

# Coming to the NSW Bar

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Coming to the Bar today involves more than just being 'called' – but requirements and practicalities have changed over the years and exactly what is required now and how it is achieved is not widely understood.

These three authors, who are all members of the New Barristers Committee, and include a clerk, a current reader and a barrister in her third year, seek to address the most pertinent questions about coming to and succeeding at the Bar.

## THINGS TO KNOW BEFORE COMING TO THE BAR

### What does 'coming to the Bar' really mean?

In general terms it means:

- a. Passing the Bar Exam;
- b. Being accepted into a 'chambers', that is, an association of barristers who usually share physical premises. This is called a 'readership position';
- c. Completing the Bar Practice Course (BPC), entry into which requires successful completion of the Bar Exam;
- d. Obtaining a Barristers Practising Certificate under the Legal Profession Uniform Law (NSW); and
- e. Lastly, successfully completing the conditions that attach to all first-year barristers, or 'readers'. These conditions chiefly involve attendance at a number of civil and criminal cases in court.

### How experienced do I need to be before coming to the Bar?

- There isn't a set answer, but the general position is the more experience you have, the more straightforward your start at the Bar will be. That applies to both obtaining work, and the amount of time/stress you

have in doing the work of a barrister;

- It's very useful (but not essential) to have worked as a solicitor in a litigation practice for at least a few years;
- Many chambers will generally prefer candidates who have some practical experience as a solicitor.

### When and what is the Bar Exam?

- The Bar Exam is two exams, of two hours duration each, that deals with the areas of procedure, evidence and ethics across civil and criminal law;
- The Bar Association publishes extensive information about the Bar Exam on its website. That should be your first port of call with the Bar Exam;
- Exams are held every February and June at a cost of \$795.00;
- The current pass mark is 75%. The Bar Association does not publish pass/fail statistics, but anecdotally it is a challenging exam in which less than half of candidates pass at the first attempt.

### Which to do first: sit the exam or apply for chambers?

Passing the Bar Exam entitles you to start the BPC within 15 months.

Many of the larger chambers fill their readership positions more than 15 months

before the commencement of the BPC. Other chambers accept applications for readership positions within 15 months of their commencement.

The advantage of organising your readership position first is you will likely have a greater range of chambers to apply to. A disadvantage is the increased pressure when undertaking the exam so you can fulfill your readership position. However, you could time the exam so as to give yourself two attempts at the exam before you are due to commence at chambers. If you do not pass the exam closest to your chambers' commencement date, you should contact your chambers to discuss what arrangements can be made.

### How much study do I need to do for the Bar Exam?

- Everyone has different work and life commitments so you need to do what works best for you;
- Registration for the exam opens approximately three months before the exam, at which time you will receive a list of the topics, legislation and cases that will be examined;
- If possible, you should start preparing for the exam as soon as you receive the list of topics;
- If possible, try to have at least two weeks' leave before the exam to study full time;

- The exam preparation can be challenging because of the sheer volume of material you need to get through and rote learn and may include areas of practice you are unfamiliar with.

#### How do I prepare for the Bar Exam?

- Review all of the materials on the list provided by the Bar Association, including various legislation, case law, practice notes, etc.;
- Speak to former readers (for instance, chat over coffee with new barristers at the chambers which you are joining) to get their advice and insight (and notes);
- Obtain copies of any past exam papers and use these for practice;
- Consider joining or forming a study group when the Bar Association circulates a list of persons who have signed up to sit the exam; and
- There are optional preparatory courses available which range in cost from \$1,485.00 to \$2,545.00 but are unaffiliated with the Bar Association;

#### How should I choose between chambers?

- There is a list of chambers who make available positions for readers on the NSW Bar Association website. Research the specialisations and culture of each chambers before deciding which chambers to apply to (e.g., some chambers have more supportive parental leave policies than others);
- Be aware of deadlines for chambers applications. Most are at the end of January each year, but this can vary (even for the same chambers across different years);
- If you can, try to speak to other barristers or chambers clerks before you apply, to get an idea of what the chambers is looking for in its applications;
- Put your chambers applications in promptly. Committees often start reviewing applications on a rolling basis;
- Interviews and offers can happen very quickly. Plan to be available in the days before and after application deadlines close for interviews.

#### How should I prepare for chambers interviews?

- Interview formats may differ significantly; there may be as few as two, or as many as eight barristers on the interview committee;
- Interview styles can vary from informal chats to a formal panel format;
- Make sure you know what the main practice areas are for barristers at the chambers you are interviewing at;
- Interviews are a good opportunity to

ask questions about the financial model for readers and licensees (see below), the financial model for buying into chambers, as well as other practical questions such as the chambers' policy with regard to parental and other leave.

#### What is the Bar Practice Course (BPC)?

- The BPC is a compulsory four-week course, focussing on teaching and assessing practical skills, including preparation of pleadings and evidence, mentions, motions, sentencing applications and running a full hearing; it is held by the Bar Association twice a year, in May and August;
- The BPC is provided by the Bar Association and currently costs between \$4,000 and \$5,000;

#### What are some things you absolutely must do before starting the BPC?

- Be admitted as a lawyer in New South Wales or another Australian state or territory under a corresponding law;
- Pass the Bar Exam;
- Get accepted into a chambers;
- Take out a professional indemnity insurance policy. The NSW Bar Association, on its website, publishes a list and some information about options for this insurance;
- Apply for a Practising Certificate and membership of the Bar Association;
- Apply for an ABN through the Australian Government's Business Registration Service, ideally 3-12 months prior to commencing at the Bar;
- Register for GST;
- Open a separate bank account for all of your Bar associated expenses;
- Save money (see further below); and
- Consider your superannuation set up.

#### What are some things you should do before starting the BPC, if at all possible?

- Purchase robes, wig and jabots or arrange to borrow these from persons in your chambers;
- Retain an accountant;
- Read the BPC materials;
- Have a laptop computer.

#### What are some things that can wait until the BPC, and that you shouldn't stress about too much?

- Obtaining billing software – BarBooks (which generally offers the first year for \$1) or Silq. Some barristers use Xero;
- Obtaining income protection and life insurance – BarCare generally offers the first year's income protection free for readers;
- Buying a monitor screen and other hardware for chambers;
- Buying textbooks (note not compulsory – there is a Bar library you will have access to and often your floor will have a library);
- Subscribing to databases (your chambers may have at least some subscriptions, which you will be obliged to pay for as part of your monthly floor fees);
- Thinking about what your 'rates' will be when you start work. Your clerk will assist you in setting an appropriate rate(s) but it is also useful to discuss this with other readers. Often your rates will consist of at least a devilling (see below) rate, a Commonwealth government rate, a State government rate and a commercial rate; and
- Setting up your template documents, such as costs agreements, invoices, advice skeletons, a pleading comparison template and an evidence matrix template. These are documents which your tutors, other readers and barristers from your chambers will be able to assist with.

#### How much money do I need to save?

- This depends on your personal circumstances and commitments.
- As a rough guide, you will need at least:
- \$12,000 for start-up costs (including robes, BPC fees, PC fees, essential hardware);
- enough savings to cover your ordinary life expenses (such as rent/mortgage repayments, groceries, car or health insurance etc), until you start to have a regular income flow.

#### USEFUL INFORMATION FOR READERS

##### What is reading?

- A 'reader' colloquially means a barrister in their first year at the Bar, and more formally means a barrister with a restricted practising certificate;
- 'Reading' refers to the compulsory requirements a reader must meet to obtain an unrestricted practising certificate. These requirements are 10 hours of attendance each at civil and criminal hearings;

- Readers must also be supervised by at least one 'tutor', who is responsible for signing off on their reading once it is completed;
- A tutor must be a junior barrister of at least seven years' experience at the Bar. Your Chambers can assist with finding you a tutor.

**What are some general tips for readers?**

- Get to know your clerk and the people around your chambers. This will make being at work more fun and interesting;
- If people know you as competent, keen and good to work with, you will maximise your chance of succeeding in your first year at the Bar.

**How to get reading done?**

- Almost all barristers are generous with their time and their matters. If you don't know people, you can reach out directly, or through your clerk, to ask whether there are hearings coming up which you can attend for your reading;
- It is likely you will have difficulty fitting in your reading days, as things can get very busy very quickly as you take on more work, so it is recommended that you get your reading done as soon as possible.

**What is devilling?**

- Devilling is doing work for another barrister on a case they are briefed on, without yourself being briefed on the case. Devilling is sanctioned by r 113 of the Barristers Rules.
- Doing good devilling work is one of the ways you get known around chambers and to barristers off your floor;
- Devilling can lead to further work, either on that matter or on other cases which the barrister you're devilling for is briefed in;
- Devilling invoices are usually paid quickly, which can be important in light of the cash flow difficulties that come with starting as a barrister.

**What are some tips for devilling?**

- Ask the person to give you some context about the matter, the format they would like the work to be in and how long they expect you will need to complete the task;
- Devilling is between you and the barrister concerned. That person is solely responsible for paying your devilling fees. They should never ask you to send your devilling invoice to the instructing solicitor directly;
- Keep the person you're devilling for informed about your work as you progress.

**Do I need to always say yes to work?**

- Cab-rank rule aside (which applies to briefs

but not to devilling), no. While it can be good to try to work with a variety of people, on a variety of work, it is important not to over-commit so that you can produce quality work and remain healthy and happy.

- If you are concerned you have too much work, or not enough work, it is best to speak with your clerk and tutors for how to best manage your work or build your practice.

**What are some other general tips?**

- Use the Bar Library or Lexis Red;
- Get involved with social life at the Bar (whether through committees like the New Barristers Committee, formal and informal events, or social sport);
- Working from home is becoming more common at the Bar, however while starting out it may be beneficial to spend more time in chambers to meet more people and to obtain devilling work;
- When in doubt, ask another barrister. First port of call should always be your tutors. If they are not available, the open-door policy means there will always be another barrister happy to speak to you on whatever your issue is.

**Looking after yourself:**

- Being a barrister is wonderful, but it can be a stressful career transition for some;
- There can be times of high intensity (where all your matters bite at once), and others where there is almost nothing on. It's very difficult, but important to be able to enjoy the free time when it comes;
- Try to maintain time for hobbies and interests outside the Bar;
- Book holidays well in advance and treat them as just as important as any other work commitment;
- Be kind to yourself. This is a challenging but rewarding journey you're embarking on!

**USEFUL INFORMATION FOR PROSPECTIVE LICENSEES**

1. Accommodation for readers is typically a small room or desk. Many chambers do not charge rent for the first year, only disbursements such as use of the photocopier. Some chambers do charge monthly rent for the accommodation. It is not uncommon to ask what (if any) costs are associated with a chambers readership.
2. Following your readership year, a reader typically becomes a licensee (although sometimes they become a permanent member, more on that below). A licensee is a junior barrister who is renting their accommodation on commercial terms for their chambers for a fixed period (usually 12 months to coincide with future reader intakes). Although some aspects of chambers administration are managed informally, barristers should ask that their licensing arrangements are recorded in writing. The rent will depend on the type of room on offer and the type of premises the chambers operates from. Apart from rent, most chambers also charge additional fees to contribute to the administrative costs of chambers (called clerk fees or floor fees).
3. Underlying almost every chambers is a membership structure. To be a 'member' of chambers means you have become a permanent member of chambers. Among other things, this entitles you to a right of permanent occupancy in the chambers and the opportunity to be involved in
4. decision-making
5. in the chambers.
6. Membership involves purchasing shares in the corporate entity of the chambers (because what you are essentially purchasing is the right to occupy a room, this is often referred to as 'buying a room'). Most often, a barrister is purchasing their shares from another barrister who is leaving the chambers. A barrister should appreciate that while membership secures long term accommodation, it also comes with obligations governed by the chambers shareholders agreement (including for example obligations to pay rent).. There



are several models of membership. The main ones are:

- a. Chambers where there can be a significant upfront capital requirement to purchase shares. There is no rent, but there are obligations to pay clerk fees/floor fees, and an obligation to pay a monthly maintenance levy for upkeep of the building;
  - b. Chambers that lease commercial premises but don't have a key money requirement. In this model, there is no upfront capital cost to purchase shares. There is an obligation to pay rent and clerk/floor fees. The amount of rent is usually linked to the room you're occupying and governed by a formula set out in the shareholders agreement. It is important that anyone buying into this model understand their obligations under the shareholder's agreement and the chambers obligations under its commercial lease.
  - c. This model is the same as the one set out in (a), although there is still a capital requirement to buy shares (although typically not as significant as what is required to buy shares in the first model).
5. When there is a membership vacancy, the chambers will invite applications from its licensees/readers. It may also recruit candidates from outside the chambers.

From there, broadly speaking, one of two processes is followed:

- a. The Chambers Board selects the member from the pool of applicants; or
  - b. The Chambers convenes a meeting of all of its members and the applications are determined by a vote of the entire membership.
6. As a very general guide, some other matters to note are:
- a. In most cases, a barrister will spend a period as a licensee before getting an opportunity to become a permanent member. Because the availability of rooms is determined by when members of chambers leave, rooms may not become available for a while, or they could become available in quick succession.
  - b. If you want to be a member of a chambers, you should financially prepare yourself as early as possible. Preparing yourself means understanding what the costs are and speaking to a bank. Buying shares in chambers is not the same as buying a house and banks take different approaches to the transaction (including, for example, offering low loan-to-value-ratios if you don't have equity in a home you can leverage from);
  - c. The capital costs of buying shares varies. It can range from \$10,000 to over \$500,000;

- d. Membership is not a guarantee even if you have the means to buy in. It is also not uncommon for barristers to be a licensee at different chambers before securing permanent membership;
- e. The best things you can do early in your career at the Bar to promote your chances of being able to buy in are to establish good professional relationships with the other barristers from your floor, build a reliable practice, as well as making sure you are financially prepared to buy into chambers if the option arises; and
- f. While securing membership is an exciting time in the career of a barrister, you must also make sure you understand what your obligations will be and how you will be able to meet them, including if your circumstances were to change. **BN**

**The authors of this article are planning to publish a follow up article in the new year quoting some tips, insights and experiences from actual readers, barristers and silks. We would welcome any and all contributions by email to [clerk@banco.com.au](mailto:clerk@banco.com.au). We will maintain absolute confidentiality of all those who choose to contribute or speak to us.**

#### ENDNOTES

- 1 This article expresses the opinion of the authors and is intended as a guide only. Your circumstances and therefore your experience may well be different, so please take what advice you think will be useful and relevant to you.



Confidential  
Assistance

## BarCare

**BarCare is an independent, professional counselling service, which helps members of the Bar Association to manage emotional and stress-related problems, such as marital breakdown, drug or alcohol dependency and practice pressures.**

BarCare is available to all members of the Bar Association, their immediate families and clerks.

The first consultation is free of charge.

BarCare has access to a wide network of professionals across NSW from different disciplines for referral purposes or to discuss aspects of treatment.

Members in rural and regional areas can contact BarCare for assistance in locating an appropriate specialist closer to home.

Clerks and colleagues in chambers can make a confidential referral.

#### Confidential assistance

The Bar Association's sole involvement is to fund and promote the service to ensure assistance is available to all members in need.

No information is provided to the Bar Association without the express permission of the barrister.

If you require assistance:

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