



The Inns of
Court College
of Advocacy

The Council of the Inns of Court

ANNUAL REPORT

2016 - 2017

The Inns of Court College of Advocacy

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INTRODUCTION

I am pleased to present this Report on the activities of the Inns of Court College of Advocacy (ICCA) in the first year of its existence. The ICCA was established by the Council of the Inns of Court (COIC) on 1 May 2016, with generous support from the four Inns, to take over and expand upon the work of the Inns' Advocacy Training Council (ATC). In its first year the ICCA has undertaken a formidable range of work, partly inherited from its predecessor and partly generated in the form of new projects.

The ICCA's mission as successor to the ATC, is to raise and maintain high standards in the practice and ethics of advocacy in courts and tribunals, and to disseminate best practice in those areas. We work both within our home jurisdiction of England and Wales and internationally. We have concentrated on the continuing education and training of barristers and advocates in practice, after formal qualification.

This report describes what we have done so far, records the resources we have had at our disposal, and sets out what we foresee as our continuing programme for our second and subsequent years.

The membership of our Governing Body during the year is recorded in Annex 1 and the members of our staff in Annex 2. The Governors of the ICCA express their warm thanks to the Dean James Wakefield and his highly qualified and efficient staff for the energy and commitment they have shown in this first critical year.

We also record our gratitude to the many barrister and judicial members of the Inns and Circuits for the generous help and support they have given to our various projects.

Derek Wood CBE QC
Chairman of the Governors
July 2017

1. CONTINUING THE ATC'S PROGRAMME

The work in progress which the College inherited from the ATC included the continuing development of The Advocate's Gateway (TAG); the ATC's international training programme; the development of training materials in professional ethics for advocates; and the handling of expert witnesses. In addition, it has continued the work of accrediting trainers who deliver advocacy training to Bar students on the Bar Professional Training Course (BPTC).

The Advocate's Gateway

This highly regarded website (www.theadvocatesgateway.org), based on extensive multidisciplinary research and consultation, gives free access to practical, evidence-based guidance on the handling of vulnerable witnesses and defendants in court. It has received judicial approval at the highest level. The work is now hosted by the ICCA through its TAG management committee, and continues to be led by Professor Penny Cooper. She was closely supported by Linda Hunting, barrister and member of the ICCA's staff, throughout the year.

The material consists of 18 Toolkits, offering guidance on different aspects of vulnerability and the different problems which disadvantaged people can encounter when they become involved in the court process. Members of the committee are assigned to the task of keeping each toolkit up to date, reflecting changes in legislation, developing case law, the evolution of best practice, and continuing medical and related research in the area. Detailed planning took place for a two-day conference to be held in London in June 2017.

The International Advocacy Training programme

Internationally the ICCA has continued the ATC's legacy of delivering an extensive programme of advocacy training overseas, particularly in the developing world where improving the standard of advocacy helps to maintain the rule of law. In 2016-17 the College has delivered training in places including Poland, South Africa, The Hague, Zimbabwe, Nigeria and St Lucia.

In the latter half of 2016 the College delivered training in Sierra Leone, funded by ROLE UK. The training was intended to reignite the development a faculty of trainers in Sierra Leone that had initially begun with an ATC trip in 2014 but which was halted due to the ebola outbreak. With support from ROLE UK it is hoped that the College will be able to continue supporting this project as advocacy training is essential in ensuring justice by improving the effective functioning of the courts and protecting the rights of the Sierra Leonean people. This

particular round of training was the start of improvements designed to ensure a functioning legal system which will in turn have economical and ethical impacts for all of Sierra Leone.

The College also delivered the first National Advocacy Training Programme sponsored by the American Inns of Court and held in Philadelphia. The course introduced the Hampel method to US attorneys who were looking to develop their trial advocacy skills and was deemed such a success that the College have been invited to deliver the programme again in 2017 in two US cities, Chicago and Tampa.

Professional Ethics

Following the publication in December 2015 of the Report ‘The Ethical Capacities of New Advocates’ by Professor Richard Moorhead and others of UCL, specially commissioned by the ATC, the College has established a standing Professional Ethics Training committee under the chairmanship of Paul Stanley QC to carry this topic forward. Its immediate aim is to settle a suite of high quality training materials, equipped with teaching notes, to assist the Inns and Circuits in the training they deliver on their pupils’ and new practitioners’ courses, addressing among other things the weaknesses in ethical awareness demonstrated by the Report.

The report has attracted wide attention. Derek Wood QC was asked to speak to it at Nottingham Law School’s International Advocacy Conference in June 2016 and it was the subject of a heavily attended interactive session at the Young Bar and Bar Council’s Annual Conference in November 2016, when the ICCA’s speakers were Professor Moorhead, Paul Stanley and Derek Wood.

Expert witnesses

The ATC’s work on expert evidence, and the handling of expert witnesses in court, was triggered by the Law Commission’s Report “Expert Evidence in Criminal Proceedings in England and Wales” published in 2011. The Law Commissioner who was the principal author of that Report was Professor David Ormerod QC. Professor Ormerod subsequently joined the ATC’s Research and Development Committee to oversee the practical implementation within the advocacy profession of the Law Commission’s recommendations.

The ICCA, following the ATC, set up a working group, of which Professor Ormerod remains a member, to continue this work. It has been considering how the modern practice and procedure for the handling of expert witnesses in the criminal and civil justice processes can be co-ordinated and distilled into a set of generic guidelines. When they are settled they will be published as teaching materials, with appropriate case studies, and will benefit advocates in all fields of practice.

In addition, the working group has been engaged on a collaborative project with the Royal Statistical Society (RSS) in the production of a short booklet entitled “Statistics and Probability for Advocates: Understanding the use of statistical evidence in courts and tribunals.”

The project is jointly funded by the ICCA and the RSS. The aim of the booklet is to introduce advocates to some of the basic techniques involved in the use of statistics and to point out some of the traps into which they and the courts can fall. Publication is expected in 2017.

Professor Ormerod, Colin McCaul QC (member of the present working group) and Derek Wood had addressed the annual conference and led a seminar in Belfast in April 2016 of the two Irish Bars on the continuing work in this field.

2. FURTHER WORK ON VULNERABLE CLIENTS AND WITNESSES

The October Conference

In parallel with the continuing work on TAG, the ICCA organised a conference in October 2016, led by Bernard Richmond QC and Sarah Clarke QC, entitled: ‘Vulnerability and Power – Maintaining the Balance, the Client’s Perspective’. This conference complemented other work that is being undertaken in relation to vulnerable witnesses, namely the pilot practices in the Crown Court under s.28 of the Youth Justice and Criminal Evidence Act 1999 (YJCEA) and “Advocacy and the Vulnerable” programme.

Approximately 150 delegates attended the conference. There was an extensive and varied programme covering topics such as: the psychiatric process within litigation, young people, autism, protecting clients pre-trial, immigration and cultural vulnerability, distraught families and inquests, antisocial personality disorder, culture and communication, traumatised clients, memory disorder, intermediaries for defendants, prisoners, drugs and addictions and more. The feedback was extremely positive.

Advocacy and the Vulnerable

The ‘Advocacy and the Vulnerable’ training course is unprecedented in its scope and ambition. It aims to train 14,000 criminal advocates by the end of 2018 to adapt their cross-examination techniques for children and vulnerable witnesses. The ICCA became involved at a stage when HHJ Peter Rook QC and a small team of senior advocates had written a case study and started to create films and podcasts to develop a national training course. The impetus for training came from the emerging decisions in a number of Court of Appeal cases. In addition to this, the Government in 2014 issued a statement requiring all publicly funded advocates in serious sexual offence cases involving vulnerable witnesses to be specifically trained. Whilst this has not yet been made mandatory, it is still entirely possible that it will become so.

The ICCA trained the top tier of trainers (Lead Facilitators) at four separate training events between July 2016 and January 2017. There are now 62 Lead Facilitators and the training of the next cadre of 250 Facilitators is well under way. The Inns, Circuits, CPS, The Law Society (TLS) and the Service Prosecuting Authority (SPA) are training delegates.

The Bar Council hosts a working group called the Vulnerable Witness Advocacy Training Working Group (VWATWG) to oversee the roll out of training. The Bar Council and the ICCA

work closely together and have drafted a Quality Assurance policy. The ICCA will be responsible for the quality assurance of all Bar-related training. There is a small group of QA assessors who will undertake this work on the ICCA's behalf. It has not yet started to monitor courses.

The training course itself is based on a fictional but typical historical sexual abuse case involving three female complainants all of whom have a different but specific vulnerability. All delegates must undertake eight hours of online preparation including the drafting of three sets of questions and three hours of face-to-face training. Finally delegates watch four films to consolidate their learning before registering with their regulator.

On 5 April 2017, the ICCA hosted and filmed a *refresher event* for all Lead Facilitators to remind themselves of the outcomes of training and to watch an exemplar teaching session delivered by Andrew Smith QC.

The ICCA has developed a research-based set of 20 Principles around the topic and they underpin the entire training course. The same Principles were adopted by the Judicial College for Circuit seminars in 2016 and 2017. The material has been used to present training to the Bar Tribunals and Adjudication Service (BTAS) panellists in 2017 and it has been used at various lectures and seminars delivered by HHJ Peter Rook QC (Jersey), HHJ Sally Cahill QC (Scotland), James Wakefield (Slovenia) and Lynda Gibbs (Nottingham Law School International Advocacy Conference). In July 2017, the Australian Bar Council visited the ICCA and received the same presentation. They have specifically asked to be informed about our work as it is deemed to be cutting edge training.

The ICCA's Programme Director, Lynda Gibbs has provided two bi-annual reports to the Ambassador Group of the 'Advocacy and the Vulnerable' project: HHJ Peter Rook QC, Angela Rafferty QC and Gilly Jones QC.

3. ADVOCACY IN THE YOUTH COURT

In November 2015, the Bar Standards Board (BSB) released a [report on youth justice proceedings](#). The ICCA (then ATC) was approached by the Chairman of the Criminal Bar Association (CBA) to create a small suite of materials to assist the profession.

There now exists a suite of five guides dealing with first hearings, anonymity and reporting, bail and remand, sentencing and applications for a certificate of assigned advocate (certificate for counsel). In addition to this there is a short animated film dealing with communication and engagement with children and young people in the youth justice system.

The written guides and the film address [a new set of competences](#) published by the BSB with which all advocates practising in the field will be probably be required to comply once the BSB consultation on mandatory registration is completed in September 2017.

The ICCA launched its [Youth Justice Advocacy materials](#) and film at an event hosted at Gray's Inn on 27 April 2017. Lord Carlile gave a keynote speech and commended the ICCA for its work in this area. There is still much work to be done including the consideration of a hybrid court for trials of young offenders charged with serious offences; the changing landscape of this field in terms of alternative disposals; problem solving courts and funding. Not all of these things directly affect the ICCA but we are regularly asked to attend conferences, seminars and working groups as a result of our published materials.

4. COLLABORATION WITH THE CIRCUITS

Much work has been done this year to ensure close collaboration with the Circuits. Will Waldron QC, one of the Vice Chairs, hosted a dinner in Cardiff for the educational leaders of each Circuit. Those present discussed how best they might support and be supported by the work of the College. This was followed up by visits to Circuits to discuss matters in more detail.

One pressing need identified was the creation of new teaching materials. Two new case studies, one criminal and one civil have been created and circulated. A template for production has been adopted and there are teaching packs in production to enable trainers to effectively use the materials and look out for good practice and pitfalls. Work is being done to identify and create further case studies to form the basis of more materials.

5. STAFF ACTIVITIES

The ICCA is fortunate to have a committed and capable staff team. They work hard supporting the work of the College and the volunteer practitioners. It is impossible to set out all that the staff do. Some of the more notable activities include (in no particular order):

- Rebranding the ATC website and materials with the new ICCA and TAG logo formats, refreshing the websites and creating house-styles;
- Organising numerous training activities and events;
- Arranging thirteen international training trips;
- Promoting the work of the ICCA, including through social media;
- Editing the TAG book: 'Addressing Vulnerability in Justice Systems';
- Applying for external funding;
- Speaking at conferences including the Youth Justice Summit, Intermediaries for Justice, & Slovenian Lawyers' National conference;
- Attending conference such as the Bar Council Conference and the Young Bar Conference;
- Working with practitioners to draft and update training materials and toolkits;
- Liaising with Inns, Bar Council, Judiciary, Specialist Bar Associations, Law Society and many, many other organisations;
- Visiting and working with the Circuits;
- Supporting and promoting the Inns' educational activity;
- Working with consultants to review the College's platform and plan for its replacement;
- Responding to consultations.

6. ACCOMMODATION AND RESOURCES

Office accommodation

At the time of the launch of the College the staff were accommodated in two rooms and shared facilities at 2 King's Bench Walk, Inner Temple. This excellent space ultimately proved to be too small for the number of staff and amount of activity.

On 8 December 2016 the office moved to the ground floor, 9 Gray's Inn Square. Our new equally well-appointed facilities comprise four rooms including a much needed meeting room.

Financial statement

Funding for the ICCA is provided by COIC out of monies provided by the four Inns, in accordance with a budget approved by the Board of COIC. In addition the ICCA generates a modest revenue from the sale of tickets for attending some of its conferences and training events.

A brief statement of the ICCA's income and expenditure for the year is in Annex 3.

7. WEBSITE

The ICCA is working with IT consultants 'Unthinkable' to identify a new learning platform to host the ICCA's materials. The present platform has limited functionality and is restricting the development of the ICCA's work.

In order to identify the right platform Unthinkable have spent considerable time working with those who use and might use the website. They have been advising on how best the ICCA might organise and create materials in a structured way; this involved identifying and creating a 'taxonomy' and then prioritising which materials are to be created first.

The aim will be to create a user-friendly platform for the hosting of best practice materials across the entire advocacy and ethics spectrum. Up until now, the College has to some extent, created materials as the need has arisen. This will still be necessary but it will be equally important, possibly more important, to create materials systematically.

One of the next steps will be to tender and commission a new platform. This is no small task in itself. Once done, materials will need to be migrated from our present websites. Then comes the task of creating content. Thought will need to be given to the time and cost to be devoted to this at a time when the College may be undertaking other large projects. The ICCA may need to focus on ways of achieving this that strikes the right balance between relying on practitioners and staff members. Quality control and process management will be key.

8. FUTURE PROGRAMME

BPTC reform

COIC was successful in persuading the BSB to include, within its future plans for Bar training, a model of the BPTC which will split the course into two Parts – a Part 1 comprising the knowledge-based centrally-assessed elements of the syllabus, for which students can prepare by whatever means they choose, and a Part 2 consisting of the skills-based elements, for which much shorter attendance at formal training sessions will be necessary. The object of this reform is to make the BPTC more accessible to and affordable by a wider socio-economic range of recruits to the profession, and to reduce the worryingly high failure rate within the course as it is at present structured.

The Inns have asked COIC and the ICCA to give detailed consideration to the possibility that the ICCA itself might enter the market as a provider of this split model of the BPTC. Much of the year 2017-2018 will be occupied with the detailed planning that this will entail. This work will occupy a significant amount of the staff's time and extra specialist staff will be recruited. An initial report will be submitted to the Inns and the Governors of the ICCA in the autumn of 2017.

Website

See above.

Advocacy training and other work in progress

The Training and Accreditation Committee expects to complete and publish a review of the teaching of Case Analysis, and is seeking collaboration from a wide range of teaching institutions, including the current BPTC providers, in that enterprise. It is also working on a parallel review of advanced advocacy training. Work is also continuing on the production of teaching materials on pleas in mitigation and on TAG. The ICCA also expects to fulfil another international programme.

Conferences

Conferences are planned, in collaboration with the Specialist Bar Associations, on the handling of expert witnesses, under the leadership of Vice-Chairman Andrew Hochhauser QC. Consideration is also being given to the holding of a conference on Professional Ethics.

Publications

It is expected that a book, comprising the papers delivered at TAG's conference in June 2107, will be published during the year. It is also expected that the booklet on Statistics will be published in 2017.

Relations with the BSB and the Bar Council

The ICCA plans to maintain its cordial and constructive relationship with the BSB and the Bar Council and to respond to their suggestions on future research and training projects as its resources permit.

ANNEX 1 – MEMBERS OF THE BOARD OF GOVERNORS

Derek Wood CBE QC, Chair of the Governors

The Honourable Mrs Justice Andrews DBE, Judicial Governor

Professor Shelley Heard, Lay Governor

Andrew Hochhauser QC, Vice Chair Specialist Bar Associations

Dr Catherine MacKenzie, Academic Governor

Alistair MacDonald QC, Co-Vice Chair Circuits

Stephen Murch, Lincoln's Inn Governor

Shaun Smith QC, Gray's Inn Governor

Paul Stanley QC, Middle Temple Governor

Sam Stein QC, Inner Temple Governor

William Waldron QC, Co-Vice Chair Circuits

ANNEX 2 – MEMBERS OF STAFF 2016-2017

Victoria Agenjo, COIC Digital Content Manager

Hayley Dawes, PA to the Director of COIC

Lynda Gibbs, ICCA Programme Director

Margaret Hilson, BTAS Administrator

Linda Hunting, ICCA Research and Development Coordinator

Francis Leeder, BTAS Administrator

Phoebe Makin, ICCA Administrator

Beth Phillips, ICCA Operations Manager

Andy Russell, COIC Operations Director and Registrar of BTAS

James Wakefield, Dean of ICCA and Director of COIC

Monica Whyte, ICCA Programme Designer

ANNEX 3 – FINANCIAL STATEMENT FOR THE YEAR 2016

The College's activities during 2016 were enabled in large part by a grant of over £530,000 from the Inns of Court. The ICCA was also generously supported in its work by a grant of £30,000 from the Inns of Court and Bar Educational Trust (ICBET).

In addition to the portion of its budget allocated to operating costs (salaries and office rent, etc), during 2016 specific expenditure took place in the following areas:

- a) The Advocacy and the Vulnerable National Training Programme dominated the ICCA's activities for much of 2016. In addition to some £34,000 of direct costs, a huge amount of work was done by members of the ICCA staff team in developing and refining the programme, the costs of which are subsumed within the ICCA's general salary costs.
- b) International training visits. £30,000 of the ICCA's funds were used to send teams of trainers to Zimbabwe, The Hague, and Ghana. Other ICCA training visits that took place in 2016 were funded by other organisations (and particular acknowledgement is given to ROLE UK who provided £24,000 for training in Sierra Leone, and the Magna Carta Foundation who gave £23,000 for training in South Africa).
- c) Through the ICCA, the Inns provided £24,000 of funding to support the delivery of the advanced advocacy course at Keble College, Oxford.
- d) Some £30,000 was incurred in the launch of the ICCA, including the development of the new ICCA identity and branding, and applying this across the website and all online and hard copy material.