

### **SPECIALIST PUPILLAGE CHECKLIST: CHANCERY**

#### **Introduction:**

A chancery pupillage should prepare a pupil to a standard which will enable the pupil to deal competently with the work which he or she is likely to encounter in the early years of practice at the Chancery Bar. From 1 September 2019, pupillages are to be assessed by reference to the Threshold Standard and Competences specified in the Professional Statement and the BSB will no longer be requiring pupils to complete the general or specialist checklists.

However, the Chancery Bar Association believes that a specialist chancery checklist (incorporating some parts of the general checklist by reference) will assist in ensuring that pupils at chancery sets are trained to meet those competencies in the context of the core elements of chancery work. Those competences particularly relevant to each section of the checklist are set out in the headings.

The Chancery Bar Association will, therefore, continue to update the Chancery checklist. Chancery chambers offering a highly specialised pupillage should consider preparing their own checklists in conjunction with the Bar Council.

A chancery pupil should cover each of the non-asterisked items listed below. If no such opportunity has arisen within chambers or it has otherwise proved impossible to deal with a particular item, it will suffice in those circumstances for the pupil's supervisor(s) to: (i) discuss with the pupil any particular aspects of advocacy or advice which the pupil should consider in relation to that item; and (ii) identify appropriate action for the pupil to redress any such omission, noting the same in the comments section below.

It is desirable but not necessary for all chancery pupils to deal with the items below which are marked with an asterisk.

<b>A. ORAL AND WRITTEN ADVOCACY IN CHANCERY PRACTICE</b> (Competences: 1.3; 1.13-1.15; 3.6)	<b>Satisfactory</b>
<p><b>1. Observe the following tribunals, become familiar with the practice and procedure of chancery litigation before each, and develop (by observation or practice) the skills of advocacy before them. This should specifically include familiarisation with the relevant provisions of the Chancery Guide. N.B. References to each of the following include deputies sitting at that level.</b></p> <p><b>Chancery Division</b></p> <ul style="list-style-type: none"> <li>1.1. High Court Judge</li> <li>1.2. Judge in the Interim Applications Court</li> <li>1.3. Master</li> <li>1.4. Judge in the Companies Court</li> <li>1.5. Judge in Bankruptcy</li> </ul> <p><b>The County Court</b></p> <ul style="list-style-type: none"> <li>1.6. District Judge</li> <li>1.7. Circuit Judge</li> <li>1.8. Circuit Judge in the specialist Chancery Business list at the County Court at Central London*</li> </ul> <p><b>The First Tier Tribunal</b></p> <ul style="list-style-type: none"> <li>1.9. The Property Chamber (hearing any Land Registration, Agricultural Land &amp; Drainage or Residential Property matter)*</li> <li>1.10. The General Regulatory Chamber (hearing any Charities case)*</li> <li>1.11. The Tax Chamber (hearing any Tax case)*</li> </ul>	
<p><b>2. Become familiar with the following types of proceedings in chancery cases and develop (by observation or practice) the skills of written and oral advocacy for all such hearings, including the preparation where appropriate of skeleton arguments, chronologies, case summaries, minutes of order or other documentation.</b></p> <p><b>Applications</b></p> <ul style="list-style-type: none"> <li>2.1. An application for an interim injunction</li> <li>2.2. An application for a freezing order*</li> <li>2.3. An application for any relief made without notice to the other party (with consideration of the giving of undertakings)</li> <li>2.4. A summary judgment or strike out application</li> <li>2.5. An application for an unless order or for relief from sanctions</li> <li>2.6. An application for further information or specific disclosure</li> <li>2.7. An application for permission to amend a statement of case*</li> </ul> <p><b>Trials</b></p> <ul style="list-style-type: none"> <li>2.8. A trial under CPR Part 7 or other witness action which includes the cross-examination of witnesses of fact</li> <li>2.9. Such a trial or action involving the cross-examination of expert witnesses</li> <li>2.10. A final hearing in a claim under CPR Part 8</li> </ul>	

<p><b>Costs and consequential relief</b></p> <p>2.11. The handing down or delivery of reserved judgment with submissions on costs, permission to appeal and/or the form of order</p> <p>2.12. An assessment of damages or the taking of accounts and inquiries*</p> <p>2.13. Any hearing dealing with the summary assessment of costs</p> <p>2.14. A costs and case management conference</p> <p>2.15. An application to enforce a judgment e.g. for a charging order under CPR Part 73</p> <p><b>Appeals</b></p> <p>2.16. An appeal in the County Court or before a High Court Judge</p> <p>2.17. An appeal in the Upper Tribunal (Lands or Tax &amp; Chancery Chambers)*</p> <p>2.18. An appeal in the Court of Appeal*</p> <p><b>Bankruptcy and Companies Court Proceedings</b></p> <p>2.19. A bankruptcy petition</p> <p>2.20. A winding up petition</p> <p>2.21. An application for an administration order*</p> <p>2.22. An unfair prejudice petition under section 994 of the Companies Act 2006 (or other companies proceedings, subject to CPR Part 49 and PD49A)*</p> <p><b>Possession Proceedings</b></p> <p>2.23. A residential landlord &amp; tenant and a mortgage possession claim under CPR Part 55</p> <p>2.24. A possession claim against trespassers under CPR Part 55*</p> <p><b>Probate, Inheritance and Trust Proceedings*</b></p> <p>2.25. Non-contentious (common form) probate business*</p> <p>2.26. A (contested) probate claim under CPR Part 57*</p> <p>2.27. An Inheritance Act claim under CPR Part 57*</p> <p>2.28. An application by trustees or executors under CPR Part 64 for directions as to whether to bring or defend court proceedings (<i>Re Beddoe</i>)*</p> <p>2.29. An application under the Variation of Trusts Act 1958 or approval of a settlement on behalf of a minor*</p> <p><b>Court of Protection (Property &amp; Affairs) proceedings*</b></p> <p>2.30. Final hearing of an application for a statutory will*</p> <p>2.31. Final hearing of an application for authorisation of a gift, investment or other use of P's property*</p> <p>2.32. Final hearing of an application to remove attorneys/deputies or appoint deputies*</p> <p><b>Chancery Litigant in Person Scheme (CLIPS)*</b></p> <p>2.33. For pupils at Chambers in London, attend with a member of Chambers while s/he is acting as a volunteer for CLIPS. For pupils at Chambers outside London, this is a recommendation only*</p>	
<p><b>3. Develop (by observation or practice) the skills of written advocacy, oral advocacy and negotiation in relation to a mediation or other form of ADR (e.g. ENE/FDR/DRH) employed in a chancery case, including the preparation of position statements or the equivalent.</b></p>	

<b>B. PLEADING AND DRAFTING IN CHANCERY PRACTICE</b> <b>(Competences: 1.3; 1.5; 1.8-10; 1.12; 1.13)</b>	<b>Satisfactory</b>
<b>4. Develop (by observation and practice) drafting and pleading skills in the context of chancery litigation, including the preparation of the following, in addition to those points set out in the former general Pupillage Checklist (appended) at s 4, paras 2-5:</b> <ol style="list-style-type: none"> <li>4.1. An application notice and evidence in support</li> <li>4.2. A CPR Part 8 claim form and evidence in support</li> <li>4.3. A statement of case in the First-tier Tribunal*</li> <li>4.4. A consent order in Tomlin form (with consideration of any formalities issues arising in the chancery context e.g. on the transfer of land or beneficial interests)</li> </ol>	

<b>C. ADVICE IN CHANCERY PRACTICE</b> <b>(Competences: 1.3; 1.5; 1.6; 1.8-1.10; 1.12)</b>	<b>Satisfactory</b>
<b>5. Develop (by observation or practice) the following skills as set out in the former general Pupillage Checklist (appended) at ss 3 and 4, paras 1-6, in the context of chancery work:</b> <ol style="list-style-type: none"> <li>5.1. legal research</li> <li>5.2. advising in writing</li> <li>5.3. advising in conference</li> </ol>	

<b>D. NON-CONTENTIOUS CHANCERY WORK</b> <b>(Competences: 1.3; 1.5; 1.8)</b>	<b>Satisfactory</b>
<b>6. Develop and practise the skill of non-contentious drafting and in particular:</b> <ol style="list-style-type: none"> <li>6.1. Develop and practise an appropriate style</li> <li>6.2. Understand the proper use of precedents</li> <li>6.3. Understand the impact of taxation in drafting</li> <li>6.4. Understand when an accompanying note is appropriate and its function</li> </ol>	
<b>7. Consider and familiarise yourself with (or, where possible, draft) at least one example of a:</b> <ol style="list-style-type: none"> <li>7.1. Contract</li> <li>7.2. Will</li> <li>7.3. Trust deed</li> <li>7.4. Deed of Appointment*</li> <li>7.5. Conveyance/ Transfer</li> <li>7.6. Lease</li> <li>7.7. Guarantee and indemnity</li> <li>7.8. Mortgage/ deed of charge</li> <li>7.9. Deed of variation (a.k.a. a deed of family arrangement)*</li> <li>7.10. Set of filed accounts and the articles of association of a limited company</li> <li>7.11. Shareholders' agreement*</li> <li>7.12. Partnership deed or LLP members' agreement*</li> </ol>	

<p><b>Pupil's record of work done or work diary references</b> (continue on reverse or on a separate sheet)</p>	<p><b>Reference</b></p>
<p><b>Signed (pupil):</b></p>	<p><b>Date:</b></p>
<p><b>Pupil supervisor's comments</b></p>	
<p><b>Signed (supervisor):</b></p>	<p><b>Date:</b></p>

**APPENDIX: GENERAL PUPILLAGE CHECKLIST (ss 3 & 4)**

**Section 3: Conferences and Negotiations**

*Pupils must develop conference and negotiation skills. This is likely to be largely by observation and discussion with the pupil supervisor. Pupils should be instructed with regard to the preparation for conferences and negotiations, including the making and retaining of a full and accurate note of all conferences. Even where participation is based on observation, pupils should be as actively involved as possible. The objective should be to raise the pupil to a standard where he or she can competently conduct a conference or negotiation.*

*If a particular topic described below does not arise during a pupillage (for example negotiating with a litigant in person) a pupil supervisor should discuss with the pupil the sort of difficulties and pitfalls that can arise in such a situation and how to avoid them. The record of work done should, where possible, cross-refer to the relevant points below.*

*Pupil-supervisors should initial and date the last column when they consider their pupil has achieved a satisfactory standard having regard to the objective set out for this checklist.*

1. Conferences	Satisfactory
1.1 Discussion of skills needed in conferences (including potential difficulties and pitfalls that can arise and how to avoid them) 1.2 Active involvement in preparation for a conference session 1.3 Observation of conference sessions (actual participation may take place but is not a requirement) 1.4 Experience through observation of the conduct of conferences with: <ul style="list-style-type: none"> <li>1. Solicitors and clients;</li> <li>2. Solicitors only;</li> <li>3. Counsel only.</li> </ul> 1.5 Experience through observation of the conduct of telephone conferences.	
2 Negotiations	
2.1 Discussion of skills needed in negotiation (including potential difficulties and pitfalls that can arise and how to avoid them) 2.2 Active involvement in preparation for a negotiation session 2.3 Obtaining through observation and discussion and understanding of the conduct of negotiations in particular: <ul style="list-style-type: none"> <li>(i) dealing with an opponent;</li> <li>(ii) dealing with the client and advising on settlement;</li> <li>(iii) any special considerations that apply when conducting negotiations in the absence of the instructing solicitor.</li> </ul> 2.4 Understanding of any special considerations which may arise in relation to negotiations with litigants in person.	

**Section 4: Drafting, Paperwork and Legal Research**

*A pupil must be able to locate and utilise relevant sources of information, both primary (case and statute law and citation indexes) and secondary (textbooks, digests, encyclopaedias and legal journals) and to use the information so acquired appropriately in opinion writing, pleading, drafting and case preparation.*

*It is of the greatest importance that pupils practise and develop the necessary skills by producing practical work and receiving constructive feedback on that work from their pupil supervisor.*

*Simply observing the work of the pupil supervisor is insufficient. Feedback on a pupil's work should be given as soon as possible by the pupil supervisor whilst the work is still fresh in the mind of the pupil. Pupils must have demonstrated the appropriate degree of competence in the skills set out below. Non-litigation drafting is of equal importance but since the type of work is likely to vary, reference should be made in Section 5, on the specialist area. Paperwork in criminal matters may be dealt with specifically in the Criminal checklist*

*The record of work done should, where possible, cross-refer to the relevant sections and sub sections below. Pupil-supervisors should initial and date the last column when they consider their pupil has achieved a satisfactory standard having regard to the defined skills and competencies.*

1. Opinions and Advice	Satisfactory
<p>1.1 Develop and practise the skill of preparing accurate and concise Opinions and other Advice, written in plain English, and demonstrating the following abilities:</p> <ul style="list-style-type: none"> <li>(i) To identify relevant facts from the papers and identify sources as appropriate;</li> <li>(ii) To identify and explain the relevant legal issues;</li> <li>(iii) To apply the relevant law to the relevant facts and to draw appropriate conclusions and give appropriate advice.</li> </ul>	
2. Letters	
<p>2.1 Develop and practise the necessary skills:</p> <ul style="list-style-type: none"> <li>(i) for drafting letters written in accordance with pre-action protocols or similar.</li> <li>(ii) for drafting Part 36 Offers or similar.</li> </ul>	
3. Pleadings	
<p>3.1 Practise and develop the skill of pleading – in particular preparation of:</p> <ul style="list-style-type: none"> <li>• Statements of Case, i.e. Particulars of Claim, Defence and Reply.</li> <li>• Requests for and provision of further information.</li> </ul> <p>3.2 Consider and understand the requirements of the Code of Conduct in relation to pleading and in particular to allegations of fraud (<i>Rule C9.2</i>).</p> <p>Request and provide further information</p>	
4 Witness Statements and Affidavits	
<p>4.1 Understand the ethical considerations in drafting statements of fact for witnesses in civil actions (<i>Rule C9.2</i>).</p> <p>4.2 Understand the ethical considerations concerning contact with witnesses and taking statements in relation to criminal cases (<i>Rule C9.2 – C9.6</i>).</p> <p>4.3 Practise and develop the skill of drafting in appropriate language, using concise and accurate statements of fact.</p>	
5. Orders	

5.1 Develop and practise the ability to draft orders, including Tomlin form and other consent orders.	
<b>6. Non litigation drafting</b>	
6.1 This should be covered as it is of equal importance but, as the type of work varies, substantial reference should be made on the appropriate specialist checklist.	