather	Rogers	QC	MT	54 Doughty Street Chambers	1/1/2
Elizabeth	Blackburn***	QC	MT	Stone Chambers	1/2
Jeremy	Carter-Manning	QC	MT	Furnival Chambers	1/2
Christopher	Morcom	QC	MT	Hogarth Chambers	1/2
David	Williams	QC	MT	5 CHAMBERS,	1/1
Jeff	Blackett	HHJ	GI	The Royal Courts of Justice	1/1/2
Christopher	Jeans	QC	GI	11 KBW	1/2
David	Phillips***	QC	GI	Wilberforce Chambers	
Hodge	Malek	QC	GI	4 . 5 Grays Inn	1/1
Monica	Carss-Frisk***	QC	GI	Blackstone Chambers	
Oba	Nsugbe	QC	GI	Pump Court Chambers	1/1
Richard	Lynagh***	QC	GI	Crown Office Chambers	
Timothy	Young	QC	GI	20 Essex Street	1/2

List of ICC Lay Representatives

Name	Surname	Title	Panel
Christopher	Benson	Sir	½
Manju	Bhavnani	OBE Dr	
Beverley	Brown	Miss	½
Kenneth	Crofton-Martin	Esq	
Helga	Drummond	Professor	
Emir K	Feisal Mr	Esq	½
William	Henderson	Esq	
Beryl	Hobson	Ms	½
George	Inch	Esq	
Christine	Jackson	Ms	
Pradeep	Khuti	Mr	
Sophia J	Lambert	Ms	½
Hazellanne	Lewis	Ms	
Roger W	Lucking	Mr	½
David	Madel	Sir	½
Lucy	Melrose	Ms	½
Neville A	Nagler	Esq	
Margaret	Rothwell	Dr	
Patricia	Steel	Ms OBE	½
Peter	Thompson	Esq	
David	Walker	Esq	
Veronica	Thompson	Ms	½
Kate	Warnock-Smith	Ms	
Ken	Young	Professor	½

Annex B – List of Cases referred to the ICC by the Inns (34)

RTI = Returned to Inn for Admission

FAP = Considered Fit and Proper

*** = Appealing ICC Decision

Applicants (24)									
	Offence	Age at time of offence	Present Age	Nat	Sex	Sc Panel	Panel	Panel Date	Final Disposal
	Traffic Offence: Drink Driving	25yrs	27yrs	Asian Pakistani	M	01/06/2010	Yes	05/08/2010	FAP RTI for admission
	Bankruptcy	43yrs	44yrs	Asian Bangladeshi	M	09/02/2010	Yes	10/03/10 &14/04/10	FAP RTI for admission
	Drunk and Disorderly behaviour	19yrs	20yrs	White British	M	11/03/2010	Yes	14/04/2010	FAP RTI for admission
	Bankruptcy	39yrs	40yrs	White British		14/07/2010	Yes	28/07/2010	Admission delayed until a period of 18 months had lapsed from date of discharge from bankruptcy. Appeal upheld. Sanction varied to 6 month delay.
	Plagiarism	21yrs	23yrs	White British	F	14/07/2010	Yes	04/08/2010	Outstanding
	1 Theft 2 Criminal Damage 3 Assault	27yrs	47yrs	White British	M	28/04/2010	Yes	13/05/2010	FAP RTI for admission

	Offence	Age at time of offence	Present Age	Nat	Sex	Sc Panel	Panel	Panel Date	Final Disposal
	1 Traffic Offence: disqualification from driving 2 Possession of an illegal substance with intent to supply sell; 3 Possession of counterfeit currency with intent to defraud; 4 Traffic Offence: Driving without tax & insurance.	19yrs	33yrs	White British	M	30/10/2009	Yes	25/12/2009	FAP RTI for admission
	Bankruptcy	33yrs	35yrs	White British	F	28/04/2010	Yes	13/05/2010 & 01/06/2010	Admission delayed until Dec 2010
	1 Common Assault 2 Criminal Damage & threatening behaviour 3 Traffic Fine (3) 4 Traffic fine speeding	40yrs	42yrs	Asian Pakistani	M	01/06/2010	Yes	01/07/2010	Not be admitted to Lincoln's Inn until 2013
	1 Drink Driving 2 Failure to provide specimen	25yrs	27yrs	White British	M	30/10/2009	Yes	14/01/2010	FAP RTI for admission
	1 Drink Driving 2 No Insurance	21yrs	40yrs	White British	M	14/07/2010	Yes	28/07/2010	FAP RTI for admission

	Offence	Age at time of offence	Present Age	Nat	Sex	Sc Panel	Panel	Panel Date	Final Disposal
	1. False statement to obtain insurance 2. No insurance 3. Minor traffic road offence 4. Failing to surrender to bail 5. Possessing offensive weapon in public place	31yrs	37yrs	Asian Pakistani	M	01/06/2010	Yes	21/07/2010	FAP RTI for admission
	1 Criminal Damage 2 Burglary 3 Public Disorder 4 Possession of an offensive weapon	13yrs, 15yrs, 17yrs and 19 yrs	23yrs	Any other black background	M	09/02/2010	Yes	10/03/2010	FAP RTI for admission
	Common Assault	16yrs	26yrs	White British	M	30/10/2009	Yes	25/12/2009	FAP RTI for admission
	1 Drink Driving 2 Disqualified for Driving	31yrs	37yrs	Black African	M	10/12/2009	Yes	04/02/2010	FAP RTI for admission
	Use of a motor vehicle without 3 rd party insurance	21yrs	22yrs	Asian Pakistani	M	01/06/2010	Yes	04/08/2010	Outstanding
	Bankruptcy	23yrs	28yrs	Asian British	F	30/10/2009	Yes	14/01/2010	FAP RTI for admission
	Disciplinary offence	76yrs	77yrs	White British	M	28/04/2010	Yes	19/05/2010	Not to be Admitted. Appeal dismissed.
	1.Speeding (5) 2.Red light	34yrs	35yrs	White British	M	28/04/2010	Yes	19/05/2010	FAP RTI for admission
	False statement (x3)	38yrs	41yrs	Black Caribbean	M	14/07/2010	Yes	05/08/2010	Not to be admitted
	Theft & Burglary	31yrs	36 yrs	White British	M	11/03/2010	Yes	03/06/2010	FAP RTI for admission

	Offence	Age at time of offence	Present Age	Nat	Sex	Sc Panel	Panel	Panel Date	Final Disposal
	Violation of the Colorado rules of Professional Misconduct	42yrs	44yrs	White American	M	10/12/2009	Yes	03/03/2010	FAP RTI for admission
	1 Drink Driving 2 No Insurance	20yrs	24yrs	White British	M	01/06/2010	Yes	08/07/2010	FAP RTI for admission
	Bankruptcy	26yrs	32yrs	White British	M	09/02/2010	Yes	10/03/2010	FAP RTI for admission
Students (9)									
	Plagiarism	24yrs	24yrs	Black Caribbean	M	30/10/2009	Yes	20/01/2010	Advised to future conduct
	Plagiarism	29yrs	29yrs	Asian Pakistani	M	09/02/2010	Yes	27/04/2010	Reprimanded
	Plagiarism	31yrs	31yrs	Asian Bangladeshi	M	28/04/2010	Yes	09/06/2010	Expulsion from Lincoln's Inn. Appeal dismissed.
	Plagiarism	21yrs	22yrs	Asian Bangladeshi	M	10/12/2009	Yes	16/02/2010	Call to Bar suspended for 6 months
	Plagiarism	54yrs	54yrs	Black Caribbean	M	28/04/2010	Yes	09/06/2010	Reprimand
	Plagiarism	29yrs	30yrs	Asian Bangladeshi	M	10/12/2009	Yes	16/02/2010	Expulsion from Lincoln's Inn. Appeal dismissed.
	Common Assault	22yrs	24yrs	White British	M	10/12/2009	Yes	03/02/2010	Call to the Bar suspended for 17 months. Appeal dismissed.
	Plagiarism	25yrs	25yrs	Asian Bangladeshi	M	30/10/2009	Yes	20/01/2010	Expulsion from Lincoln's Inn. Appeal dismissed.
	IVA	23yrs	24yrs	White British	M	07/07/2010	Yes	07/07/2010	RTI for Call to the Bar
Transferring Solicitor (1)									
	1 Bribery 2 Traded without sufficient capital and illegally reversed customer transactions	19yrs	59yrs	British	M	10/12/2009	Yes	04/02/2010	FAP RTI for admission

Annex C – List of those returned to the Inn by the Screening Panel (43)

Applicants (33)									
	Offence	Age at time of offence	Present Age	Nat	Sex	Sc Panel	Panel	Panel Date	Final Disposal
	1 Assault and 2 Criminal Damage	24yrs	42yrs	White British	M	01/06/2010	No	n/a	No Hearing RTI for admission
	Misc Admission Declaration	25yrs 24yrs	27yrs	White British	F	11/03/2010	No	n/a	No Hearing RTI for admission
	Misc Admission Declaration	10yrs	25yrs	White British	M	11/03/2010	No	n/a	No Hearing RTI for admission
	Drink Driving	29yrs	52yrs	White British	M	01/06/2010	No	n/a	No Hearing RTI for admission
	IVA	29yrs	39yrs	White British	F	14/07/2010	No	Outstanding	No Hearing RTI for admission
	Traffic Fine- Drink Driving	17yrs	23yrs	White British	F	01/06/2010	No	n/a	No Hearing RTI for admission
	Drunk & Disorderly	19yrs	28yrs	White British	M	01/06/2010	No	n/a	No Hearing RTI for admission
	Driving with a dangerous load	22yrs	24yrs	Asian British		14/07/2010	No	n/a	No Hearing RTI for admission

	Offence	Age at time of offence	Present Age	Nat	Sex	Sc Panel	Panel	Panel Date	Final Disposal
	Failing to comply with a hire purchase agreement	19yrs	23yrs	White British	M	10/12/2009	No	n/a	No Hearing RTI for admission
	Shoplifting	28yrs	35yrs	White British	F	14/07/2010	No	n/a	No Hearing RTI to admit
	Driving using phone as Sat Nav (x2)	25yrs	28yrs	Asian British	M	14/07/2010	No	n/a	No Hearing RTI for admission & to be advised
	Driving without due care and attention	18yrs	27yrs	Chinese British	F	14/07/2010	No	n/a	No Hearing RTI for admission
	Shoplifting - Theft	19yrs	27yrs	Any other white background/Ukranian	F	28/04/2010	No	n/a	No Hearing RTI for admission
	Traffic Offence: No Insurance	28yrs	31yrs	Black African	M	30/10/2009	No	n/a	No Hearing RTI for admission
	Food Hygiene Infringements	40yrs	41yrs	Any other Asian background	M	25/12/1968	No	n/a	No Hearing RTI for admission
	Causing Alarm and Distress	19yrs	22yrs	Any other Asian background	F	10/12/2009	No	n/a	No Hearing RTI for admission
	Swearing in public	21yrs	26yrs	Any Other mixed background British	F	30/10/2009	No	n/a	No Hearing RTI for admission
	Shoplifting	13yrs	23yrs	White British	M	01/06/2010	No	n/a	No Hearing RTI for admission
	Drink Driving	36yrs	44yrs	Black, any other black background	M	14/07/2010	No	n/a	No Hearing RTI to admit
	Making False Statements	47yrs	49yrs	Black African	M	10/12/2009	No	n/a	No Hearing RTI for admission

	Offence	Age at time of offence	Present Age	Nat	Sex	Sc Panel	Panel	Panel Date	Final Disposal
	Traffic Offence: No Insurance	19yrs	22yrs	White British	M	10/12/2009	No	n/a	No Hearing RTI for admission
	Traffic Fine - CCJ	40yrs	45yrs	White British	M	01/06/2010	No	n/a	No Hearing RTI for admission
	Drink Driving	20yrs	23yrs	Any other Asian background British	M	09/02/2010	No	n/a	No Hearing RTI for admission
	Shoplifting	13yrs	28yrs old	Any other white background British	F	28/04/2010	No	n/a	No Hearing RTI to admit
	1 Drive without due care and attention 2 No Insurance	29yrs	34yrs	Black British	F	14/07/2010	No	n/a	No Hearing RTI for admission
	Drink Driving	27yrs	49yrs	White British	M	09/02/2010	No	n/a	No Hearing RTI for admission
	Police Caution	16yrs	26yrs	White British	M	28/04/2010	No	n/a	No Hearing RTI for admission
	Caution for Criminal Damage	38yrs	40yrs	White British	M	01/06/2010	No	n/a	No Hearing RTI for admission
	Traffic Offence: Speeding	19yrs	20yrs	White British	F	11/03/2010	No	n/a	No Hearing RTI for admission
	Drunk and Disorderly behaviour	19yrs	22yrs	White British	M	09/02/2010	No	n/a	No Hearing RTI for admission
	Speeding	22yrs	25yrs	White British	M	10/12/2009	No	n/a	No Hearing RTI for admission
	Speeding fine (x2)	29yrs	30yrs	White British	F	14/07/2010	No	n/a	No Hearing RTI for admission

	Offence	Age at time of offence	Present Age	Nat	Sex	Sc Panel	Panel	Panel Date	Final Disposal
	Bankruptcy	33yrs	38yrs	White British	M	14/07/2010	No	n/a	No Hearing RTI to admit
Students (5)									
	1 Traffic Fine - Speeding 2 Non Disclosure	37yrs	38yrs	White British	F	01/06/2010	No	n/a	No Hearing Panel RTI for Call to the Bar
	Non Disclosure	tbc	tbc	White British	M	Paper Decision	No	n/a	No Hearing Panel RTI for Call to the Bar
	1 Breach of Peace 2 Non Disclosure	20yrs	24yrs	Black African	F	11/03/2010	No	n/a	No Hearing Panel RTI for Call to the Bar
	Drink Driving	20yrs	50yrs	White British	M	11/03/2010	No	n/a	No Hearing Panel RTI for Call to the Bar
	Possession of Cannabis	17yrs	22yrs	White British	F	14/07/2010	No	n/a	Waiting for future info
Transferring Solicitors (5)									
	1 Shoplifting 2 Traffic Offense: Causing damage whilst parking and not reporting incident	15 & 28yrs	36yrs	White British	M	09/02/2010	No	n/a	No Hearing Panel RTI for Call to the Bar
	Drunk & Disorderly Behaviour	23yrs	28yrs	African/British	F	01/06/2010	No	n/a	No Hearing Panel RTI for Call to the Bar
	Bankruptcy	41yrs	51yrs	White British	F	09/02/2010	No	n/a	No Hearing Panel RTI for Call to the Bar

	Offence	Age at time of offence	Present Age	Nat	Sex	Sc Panel	Panel	Panel Date	Final Disposal
	Drink Driving	28yrs	52yrs	White British	M	14/07/2010	No	n/a	No Hearing Panel RTI for Call to the Bar
	1. Drink Driving 2. Non Disclosure	21yrs	55yrs	White British	M	Paper Decision	No	n/a	No Hearing Panel RTI for Call to the Bar

Annex D

ICC Financial Report 09 . 10

Outgoing	Amount
Lay Representatives	£3,000
Office (Administrators salary)	£18,000
ICC Catering	500.00
TOTAL	£21,500
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 E

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
 - (1) An Inn must refer any case relating to admission or student misconduct to the ICC where it is in any doubt as to the appropriate disposal.
 - (2) Any case where the fitness to practise of an applicant for admission to an Inn is in issue must be referred to the ICC for determination.

2. 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 (other than those which after totting up result in disqualification from driving)

Annex F

Guideline Sanctions for certain cases of misconduct by students and guidelines on admission criteria for applicants

NOTES

Where students have failed to disclose that they have served a custodial sentence of any kind at any time, they will be expelled unless there are exceptional mitigating circumstances.

Where applicants disclose that they have served a custodial sentence of any kind at any time, they will not normally be certified as fit and proper to practise unless they have demonstrated, over a long period, that they are completely rehabilitated and have retrieved their good name.

Where students or applicants have been dishonest, apart from in very trivial circumstances, they will be expelled or refused admission unless there are exceptional mitigating circumstances

The following guidance provides a starting point in relation to students or applicants who have committed the following offences. ICC Panels will have regard to the aggravating and mitigating factors listed in Annex 1 of *Sentencing Guidance: Breaches of the Code of Conduct of the Bar of England and Wales (Version 1 2009)* in addition to specific aggravating and mitigating factors listed below.

Driving Offences	
Drink or Drugs	Entry to Inn, or Call postponed for at least 3 years following date of conviction.
Insurance Offences	Entry to Inn, or Call postponed for a least 1 year following date of conviction
Speed Limits (when part of a series of offences or as a result of totting up)	Warning as to future conduct
Disqualified Driver	Entry to Inn, or Call postponed for at least 1 year after disqualification for one or more serious motoring offence
	Where disqualification as a result of totting up, Warning as to future conduct
Aggravating factors	Mitigating Factors
<ul style="list-style-type: none"> ○ Previous Criminal Convictions ○ Involved in accident causing personal injury ○ High Alcohol level ○ Lack of cooperation with police 	<ul style="list-style-type: none"> ○ Genuine remorse ○ Nobody else involved ○ Alcohol reading only just over the prohibited level ○ Compelling personal reasons
Acts of Violence	
Assault	Entry to Inn or Call postponed for at least 3 years following date of conviction.
Serious violence	Application to join Inn refused, expulsion of student.
Aggravating Factors	Mitigating Factors
<ul style="list-style-type: none"> ○ Previous criminal convictions ○ Lack of cooperation with the police 	<ul style="list-style-type: none"> ○ Violence started as self defence ○ Voluntarily compensated victim

<ul style="list-style-type: none"> ○ Use of a weapon ○ Victim was particularly vulnerable ○ Intent to cause harm ○ Discriminatory motivation 	<ul style="list-style-type: none"> ○ Personal injury caused minor
Drugs Offences	
Any offence involving Class A drugs or trafficking or supply of Class B and C drugs	Application to join Inn refused, expulsion of student.
Simple possession of Class B and C drugs	Entry to Inn or Call postponed for at least 3 years following date of conviction.
Aggravating Factors <ul style="list-style-type: none"> ○ Previous Criminal Convictions ○ Lack of cooperation with police 	Mitigating Factors <ul style="list-style-type: none"> ○ Genuine remorse ○ Age of offence
Non Criminal Conduct Offences	
Plagiarism	Expulsion or admission refused except in Type A cases (BPTC Handbook para 6.2.5) where call or admission may be delayed.
Making false declaration	Expulsion or admission refused where false declaration was designed to mislead.
Non Disclosure	Expulsion or admission refused where false declaration was designed to mislead.
Bankruptcy/IVA	Entry to Inn or date of Call delayed for three years from date of discharge (normally automatic two years after declaration of bankruptcy)
Aggravating Factors	Mitigating Factors <ul style="list-style-type: none"> ○ Genuine remorse ○ Age of offence ○ Absence of dishonesty

Annex G - Proposed amendments to ICC Rules

The following highlighted amendments were approved by COIC on the 23rd of June.

ICC 7 - Rationale for change: To maintain a record of consistent final disposals the ICC Screening Panel believe no more than five committee members are needed per Inn making the Committee membership number 20 and not 29 (the current number). The selection ballot each year needs to take account of the overall requirement for equal numbers from each Inn. We propose an amendment to ICC 7 as follows:

~~The~~ InnsqConduct Committee shall comprise:

- (a) ~~28~~ 20 barristers/judges (each Inn nominating ~~7~~ 5 barristers /judges for appointment by the InnsqCouncil); and

ICC 10 - Rationale for change: To prevent the Vice Chair being removed from the committee before the end of her term of office.

~~Save~~ for the Chair ~~and Vice Chair~~, the original members of the Committee shall retire by rotation: eight members shall retire on 1 September 2010 without replacement, ten of the remainder chosen shall retire on 1 September 2011 and the remaining ten shall retire on ~~31~~ September 2012, the retiring members in each case being eligible for re-nomination for a term of 3 years. Thereafter seven members will be replaced annually.+

ICC 16 . Rationale: Using the Chair and Vice Chair is cumbersome. The proposed change provides greater flexibility.

~~The~~ handling by the Innsq Conduct Committee of any case involving an applicant/student referred to it by an Inn shall be determined by a Screening Panel which shall comprise the Chair ~~and or~~ Vice Chair of the Inns Conduct Committee ~~and one other committee member~~, supported by the ~~Secretary of the ICC~~. The tasked Under/Sub Treasurer ~~may also~~ attend.+

ICC 32 . Rationale: the ICC discussed publication of decisions. We recommend that the written report required by ICC 32 be stored by the Hearings Administrator and be available for public scrutiny, but they should not be posted on any website. We also recommend that the names of those students who are expelled should be published. We propose an amendment to ICC 32 by adding the following.

~~Those~~ written reports shall be retained in paper form only by the Hearings Administrator and shall be available upon request for scrutiny by a member of the public. The names of those students who have been expelled will be published [on the Inns website]+

The below Rules 21 and 42 still needs to be approved by the BSB

ICC 21 needs to be amended for the numbering to make sense.

The Chair of the InnsqConduct Committee shall receive and rule on any;

- (a) written requests for a hearing to be adjourned made under Rule 22
- ~~(b);~~ and/or
- (b) written objections to the membership of a Panel made under Rule 22
- ~~(c);~~

ICC 42 a . d- Rationale: The ICC believes that panels need to have the option for combinations of sanctions in certain circumstances.

When the InnsqConduct Committee finds a Serious Matter proved, it may in accordance with BTR 89:

- (a) advise the Student as to future conduct;
- (b) reprimand the Student;
- (c) order that the Student's Call to the Bar be postponed for a specified period; or
- (d) direct that the Student be expelled from the Inn (in which case the Inn must expel the Student).+
- (e) Any combination of the above