



**CHAMBER
OF ADVOCATES**
MALTA

PUPILLAGE GUIDELINES

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Preamble

The Chamber of Advocates (Malta) *Pupillage Guidelines* is the primary and indeed the only reference for students who are preparing to serve their pupillage. These guidelines have been prepared by the Chamber of Advocates on its own initiative, and constitute the Chamber of Advocate's interpretation of article 81 (d) of the Maltese Code of Organisation and Civil Procedure as it stands at the date of publication of this document. It is hoped that the current document will afford students with the elucidation necessary to successfully carry out their pupillage, as well as highlight potential shortcomings in the present wording of the law. The Chamber of Advocates intends to complement these guidelines to students with guidelines to pupil mentors in due course.

General notions of pupillage

1) What is pupillage?

Pupillage, more commonly referred to as *prattika*, is a form of professional apprenticeship.

2) Why is pupillage necessary?

Pupillage is required in order to be entitled to obtain the warrant required to exercise the profession of advocate in Malta as set out in article 81(d) of the Code of Organisation and Civil Procedure, as well as to introduce students to the practical aspects of the legal profession.

3) How do I commence pupillage?

Students begin by choosing a specific advocate or a firm with which they would like to practice. Once identified students should approach the advocate or firm, generally through electronic or regular mail, and supply a copy of their CV and university transcripts. Some firms hold recruitment drives for students interested in pupillage while others advertise available positions on their website and social media pages or on the website of the Chamber of Advocates. However, students should not be deterred by the lack of such initiatives and are encouraged to contact the advocate or firm of their choice notwithstanding. To this end, students may wish to make use of the 'find a lawyer' function and, more specifically, the 'area of practice' filter available on the Chamber of Advocates website. Once a student has been accepted by an advocate or firm to serve their pupillage, the advocate must fill in the commencement form which can be downloaded from the website of the Chamber of Advocates.

4) Are advocates or firms obliged to accept students as pupils?

Currently advocates and firms are not obliged to accept students as pupils.

5) What should I consider when applying for pupillage?

For those students who have decided which field of law they would like to practice in upon attaining their warrant, pupillage is an excellent opportunity to acquaint oneself with the procedural elements of the field of choice, as well as the environment one would be expected to work in. This would naturally be advantageous when securing employment following receipt of the warrant. Pupillage may also be seen as an

exploratory exercise. If a student is uncertain which field of law they would like to practice in, pupillage offers students an opportunity to explore or exclude certain fields of law and potentially introduce them to areas of law they might never have otherwise considered.

6) What do I do at the end of my pupillage?

Once the required year of pupillage is over the student must secure your advocate/s's signature on a termination form confirming that the student has been duly observing their pupillage. In order to apply for the warrant exam, students must present the termination form, together with the commencement of pupillage form, and all other necessary documentation, to the Secretary to the Director and Registrar, two weeks prior to the exam. All forms can be downloaded from the website of the Chamber of Advocates.

Conduct and ethics

7) As a student am I bound by the Code of Ethics?

As prospective lawyers, students are not bound by the Code of Ethics while serving pupillage but are expected to conduct themselves with decorum and should refer to the Code of Ethics as their guiding principle on all matter related to ethics and good practice. Though not bound by the Code of Ethics, students are bound by the dispositions of the Professional Secrecy Act and the Criminal Code *inter alia*. The Code of Ethics is available on the 'downloads' page of the website of the Chamber of Advocates and should nevertheless be consulted by all students prior to serving their pupillage. Students and mentors are also encouraged to liaise with the Ethics Officer of the Chamber of Advocates in case of any ethical difficulty, whether perceived or actual.

8) Do I have rights of audience in Court during pupillage?

No. It should also be noted that certain Court proceedings are closed to students, such as those held *in camera*. Students should also refrain from sitting at the table intended for lawyers and should instead be seated in the seating intended for members of the public.

9) Must I abide by a certain dress code while serving pupillage?

As prospective lawyers, students serving pupillage are expected to conduct themselves with decorum and must abide by the dress code for advocates as outlined in L.N. 279 and 280 of 2008. At this stage students are also encouraged to read through the regulations about wearing togas in front of judges and magistrates.

10) What level of interaction with clients may I expect during pupillage?

The level of interaction which a student has with clients during pupillage depends on the advocate or firm with whom they serve. Unless a client otherwise instructs, advocates are encouraged to allow gradual, supervised interaction between students and clients.

11) What do I do in the event of a perceived or actual conflict of interest?

Students may experience professional and/or personal conflicts of interest while serving their pupillage. In the event of even a perceived conflict of interest the student should immediately report to his mentor and inform of the potential conflict.

12) Do I have an obligation to respect client confidentiality?

Though not yet lawyers, students are an extension of their mentor and are as such bound by a duty of confidentiality and professional secrecy when dealing with their mentor's clients. Any information which a student becomes privy to must remain confidential, even after pupillage is terminated. A breach of confidentiality would amount to a serious breach of ethics which may lead to sanctions, including the immediate discontinuation of pupillage. It should be noted that mentors may require students to sign a non-disclosure agreement when commencing their pupillage in order to protect the interests of their clients.

Duration and structure of pupillage

13) How long is pupillage?

Pupillage must be served over a period of one year at any time after the commencement of the last academic year at University. A two year pupillage period for the next class of graduates in Masters in Advocacy has been proposed, however, this is not yet part of the law.

14) Is pupillage intended to be full-time?

Since pupillage is meant to commence at any time after the commencement of the last academic year at University, it is not intended to be a full-time endeavour. Students should create a balance between their coursework and the necessary pupillage, which is however, expected to be regular. Though not quantified, a student should dedicate approximately twelve hours a week to pupillage which may be allocated as the student and the advocate deem appropriate.

15) When am I expected to serve my pupillage?

A student is expected to serve their pupillage for a period of not less than one year which should commence at any time after the commencement of the last academic year of the academic degree of Doctor of Law (LL.D.) or the degree of Master of Advocacy (M.Adv.), after having read law in Malta or its equivalent in a Member State of the European Union. Students seeking to serve pupillage from outside Malta or the EU should contact the Chamber of Advocates for more information.

16) Can I take a break during pupillage?

Pupillage is intended to be continuous. If a break is necessary the student will need to continue where they left off within a year from when the break begins until the full year has been completed. In the event that a break is necessary, the student is still expected to serve or have served for six continuous months out of the mandatory year.

17) May I plan my pupillage in different periods?

Splitting pupillage is a good way for a student to gain exposure in more than one field of law or environment and is in this sense preferable to practice with more than one advocate at the same time. Students desiring to split their pupillage should preferably divide the year in two six-month periods. Splitting pupillage into more than two periods

is possible but highly discouraged. In the event that students desire to split their pupillage they should plan ahead in order to secure placements prior to commencement in order to avoid disruptions, as well as ensure that required documentation is obtained from all lawyers with whom the student has practiced.

Pupil mentors

18) Can any advocate be my mentor?

Students must serve their pupillage with an advocate admitted to the Bar of Malta. Though not as yet a legal requirement, it is recommended that the advocate with whom a student serves should have been practising for a minimum of five years.

19) Can I practice with more than one advocate at once?

Practicing with more than one advocate concurrently is not prohibited since it is presumed that the student will gain wider exposure to the Courts and the profession as a whole as a result. In all circumstances, students should however consider their academic responsibilities before taking such a step, as well as consult the lawyers with whom they practice in order to avoid potential conflicts of interest. Students may wish to divide their pupillage as outlined in point 17 above.

20) Once engaged in pupillage may I change the lawyer with whom I practice?

Students are free to change the lawyer with whom they practice out of choice or necessity provided that in all circumstances pupillage must amount to one full year cumulatively. In the event that a student does change lawyer, it is advisable that the student obtains a signed record of time spent in pupillage with each individual lawyer.

21) What do I do if the advocate with whom I practice refuses to sign my termination form?

You may seek the assistance of the Council of the Chamber of Advocates. An advocate shall not refuse to sign a termination form unless it is for reasons acceptable to the Council of the Chamber of Advocates.

Forms of pupillage

22) May I serve my pupillage with an audit firm or other financial institution?

As the law stands, the requirement is that students carrying out pupillage must regularly attend at the office of a practicing advocate of the Bar of Malta and at the sittings of the Superior Courts. Consequently it is highly unlikely that an advocate working within a financial institution or an audit firm could honestly confirm that a student would have satisfied this requirement and a declaration by an advocate working within a financial institution or an audit firm will not have much credibility.

23) May I serve my pupillage within the Legal Clinic?

The Legal Clinic itself is unlikely to qualify as an office of a practising advocate of the Bar of Malta as required at law. Moreover, it should be noted that since the Legal Clinic was introduced fairly recently, teething problems are likely to hinder a student's ability to satisfy the requirements outlined in article 81(d). Students interested in serving their pupillage within the Legal Clinic should ensure beforehand that they would be in a position to satisfy the said requirements.

24) May I serve my pupillage in a government department?

A government department does not qualify as the office of a practising advocate of the Bar of Malta. Students may, however, serve their pupillage in the Office of the Attorney General.

25) May I serve my pupillage with an NGO?

The office of an NGO does not qualify as an office of a practising advocate of the Bar of Malta as outlined in article 81(d).

26) Does the Master of Advocacy (M.Adv.) course at University qualify as pupillage?

No. The Master of Advocacy course does not qualify as pupillage in terms of article 81(d).

27) Must I attend only sittings heard before the superior courts?

No, on the contrary, attending sittings before other courts, tribunals and judicial bodies is encouraged in order to learn how other tiers of the court system function. However, students must also attend sittings before the superior courts in order to satisfy the

requirements outlined in article 81(d). Students are also encouraged to explore other legal sectors and environments not directly related to Court.

Remuneration and employment

28) Should I expect remuneration during pupillage?

A student should not expect remuneration during pupillage. Remuneration is not prohibited and remains at the discretion of the advocate or firm in question. If remunerated, a student is deemed an employee and as such must first receive permission from the Board of the Faculty of Laws before proceeding. In all cases, a student should be registered with the relevant authority as an intern by their mentor.

29) Does pupillage automatically lead to employment?

No. Employment following pupillage remains at the discretion of the advocate or firm. Nevertheless, in the event of a vacancy for a junior advocate with the advocate or within the firm, a student engaged in pupillage is likely to enjoy an advantage when applying for the position.

30) What kind of exposure and work should I expect during my pupillage?

The work a student is expected to carry out while serving their pupillage depends on the field of law in which the student decides to serve and/or the work assigned to the student by the advocate with whom the student serves. Generally, this work will broadly include drafting and vetting of basic contracts and agreements, drafting of acts such as applications and replies intended to be filed in active court proceedings and shadowing advocates in their daily practice. The difficulty of the work a student will be asked to perform will scale as the student progresses. Students serving pupillage should expect to be exposed to all aspects of the field of law they select and should have the opportunity to participate passively in client and courtroom experiences. From time to time students may be asked not to attend certain meetings if the advocate deems the meeting to be of a sensitive nature or if the client objects to the presence of the student.

31) Does a pupil require professional indemnity insurance?

No. Since students serving pupillage are unable to sign any documents intended to be filed in court they do not bear the responsibility of the contents even if they have written or contributed to the said contents. Students sending e-mails on behalf of the advocate with whom they serve should make this known to the recipient either within the body of the e-mail or as a signature.

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