

To tutor or not to tutor?



Kavita Balendra

4th Floor Wentworth Chambers

The relationship between reader and tutor is one of the most pivotal in a barrister's early career. But while the benefits to a reader are immediately obvious, what is less known is the benefits that flow to a tutor.

What is the role of a tutor?

Readers are required to operate under the supervision of a tutor for their first year of practice at the Bar. The Bar Association describes the role of tutors as providing a 'supervisory and mentoring role for new barrister' until such time as a reader completes the requirements of the reading program.

However, the role of a tutor can extend much further than that. Depending on a reader's experience prior to being called to the Bar, the tutor may need to provide assistance with court etiquette, writing, and even the basics of managing a business.

Readers have described the invaluable assistance that a tutor provides in navigating their new role, from finding work and connecting with other barristers and solicitors to negotiating their relationship with the Bench.

Sarwa Abdelraheem (called in 2019) describes her experience with her tutors:

I had my own practice as a solicitor, so I had experience with the business side of things. But I needed assistance with the transition from being a solicitor to a barrister. I needed help with questions like 'How do I approach the court now that I have changed roles?' Coming to the Bar, I was conscious of the greater obligation to the Bench and needed to navigate some of the ethics involved in my new role.

I did not see my tutor as providing work, but more in terms of providing



Sarwa Abdelraheem

support. In the first few months I was nervous. I needed help with validation and confidence. I needed someone who would be able to answer dumb questions, as well as someone who would be able to discuss submissions or my approach to a particular issue.

In terms of the qualities that I consider a tutor needs, I think they need to be experienced and, most importantly, approachable. They need to have a good manner in court and be someone that you as a reader would like to learn from. There is no point in having a tutor that a reader finds intimidating, as then the reader would be too scared to ask them questions.

However, there are also less discussed, but significant benefits that arise from being a tutor.

Sam Adair (called in 2008) has been a tutor to two readers. He describes some of the benefits that he experienced in being a tutor:

I see being a tutor as a way to be part of and contribute to the Bar's traditions, especially the 'open door policy'. I valued my relationships with both of my tutors when I came to the Bar – they both made time for me, even though we were basically acquaintances when I first came to the Bar at a young age. I think that willingness to make time for someone wanting to come to the Bar is special.

I saw my role as a way of introducing the reader to advocacy as a vocation, both by going to court, but also in the preparation that goes into appearances. I was a tutor during COVID-19 lockdown



Sam Adair

and I did not get to have my reader come and sit with me at the Bar table, so my focus was very much on the preparation side of things.

I was tutor to a reader practising outside of the Sydney CBD, and our meetings were less regular and more focussed on making introductions to colleagues and organisations which I thought might be of benefit. When I was tutor to a reader in my own chambers, we had regular conferences and tried to stay connected at least a few times a week to catch up. I did ultimately leave it to my reader's initiative to make sure we met, as that was the way I was taught when I came to the Bar.

It is rewarding to meet new and aspiring barristers and encourage their entry into the profession. So there is the reward of 'giving back' and also widening one's own network of contacts at the Bar, both through one's readers and other tutors. Another benefit is that of learning and self-development through discussing an issue raised by a reader and helping that person identify a solution. Whether the issues are age-old or novel, you can come out of that discussion with a new appreciation of things you might not otherwise have had. Being a tutor also offers practitioners chances to come into closer contact with judges during advocacy exercises and the like, and getting to hear what makes a judge 'tick' in that setting is invaluable.

Becoming a tutor

The Bar Association has set out the prerequisites for becoming a tutor in the Tutor policy, which requires that a tutor be a barrister who:

- (a) is a full-time practising New South Wales barrister, but need not be a member of the NSW Bar Association;
- (b) has continuously held a New South Wales barristers' certificate or a practising certificate of another Australian jurisdiction for not less than seven years;
- (c) has not been appointed senior counsel at the beginning of the reader's reading period;
- (d) has not had conditions imposed on his or her practising certificates pursuant to the *Uniform Law* or the *Legal Profession Act 2004* (NSW) within the past ten years (other than the standard conditions applying to readers, crown prosecutors, public defenders, parliamentary counsel and academics);
- (e) is not within the following categories:
 - i. the subject of an adverse finding by the Administrative Decisions Tribunal, NSW Civil and Administrative Tribunal or the Supreme Court (competent court or tribunal);
 - ii. had a practising certificate cancelled or suspended;
 - iii. had a finding of professional misconduct or unsatisfactory professional conduct made by a competent court or tribunal;

- iv. otherwise been the subject of action that is within the definition of 'disciplinary action' in s 148 of the *Legal Profession Uniform Law Application Act 2014* (NSW) (there for the purposes of pt 12 of that Act) or s 576 of the *Legal Profession Act 2004* (NSW) (there for the purposes of pt 4.10 of that Act);
 - v. been convicted of a serious offence as defined in the Uniform Law; and
- (f) has attended a mandatory CPD session conducted by the Bar Association for Tutors.

The application process is relatively straightforward, requiring little more than attending the CPD session for tutors and filling out an online application form. The Bar Association maintains a list of current and potential tutors, and applicants must consent to their name being included on the list of barristers available on the Bar Association's website. However, being on the list does not commit you to accepting any particular reader.

Being a tutor

For those who may feel a little bit of trepidation in navigating the reader-tutor relationship, the Bar Association has also provided a useful and very comprehensive guide through the Reader/Tutor Guidelines ('The Guidelines'). The document sets out the regulatory provisions that apply and provides information about the reading program. The Guidelines provide outlines and suggestions for communication between the tutor and the reader. It makes recommendations about having discussions at the outset that sets up the expectations of both the tutor and reader and provides suggestions about topics for discussion.

Importantly, the document also provides contact information for people who can assist where there are difficulties within the relationship, which can stem from simple personality clashes and issues with availability to more serious matters.

Ultimately, the relationship between a reader and a tutor can be, and should be, mutually beneficial. There are real benefits in maintaining a connection with new members of the Bar in terms of knowing and having available good juniors. Moreover, there is a real sense of pride in observing the success of barristers that you may have assisted. There is always a need for tutors in incoming reader cohorts, and eligible barristers should not hesitate to apply. **BN**