



The Pupillage Academy

The Waiver And Diversity Survey Results 2021

clerk**s**room

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We issued a survey to the Clerksroom membership (both barristers and pupils) and a total of 25 Clerksroom members (slightly more than 10% of our total members) responded. We asked a combination of questions concerning their background, route to the Bar, experience level and lifestyle. A full breakdown of the questions can be found at Annex 1. (The survey was issued with a tight deadline, so the level of response was reduced based on previous surveys.)

Through our investigation and questions in line with BSB equality and diversity monitoring forms, we established that there were ten factors, consisting of personal characteristics and circumstances, which could cause a pupillage applicant to be disadvantaged (DCCs) in the traditional pupillage process, these were: age, gender, disability, health issues affecting the applicant's day to day living, ethnicity, sexual orientation, being the first generation to attend university, attending state school, having children and childcare responsibilities and having caring responsibilities for family, friends or others.

We found that there was a direct correlation between members that had been successful in obtaining a BSB (Bar Standards Board) waiver/reduction in pupillage and factors which would have caused the participant to have been disadvantaged in the traditional pupillage process. On average, a waiver holder had 6 DCCs; whereas, a non-waiver holder had, on average 3. There was a 65% difference.

DCCs	Waiver holder	Non-waiver holder
Age (35 +)	9	/ ¹
Gender (Female, non-binary, transgender etc)	4	2
Disability	3	2 ²
Health issues that affect day to day living	3	3 ³
Ethnic minorities	6	2
Sexual orientation	3	1 ⁴
The first generation to attend university	11	5
State schooling instead of private/fee paying schooling	14	7
Children and child care responsibilities	7	3
Caring responsibilities for family, friends or others	3 ⁵	4 ⁶
Average	6.3	3.22

¹ The age at which non-waiver holders got pupillage is unknown.

² 1 participant answered 'prefer not to say'

³ 1 participant answered 'prefer not to say'

⁴ 3 participants answered 'prefer not to say'

⁵ 1 participant answered 'prefer not to say'

⁶ 1 participant answered 'prefer not to say'

Waivers

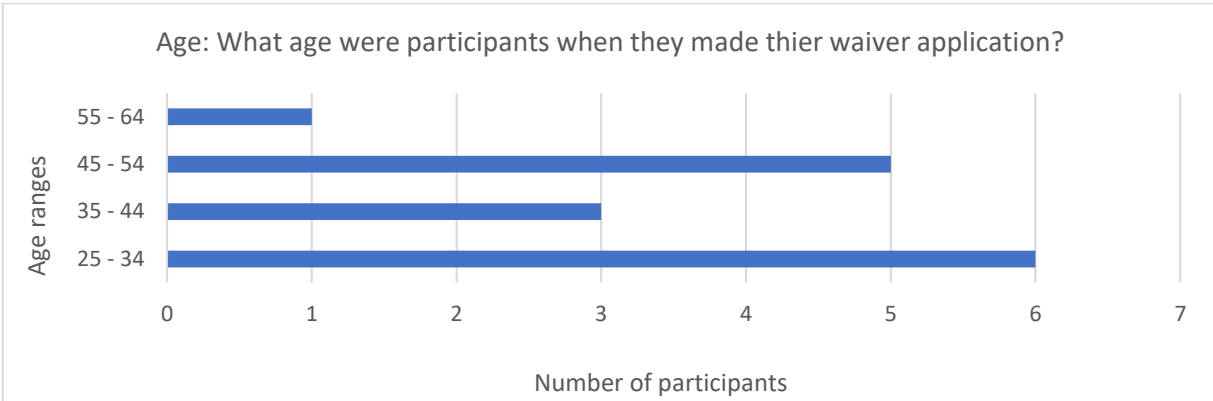
Out of the 25 members sampled, 15 had applied and successfully obtained waivers from the BSB. The other 10 members had not applied for a waiver.

Out of the 15 waiver holders, 80% of them had 12 or more years of legal experience at the time they made their application and 47% of them had 2 years or less of advocacy experience. 26% of waiver holders had a full reduction in their pupillage and the other 74% had a variety of different combinations in time spread over the practising and non-practising portion of pupillage.

13 out of 15 of the waiver holders believed that having the waiver had assisted in them securing pupillage. 1 of the 2 that believed it did not assist in gaining pupillage, provided a further explanation and stated that when the waiver was approved they had already obtained pupillage.

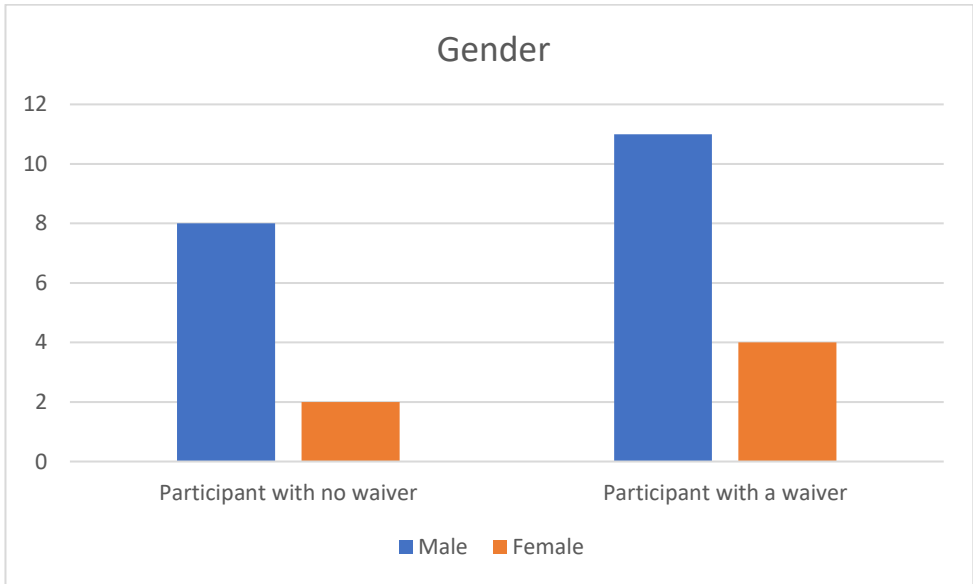
	What was the outcome of your waiver application?	What type of reduction was you given by the BSB?	How many years of legal experience did you have?	How many years of advocacy experience did you have?	Do you believe the waiver helped you to secure pupillage?
1	Approved	Non-practising period and number of months option	20	20	YES
2	Approved	9 month reduction, ability to accept instructions after 1 month	16	1	No
3	Approved	Practising period and number of months option	2	1	No
4	Approved	Full reduction	24	26	YES
5	Approved	Non-practising period and number of months option	9	9	YES
6	Approved	Non-practising period and number of months option	15	12	YES
7	Approved	Practising period and number of months option	5	2	YES
8	Approved	Non-practising period and number of months option	5	2	YES
9	Approved	Full reduction	12	11	YES
10	Approved	Practising period and number of months option	7	1	YES
11	Approved	3 months non-practising and 3 months practising	17	1	YES
12	Approved	Practising period and number of months option	8	6	YES
13	Approved	Practising period and number of months option	21	20	YES
14	Approved	Full reduction	16	16	YES
15	Approved	Full reduction	14	2	YES

Age



The majority of waiver holders were over the age of 35 and had made their application to the BSB later in life. 43% of participants with waivers were over the age of 45. This is unsurprising as waiver holders will have to demonstrate a high level of competency to the BSB, detailing all of their legal and advocacy experience.

Gender

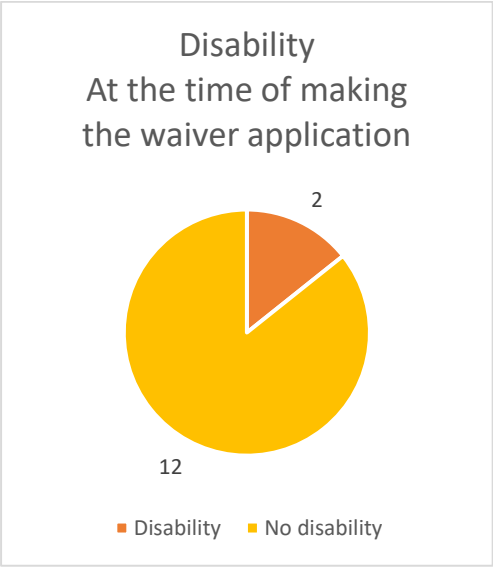


It is not surprising that the majority of participants from the data pool identified as male as, according to released statistics by the BSB, there are more male barristers within the profession generally⁷: In 2019, there were 10,465 practising male barristers, 6,389 female practising barristers, 111 people that preferred not to answer and 17 people that the BSB did not have data on.

What is notable from our data, however, is that 27% of participants were female and had a waiver, compared with the 20% of participants which were female and did not have a waiver.

⁷ www.barstandardsboard.org.uk/news-publications/research-and-statistics/statistics-about-the-bar/practising-barristers.html

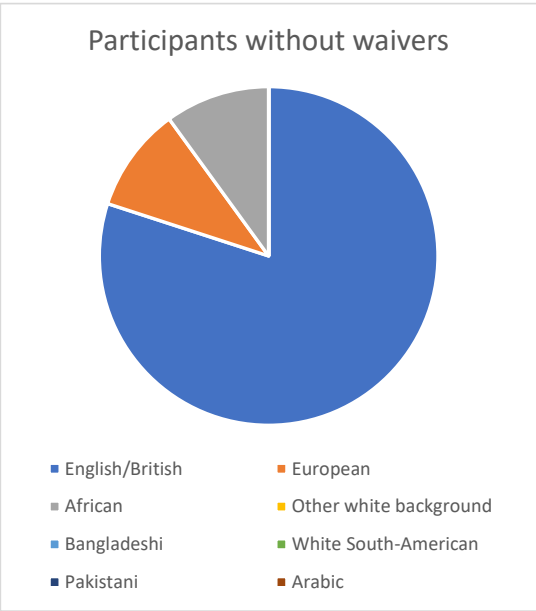
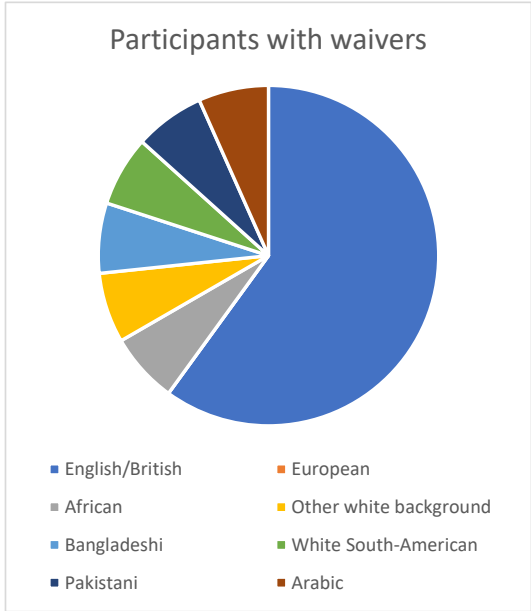
Disabilities and Health Issues



When asked, 'at the time of making your waiver application, were your day-to-day activities limited because of a health problem or disability which lasted or is expected to last at least 12 months?' 1 participant answered, 'a lot' and one participant answered, 'a little'. Meaning that 13% of applicants within our data pool had health problems and/or a disability which was affecting their day to day living.

Looking at the data further, those two participants confirm within the survey that, at the time of making their application for waiver, they considered themselves to have a disability within the definition of the Equality Act.

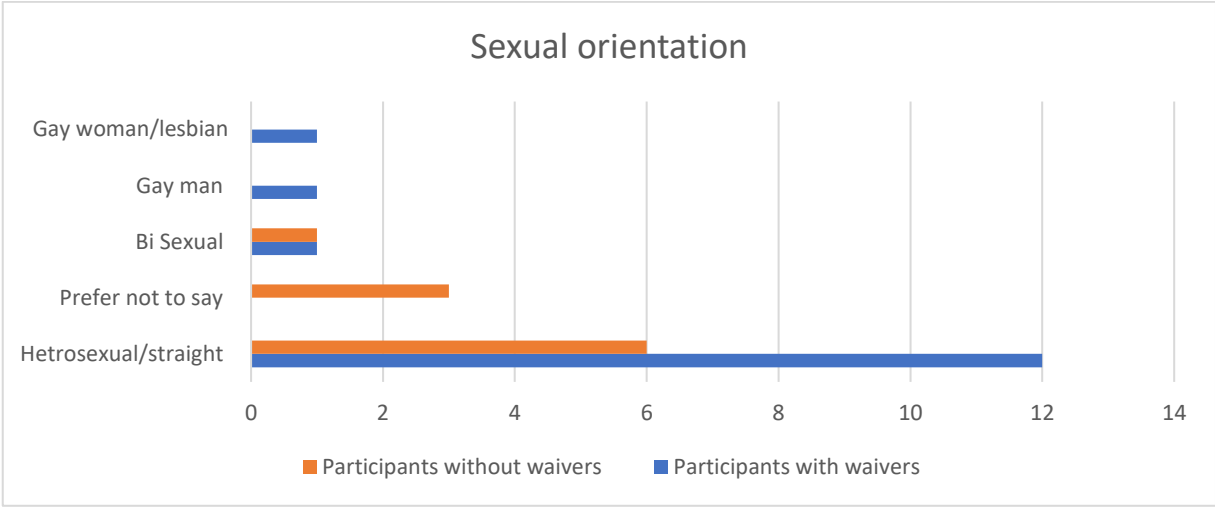
Ethnicity



It can be seen from the charts above that participants with waivers were much more likely to be from minority ethnic backgrounds. Despite attempts to make the Bar a more inclusive profession, there are still many under-represented groups at the Bar, specifically ethnic minorities.

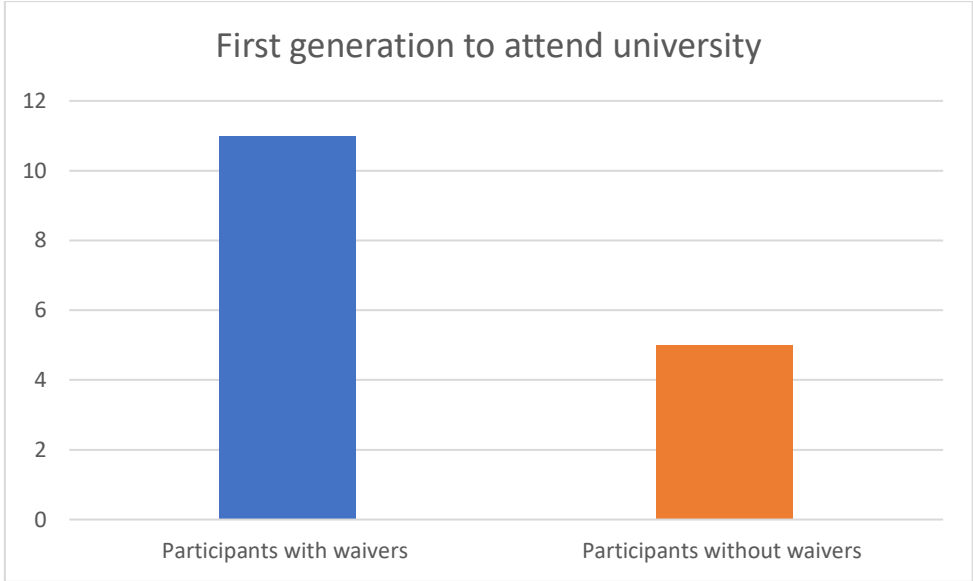
Of those participants that identified as not being from an English or British ethnic group, 83% of them also had another 3 DCCs: suggesting that they would be significantly disadvantaged in the traditional pupillage process.

Sexual Orientation



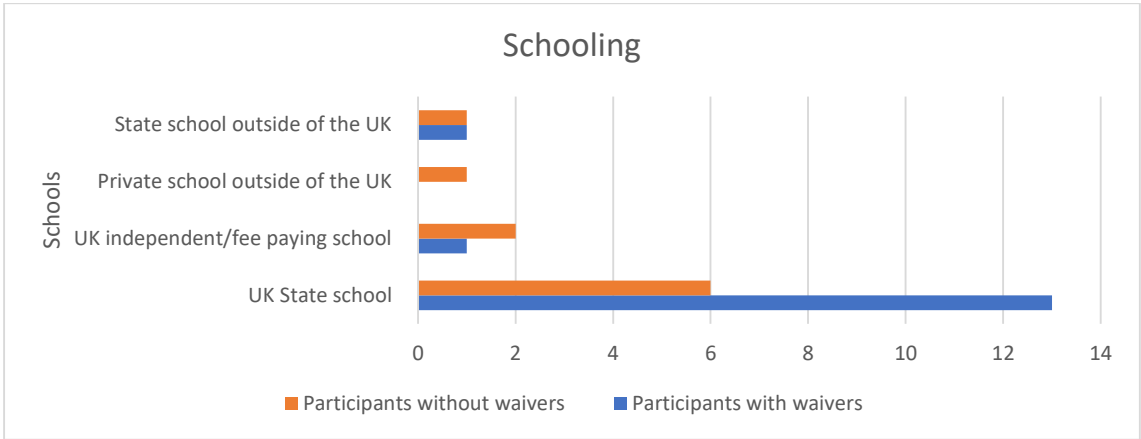
The data gathered on sexual orientation is more difficult to compare between the two focus groups as many of the participants without waivers opted for the 'prefer not to say' selection. However, we can see that 20% of participants with waivers identify as being a part of a group which is protected under the Equality Act 2010.

The First Generation to Attend University



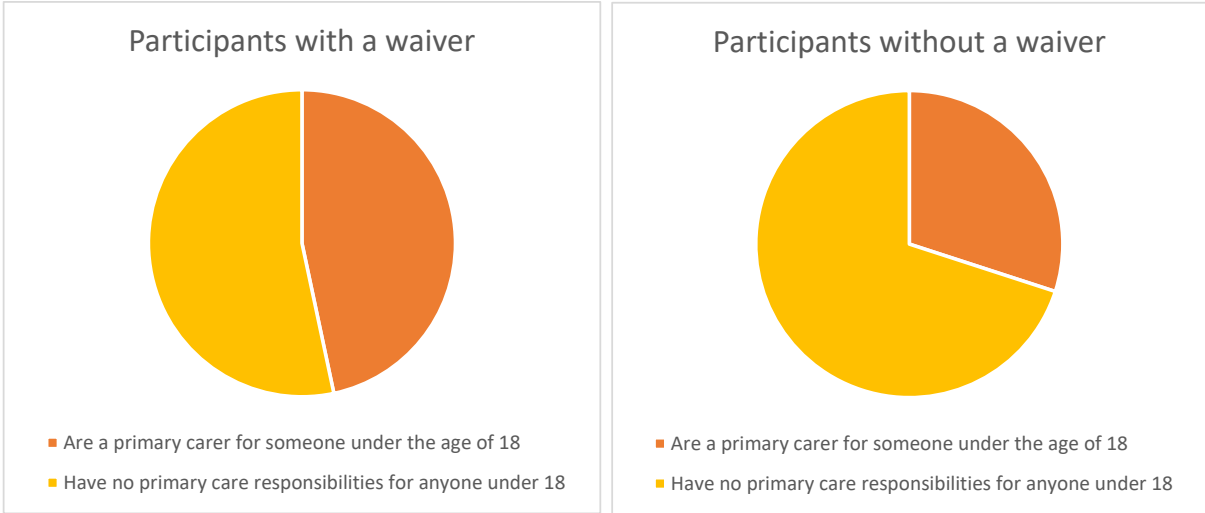
Only 50% of the participants without waivers were the first generation in their family to attend university; whereas, of the participants with waivers, 73% were the first generation to attend university.

State Schooling



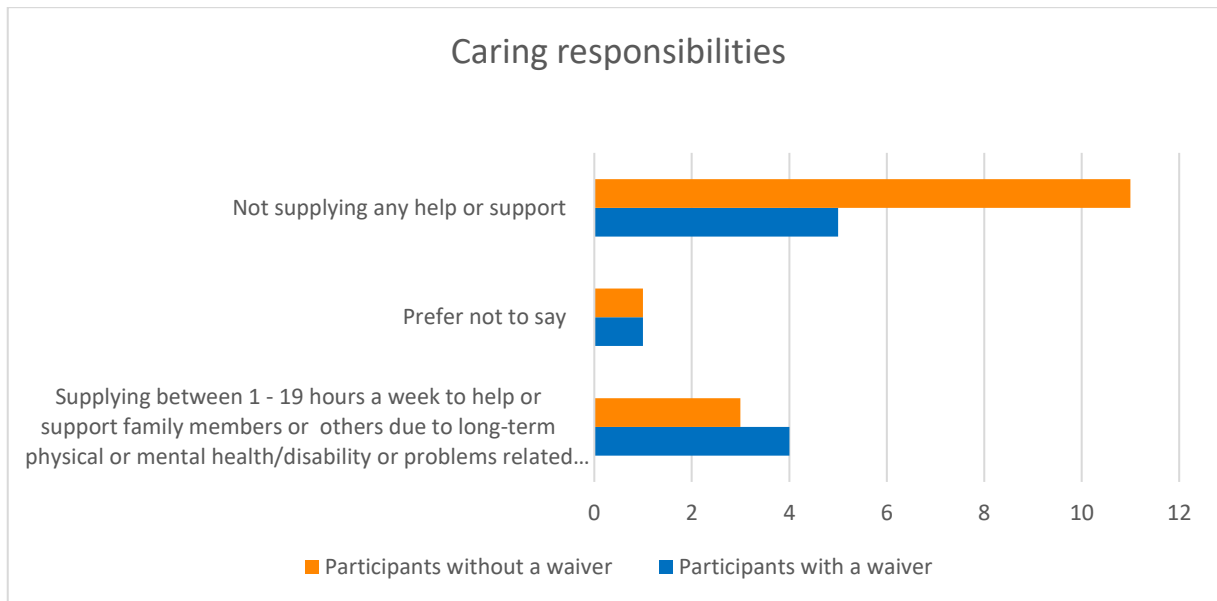
Clerksroom, generally, has a high percentage of members who have attended state school between the ages of 11-18; however, the members that had attended state school and obtained a waiver were particularly high, totalling 87%. Whereas, only 70% of participants without a waiver attended state school.

Children and Child Care Responsibilities



It can further be seen from the data that candidates with a waiver are much more likely to have caring responsibilities for someone under the age of 18 than a candidate that does not have a waiver. This data pool demonstrated that 30% of participants without a waiver had child care responsibilities, compared to the 47% of participants that held a waiver.

Caring Responsibilities



Interestingly, the data on caring responsibilities was much closer between all of the participants. 28.5% of participants without waivers have caring responsibilities and 33% of participants without a waiver have caring responsibilities.

Religion or Belief

As religion or belief is one of the protected characteristics under the Equality Act 2010, we collected data on what religion or belief each member held. Upon review of the data, we took the decision not to class religion or belief as a DCC. We found that there was very little difference between the religious make up of Clerksroom members, the composition of BSB regulated individuals and the composition of the general population of England and Wales as a whole.

In 2020, the Legal Services Board (LSB) produced 'The state of legal services 2020' report, which compared the composition of BSB regulated professionals and the general composition of England and Wales. Below you can see the LSB data alongside our own.

	E&W 2018 ⁸	BSB ⁹	Clerksroom member with no waiver	Clerksroom member with a waiver
Buddhist	0.40%	0.70%	10%	0%
Christian (all den.)	51.60%	50.50%	50%	33.33%
Muslim	5.70%	4.20%	0%	6.66%
No religion/belief	37.80%	36%	30%	53.33%
Prefer not to say ¹⁰			10%	10%

⁸ Data was taken from the LSB's, 'The state of legal services 2020' report, at page 106. This can be found at: www.legalservicesboard.org.uk/wp-content/uploads/2020/11/The-State-of-Legal-Services-Narrative-Volume_Final.pdf

⁹ *Ibid.*,

¹⁰ The LSB report did not have the option to select 'prefer not to say'; whereas, the Clerksroom survey did.

This does not mean that applicants were or will not be disadvantaged by this protected characteristic during the pupillage process, we were simply unable to obtain any data to support this.

Should any potential applicants or members have any issues concerning religion this can be discussed confidentially with members of the management team. As always, Clerksroom strives to operate with an inclusive approach.

Conclusion

Overall, we believe that by placing value on individuals with waivers we are helping to shape the future of the Bar in a positive way, by including people from under-represented groups and from a variety of different backgrounds. We believe we can offer individuals that have taken a different route the correct outreach and support that they need to flourish at the Bar, when they may have otherwise been overlooked.