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“I’ve never met a barrister that sounded like I do”: accents, barristers and Bourdieusian capital

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ABSTRACT

Use of Received Pronunciation (RP) is a proxy for particular kinds of elite social capital, but it is also a professional norm and part of the Bourdieusian *habitus* of the Bar. This article uses the first empirical study of accent discrimination in relation to barristers in England and Wales as a basis for a theoretical consideration of the interaction between barristers and others: clients, jurors, judges and other barristers. In particular it evaluates ways in which understandings about accent, as a facet of social or cultural capital, impact on individual career decisions. It concludes that while considerable progress has been made on diversity of the profession, targeted action by the regulator and the profession is required to address perceptions of discrimination (and manifestations of discrimination itself) in a profession to whose activities speech is foundational.

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Introduction

The practice of court advocacy in an adversarial system cannot be divorced from speech. In England there is a strong tradition of oral advocacy, a profession specialising in advocacy (the Bar), but also a proliferation of regional accents and a strong residual class system dependent on cultural and social capital (see Levon *et al.* 2022, p. 4; also Accent Bias Britain 2019).

Speech is, in Bourdieusian terms, a key aspect of the professional *field* and competence in it is essential to the *habitus* (Bourdieu 1977). Status (Rogers 2014), economic, cultural and social capital (Bourdieu 1986) are generated by joining the profession, and also precursors to doing so. Accent is treated by Bourdieusian scholars as an embodied cultural capital (e.g. Bourdieu 2010; Baratta 2022). Speaking in a particular way may also be a tacit guarantor of a

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particular social capital (derived from economic capital facilitating private schooling) that “fits in” with the profession’s perceptions of itself and of those interacting with it, enabling aspirants to join (getting in) and to progress (getting on).

Some accents are, however, frequently treated as an indicator of lower socio-economic class. Labelling accent as a failure in articulacy justifying rejection of aspirants may be a covert means of socio-economic discrimination.

However, speaking in a particular way may also have become elevated beyond desirable capital to a key characteristic of the *habitus*: the norms and expectations of the professional group. Outside its own region, a regional accent, connected with a depressed socio-economic status or not, may be treated as a deficit in the effective speech demanded of the field and hence in competence (see Levon *et al.* 2019), persuasiveness and credibility (Lev-Ari and Keysar 2010). In the legal sector, there have been studies of accent discrimination in recruitment of trainee solicitors (Levon *et al.* 2021), witnesses (Frumkin and Stone 2020; Frumkin and Thompson 2020) and defendants in court, but none on barristers.

Sometimes accent discrimination is race or nationality discrimination governed by equality legislation. There is, however, increasing interest in treating it separately. France attempted to legislate against it (Euzet 2020). The Irish Equality (Miscellaneous Provisions) Bill 2021 links accent discrimination explicitly with socio-economic status. The French proposal, however, treated it not only as a form of racism, but as a threat to national identity (Euzet 2020, p. 1). The UK literature, where it addresses accent discrimination, tends to focus on socio-economic status – in our terms, social capital – (Bourdieu 1986), leaving the question of regional accents not perceived as “working class” (Hardy 2016) – in our terms, cultural capital – and the relationship between accent, the *habitus* and competence unexplored. Whilst there is some treatment of the phenomenon amongst solicitors and other “elite professions” (Anon 2011; Ashley *et al.* 2015, pp. 40, 66, 72; Friedman 2021, p. 59; Ashley 2023) the issue for the Bar has emerged more recently, often through personal testimony (Anon 2015; Sherwin 2016; Briddock 2019; McKinney, 2020; Drummond 2020; Bar Council 2021a; BBC 2021; Robson and Braber 2023).

This article uses the data and analysis from our empirical pilot study designed to address this deficit (Braber *et al.*, 2024) to interrogate the implications of accent discrimination at the Bar, for a legal audience and from a Bourdieusian perspective.

Background

At the time of writing there are 17,782 practising barristers in England and Wales (Bar Standards Board 2024). A significant component of their vocational course is the practice of oral advocacy skills. As much as 20% of assessment

marks are allocated to “communication and delivery” (Bar Standards Board 2021b). Graduates are formally “called” to the Bar but may not practise independently until they have completed a year’s “pupillage”, including further advocacy training. At this point they are expected to demonstrate the scope and level of performance articulated in the Professional Statement for Barristers of traits inherent in the *habitus*, including “good communication skills”; “fluent English”; “speak articulately and fluently” whilst “able to adapt their language and communication to suit their audience, ... from any background” (Bar Standards Board 2016).

In addition to the economic capital required to complete undergraduate and postgraduate study, the connected social capital is strong. The proportion of barristers in England and Wales from private schools was once a preponderance (Sutton Trust 2009). Current data suggest the figure is now around 40% (but falling),¹ compared to 7% of the population as a whole (Bar Standards Board 2023, p. 18). Which university an aspiring barrister attended as an undergraduate remains a predictor of obtaining pupillage (Zimdars 2004; Bar Standards Board 2023, p. 29). Attention to this is part of the Bar Standards Board’s (BSB’s) current equality strategy (Bar Standards Board 2021a).

Formally, concern about diversity in the legal professions in England and Wales is driven by Legal Services Act 2007 (LSA) s 1(1)(f), demanding that regulators “encourag[e] an independent, strong, diverse and effective legal profession”. This cascades into the activities of the Legal Services Board (LSB) as apex regulator, and to the BSB and its representative body, the Bar Council for barristers (Bar Council 2016, 2017, 2021b, no date; Powell *et al.* 2022). In Bar-specific information, we have noted so far only one reference to accent discrimination as a manifestation of unconscious bias (Bar Council 2016, p. 2), though this of itself represents an acknowledgement that it is unacceptable. The obligation in the LSA is, however, broader than that of the Equality Act 2010, which covers only a list of specific “protected” characteristics (its provisions on socio-economic disadvantage are not in force in England). However, in the context of those characteristics, s 47 specifically prohibits discrimination by barristers in offers of pupillage and tenancy and both the LSB and the Bar Council are identified “public authorities” with an obligation under s 149 to be proactive.

The LSA objective, then, permits, and possibly obliges, the LSB, Bar Council and BSB specifically to consider characteristics outside the Equality Act and beyond socio-economic disadvantage and to act. Accent discrimination, not always a marker for socio-economic disadvantage, is one of those characteristics.

The empirical data

The technical detail of our empirical project is reported in detail elsewhere (Braber *et al.*, 2024) and includes details of a parallel online survey with

members of the public. For the purposes of this more theoretical discussion, however, a brief outline is useful. The project was a pilot intended to test as a proof of concept the extent to which accent bias remains an issue for the Bar in England and Wales, either as actual discrimination or as the basis for self-selection away from areas of actual or perceived bias. This legal profession-oriented article explores the research questions investigated in a small sample of semi-structured qualitative interviews with students and barristers² specifically by reference to Bourdieusian concepts:

RQ1: Do barristers believe that Received Pronunciation (RP) is preferred in legal settings – suggesting that being well-spoken is a competence for barristers?

RQ2: Is accent a factor in recruitment for the Bar because it is believed that RP is part of the hidden social capital of this profession?

These questions allowed us to investigate not only what had happened in the past and what happens now, but also to interrogate beliefs, perceptions and fears. The latter proved especially significant for aspiring barristers. Two advisory boards, one of linguists and one of lawyers, provided guidance. The law advisory panel assisted in circulating the call for interviewees to come forward (other routes such as LinkedIn were also used). The invitation invited potential participants to discuss their attitude to their own accent and attitudes they had experienced from others.

Interviews were therefore of a small opportunity sample: two Bar students (S1 and S2), two early career barristers (second six months of pupillage to two years post pupillage: EC1 and EC2) and five senior barristers of at least seven years post call or (now) KCs (Sen1–Sen5).³ Interviewees self-reported a variety of different British and Irish accents. Interviews, carried out by the linguist members of the team to avoid prejudgement, lasted for approximately 40 min each and were recorded through Microsoft Teams. Interviewees were asked to give a brief background of their legal career; to describe their own accent; explain the nature of their interactions with (other) barristers; whether during any of these anyone had ever said anything (positive or negative) about their accent; whether accent was covered in their training; whether anyone had ever made a comment (positive or negative) during training about their accent; what effect they thought their accent or other accents would have on a career at the Bar; and whether they wished to make any other comments.

Capitals and clarity

The qualitative data therefore combined discussion of social capital and socio-economic disadvantage, but more substantially, accent as cultural capital independently of socio-economic disadvantage. A manifestation of this was the challenge, for some, in separating “clarity” and persuasiveness from accent. S2 had, for example, received feedback implicating their accent:

I've been told that I need to work on ... my tonality because it's quite flat, ... I've ... explained to them that ... where I'm from, ... that's how we talk. ... no one else is getting that criticism.

Similarly independent of socio-economic disadvantage was being an obvious outsider and unwelcome competitor when appearing in courts that are subsidiaries of the professional field:

I think some of the judges, I think less so now but certainly thirty years ago, were very keen that barristers would not come out from London to Leeds or Newcastle and essentially steal the work of local practitioners. (Sen1)

Where social capital is concerned, however, the effect of private schooling was noted by several interviewees as neutralising regional accents, or inculcating RP as a critical aspect of the professional *habitus* that was tacitly, if not overtly, encouraged: "We're supposed to sound a certain way and look a certain way and that's being pushed onto us a little bit" (S2). This extended even to a perception that RP or accents close to it are in some way neutral as a justification of their role in the *habitus*: "it's the lingua franca, ... it's the neutral option" (Sen1). Indeed, a respected text for law students continues to recommend the diction of BBC Radio 3 presenters as a model avoiding "the cult of mediocrity in articulation" (Smith 2020, p. 190).

"Back in the day"

It was a given that accent discrimination had been historically common: "They tell me stories like back in the day ... [S]ome of them had to go for ... speaking lessons ... to try and change their accent so they could fit in to get the job" (S1). This was often aligned with social capital, the "insular" (Sen4) nature of the small professional group and the starting assumption that RP is both neutral and essential to the *habitus*. Sen4 said "when I was just starting out, a very [senior barrister], ... said ... he could never countenance these regional accents at the Bar". As well as mockery and "banter", possibly in open court, by judges or magistrates, we heard of inferences about intelligence, authoritativeness or ability to "fit in" with a set, or in a particular kind of practice that represented all or part of the professional field. So, for example: "If you ever want to practise at the Chancery Bar, you will have to lose your Yorkshire accent', ... It was said in front of everybody [in a public moot] ... that ... cloud was hanging over me" (Sen2). The fact that these experiences are now part of the folklore transmitted to juniors provides a context for the imposter syndrome and self-selection discussed below.

"Fitting in" and "standing out"

It was also a given that there had been change for the better. The diversity of the profession was changing, even if slowly. The diversity of the judiciary (recruited

from senior practitioners) was significant, although it might be unrepresentative of the profession as a whole: “when people think of the Bar, ... they conflate that with the judges, where [diversity] is far more problematic” (EC2). Judges with regional accents existed, but “I’d say about twenty per cent of judges maybe might be going with their normal regional accent. Most are still RP” (EC2).

Work by organisations such as the Bar Council had raised awareness of diversity issues generally, albeit, as noted above, without specific attention to accent. Some change had been fostered by deliberate efforts in recruitment by chambers and new attitudes that it would now be “undebatable” that accentism was “unacceptable and will not be tolerated” (Sen1).⁴ Those seniors who came forward to participate in the research were, of course, more likely to be proactive, compared to some of their peers. Consequently:

[T]hose at the more senior end may be reticent to accept this kind of change. There’s definitely a big movement to try and broaden things at the junior end and offer equal opportunities to everyone ... sometimes that has accents going with it, ... I think the next generation of senior silks and judges may change things slightly. (Sen4)

To return to Bourdieu, the question of “fitting in” to a professional *habitus* treating RP as a requirement had shifted for some, perhaps suggesting that the professional field and its *habitus* outside London differs. S2, for example, thought that “especially in the regional sets, they’re a lot more accepting of people that sound different because you’re going into court and you’re talking to people that sound like you”. Sen1, practising outside London, said “... more than half my colleagues have a regional accent in one form or another”.

Sen5 reimagined the *habitus* to permit current barristers to “focus on the strengths that accent gives, rather than trying to fit in with what others expect”. S1, indeed, felt an obligation, and an advantage, not in “fitting in”, but in asserting their own identity:

I do stand out when I’m at [one of the inns]. But ... I think that’s the best part about it ‘cause in the past ... the Bar was less diverse, now it’s very diverse. ... I feel like the more I do to keep changing my accent, it’s not benefiting anybody. Probably I’m fitting in more, but then really ... you’re not changing anything.

Much had, therefore, changed for the better. However, the contribution of accent to imposter syndrome and limiting performance (by impeding “confidence”), was recognised both at senior level and by an aspirant:

[I]f you think whenever you open your mouth a judge is going to think ... you’re a lesser advocate ... , that’s going to impact on your confidence (Sen5)

[W]hen you are already conscious ... that you sound different, hearing comments like that definitely creates a barrier (S2)

“Just be yourself”

One response was, in effect, to tough it out: “... I don’t mean you should change your accent, I just mean to be aware of it and be able to deal with it” (EC2). This leads, then, to the question of its treatment in Bar training, whether on the vocational course or the responsibility of the Inns, circuits and other groups. Some learning environments are, of course, more controlled than others: “[T]he ... comments I’ve heard have actually been from the robing rooms ... , not so much actually during my training” (EC2). On the face of it, trainers were optimistic, endorsing the increasingly liberal approach to the *habitus* suggested above and the reinforcement of a personal professional identity:

[T]hey were quite good about making sure that people didn’t feel there was a standard accent for barristers, ... just sound like yourself ... they were always very good at telling us to be honest with that. (EC1)

I remember there were some people who were slightly concerned about it and obviously asking questions to their tutors about “will my accent be a hindrance?” and the general response was no. (EC2)

[T]here was a little bit [in course materials] that ... said, “oh don’t change your accents ... , don’t worry about changing your accent, just be yourself”. (S2)

However, there was ambiguity, as even optimistic responses might be perceived as avoiding the issue: “I think it was slightly brushed over” (EC2). There are similarities here to the feigned objectivity that Bourdieu identified in some higher education practice, when it has become unacceptable overtly to offend against established “principles of equality” (Grenfell 2011, p. 39), that is, a more fluid concept of the modern *habitus* as conceived of in the classroom.

I think definitely there is that undertone of ... you need to change the way that you sound a bit. They don’t sort of explicitly say that, ... , but you can sort of tell that that’s what they are getting at. (S2)

Accentism as a tactic

Three attitudes to accent appear, however, to have leaked into the tactical repertoire of the field. Aspersions about accent may be used as a deliberate manoeuvre: “sometimes it was, ... a tactic to just kind of maybe knock my confidence as a young barrister” (EC2). Othering a barrister in this way might be attributed to the “defence advocate trying to ... garner favour with the judges, ‘look we’re from the same kind of area, he isn’t, so please favour my case’” (EC2) or possibly reinforcing negative stereotypes about authoritativeness or intelligence: “I did use phrases that he used in his accent ... in order to emphasize the hollowness of what he was saying” (Sen3).⁵

A second manifestation of tactical accentism was to manage relationships with laypeople: “Sometimes I think it helps if the junior builds more of a

rapport with the lay client and the [KC] swans in sounding a bit more plummy and ... does the jury business” (Sen4). However, EC2 had received optimistic feedback during training to the contrary:

[Y]ou never know juries might like it and it ... might well appeal to someone who’s also from the local area and it might be easier to persuade them, for example, than someone who’s got ... a London accent or something like that.

Getting in and getting on

The third tactical aspect was more tangential: a sense that even if RP had receded from the *habitus* for entrants and in recruitment to pupillage or tenancy (getting in), the same could not be said for more senior roles (getting on). That is, that “[p]eople do get a bit plummier” (EC1) as they attain seniority.

Sen2 reported that “I don’t come across many judges with a pronounced accent. I think that may be changing, but I think it’s slow to change”. This was also noted by Sen4 who knew of “a number of very, very senior barristers and judges who ... come from the regions and were brought up there, who do not speak as if they were ...”.

This seemed to be different from the code switching endorsed by the Professional Statement as a barrister moves between different geographical regions and fields of practice and interactions with different people. The latter in fact demonstrates competence in “adapt[ing] their language and communication to suit their audience ...”. EC2, for example, recognised their own noticeable accent but acknowledged that “there are shifts and tones throughout the day ... probably quite subtle ones, but quite regularly”. S1 concluded that amongst barristers they had encountered, “a lot of their accents are probably just faded out because they’ve had to be”. Whilst much shifting was unconscious, or had become so over time, that might extend to conscious techniques such as using the “courtroom” voice amongst other barristers to “fit in” (S1); speaking more slowly (Sen2) and aligning with the audience (Sen5) without being seen to mimic mockingly (Sen3).

Further exploration, especially with the Judicial Appointments Commission and Judicial College, might establish whether or not the appointment to, or culture of, the judiciary fosters development of an RP accent in what might be thought of as a separate *habitus*.

Impact on career decisions: fitting in in London

Whether a particular kind of speech is perceived as a proxy for social capital, or as cultural capital inextricably linked with the *habitus* of the field (or the *habitus* of senior and judicial practice in the field if this is different) and whether it is, as interviewees perceived, receding, perceptions that it exists impact on career decisions.

Despite the best intentions of Bar trainers and recruiters, entrants are clearly concerned about the implications of their own regional accents as aspects of their cultural and social capital. The question of fitting in is clearly significant in recruitment decisions. S1, for example, said:

So, I do feel like at times maybe my accent could hold me back but hopefully if I went to the right set, I mean, I've had interviews and they've never commented on it.

However, some pupillage decisions, treating accent as a proxy for an inability to “fit in”, demonstrate Bourdieu’s “feigned objectivity” in a regulatory environment that overtly emphasises diversity:

And again, I don't think I had any specific comments at my accent during interview. But sometimes you do. You do ... get things like, oh, you know, “We're not sure you're [the] right fit” or whatever that means. (EC2)

Discrimination, or the fear of discrimination, has implications for barristers' choices about where, and in what subsidiary fields they choose to work. The majority of the significant courts (Commercial Court, Court of Appeal, Supreme Court) and the Inns of Court to which barristers owe cultural allegiance are in London. Although there was some evidence of competition between regional fields, such as Sen3's comment that “Newcastle doesn't tend to get people from Birmingham or Liverpool or Manchester. The odd one that can't get a pupillage in Leeds, would try their luck in Newcastle”, a significant sub-category of “fitting in” was “fitting in in London”. Sen1 thought “thirty years ago I think probably a regional accent in a smart London set of chambers would have been unusual and notable”. Sen2 had deliberately chosen to return north from London to feel more comfortable amongst those with shared cultural and social capital. EC1, however, experienced practice in London as welcoming of diversity:

I do think being a London-based practitioner, we get people from all over the country practising down here because of course it's the capital ... and it's the most work and some people say the best work.

S2 nevertheless reported being told that it would be necessary to “tone down” a regional accent in order to practise in London and that another student “had a London tutor for a seminar and they literally told her ... ‘You need to change your accent’”. S1, wanting to work in London, was nevertheless self-censoring about which sets to apply to: “there is a lot of chambers [in London] I've not gone for. I've got the grades for it. I know straight away I won't fit in, so I'm not. I'm not going to”. This interviewee had, however, consciously applied to a particular set because they knew it had a member from the same part of the world (implicitly with a similar accent) and “there's obviously, you know, room for people like that there”.

Part of the Bar's diversity strategy over a number of years has been to showcase entrants from a variety of backgrounds, both generally (e.g. Bar Council

2021b) and in fields such as the Chancery Bar that might be perceived as averse to, for example, state schooled or ethnic minority entrants (Chancery Bar Association 2023). Such snapshots may mention accent in passing, or, if recorded, accent (or its loss or softening) will be apparent. S1, however, found such material off-putting, whilst reinforcing the idea that RP is a norm:

when I look at pupillage websites ... a lot of the London sets, they're not from the backgrounds I'm from. They probably sound ... they haven't got an accent ...

And S2 would have welcomed more positive attention to provision of accent role models:

I've met barristers with accents and that's great, but they tend to have this sort of like proper English accent, so I think it is worrying if you're trying to break into the profession to not hear anyone that sounds the way you do;

calling for

more ... regional sessions where you can speak to barristers that are in the sets that are from similar backgrounds to you because ... a lot of the sessions that I've done this year, even [the] social mobility inequality ones are being run by ... people that went to private school in London.

Accent, then, has, at least for some, a self-limiting effect on career decision, at least at the stage of getting in, that is not, so far, combated by the overt strategies of the profession. If these fears are justified, action is required to address discrimination. If these fears are not justified, action is required to demonstrably allay them. Much has been achieved, but there is much to be done, certainly in the realm of cultural capital, which will not be touched by efforts to combat socio-economic disadvantage, but in countering experiences and beliefs of prejudice in both categories.

Conclusion

There is some evidence of an evolution of the professional *habitus* in relation to regional accent, at least in the early career and in some subsidiary fields of practice (RQ1). This evolution may be informed by, but is not explicitly driven by, regulatory initiatives relating to diversity, although these may have had some general effect in awareness-raising. Code switching of accent, as we have shown, is a response that is covered by one of the professional competences, but is not overtly acknowledged in that context. A more tolerant attitude to regional accent may, however, operate more strongly as a change to the capital expected for getting in, rather than for getting on (RQ2).

There is no current prospect of the protection for socio-economic disadvantage in the Equality Act 2010 being brought into force in England, by contrast with Scotland⁶ and Wales.⁷ Although the remit of the LSB, Bar Council and BSB extends to Wales, the statutory duty to reduce socio-economic disadvantage

only applies to local and devolved government bodies in that country. The work of the LSB has, naturally, focused on the protected characteristics which it is directed to address by Equality Act 2010, s 149 (LSB 2023). As we indicated at the beginning of this article, however, the LSB's remit under the LSA is not confined to the protected characteristics, nor are socio-economic disadvantage and possession of a regional accent necessarily coterminous (though they are for some). Indeed, as EC2 commented "Sometimes it's hard to know which one's disadvantaging you really, is it my accent that's holding me back here or being commented upon or is it my social class?"

In 2020, the LSB called on its regulators to have "An understanding of the barriers to entry and progression within the regulated community, and a programme of activity to mitigate those barriers with measures in place to evaluate effectiveness" (LSB 2023). Its business plan for 2023–2024 speaks of "Dismantling barriers to a diverse and inclusive profession at all levels" and of creating "a statutory statement of policy on equality, diversity and inclusion which sets clear and up-to-date expectations for regulators" (LSB 2022). Throughout this article, we have consciously referred to "the Bar" as a community, including its practitioners, students, groups and committees, representative and regulatory bodies. We have noted attention and cultural change amongst senior practitioners, and tutors. That said, if discrimination – or fear of it – remains, we argue that there is a role now for the representative and regulatory bodies to take positive action.

The LSB initiative provides both a driver and an opportunity for the BSB in particular, if it can build on its diversity initiatives, and on what our data suggest is an evolution of the norms and expectations of the professional *habitus* as well as an emerging divergence between subsidiary fields. Existing guidance from the BSB and Bar Council and legislation are insufficient to root out and prevent accent discrimination and, perhaps more significantly, perception that it exists, so as to hasten that grass roots evolution. As EC2 said,

[T]he responsibility is on the Bar to make sure people ... don't have that perception. You know people aren't getting these perceptions out of thin air ... You can't blame people having that perception. And sometimes if you come from a less advantageous background where you've already got obstacles against you, you know it's not ... difficult to add accent on top of that as another obstacle.

Attention to BSB and Bar Council recruitment guidance, to chambers' retention and progression, to what is said in training by vocational course providers and in the circuits and Inns and who delivers it, to senior barristers calling out inappropriate behaviour, to providing and celebrating role models and mentors, might. The idea that candidates are self-censoring and limiting their own career aspirations to get in and to get on, in embarrassment and hesitation not about what they say, but how they do so, in a job where "we speak for a living" (Sen4) is unsustainable.

Notes

1. Data are collected through the entrance examination for the vocational course, and recently have included an option to decline to answer. The data also include international students who may practise elsewhere.
2. Ethical approval was obtained on 30 November 2021 (No. 2021/22-19) from the Business, Law and Social Sciences Research Ethics Committee at Nottingham Trent University. Informed consent was obtained from interviewees through consent forms.
3. Then QCs.
4. It has been demonstrated with solicitors that accent bias can be consciously controlled in recruitment (Levon *et al.* 2021).
5. It was not clear how recent this example was.
6. Where Part 1 of the Act came into force in 2018.
7. Wales Act 2017, s 45. The 2010 Act does not apply to Northern Ireland.

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