

The Future at the Bar: Forward Thinking

With a firm eye on the future, we have compiled a report on five of the top most relevant developments for the Bar. From education to mental health, this report is aimed at giving barristers expert insights into what the future holds for their profession. As always, the future is full of challenges and opportunities.

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1. Training the barristers of the future

As large numbers of students continue to pursue a career at the bar, Diana Bentley speaks to those at the forefront of the education of barristers about whether the current approach is appropriate—both for the students and the wider profession.

The modern barrister

What skills does the modern barrister need? For the solicitors selecting them, it's a combination of talents. 'They must be very knowledgeable about the law but other qualities are extremely important too,' says Nicholas Lakeland, head of the employment and pensions team at London firm, Silverman Sherliker LLP. 'Good cross-examination comes from an understanding of people and an intuition which is not always found in overly-academic barristers. I also look for common sense, tenacity and a capacity for lateral thinking.'

So is the training providing the barristers that solicitors need?

The training landscape

Those responsible for educating barristers are keenly aware that they need to equip their charges with the necessary range of talents. But they clearly understand too that while training must continue to be kept thorough and relevant to the demands of current practice, factors such as training costs must not act as a barrier to entry into the profession. With these things in mind, early last year, the Bar Standards Board (BSB), embarked on an initiative called [Future Bar Training](#) to produce a new blueprint for education and training for the bar. A series of consultations—which are ongoing—are providing the BSB with the input it needs to decide on any necessary reforms.

All three phases of barristers' training are being considered—the academic degree stage which provides a core knowledge of the law, the practical training course (currently the Bar Professional Training Course (BPTC)), and the year of pupillage in barristers chambers which provides hands-on experience. A summary of the results of the initial responses to its first consultation was published in February 2016. Most respondents believed the BSB could consider alternative methods of training for the academic stage while heavily endorsing the need for the pupillage stage. But the responses to the vocational stage were mixed.

Currently the BSB is still considering this aspect of training and a further consultation will be held to help determine what the preferred approaches to reform should be. Presently there is also a consultation on the [Professional Statement](#) that

sets out what skills barristers should possess on the first day on which they gain a full practicing certificate, focusing on threshold standards and competences, responses to which can be made up until 5 June 2016.

Dr Simon Thornton–Wood, director of education and training at the BSB reports: 'We're now consulting on what the standards of training should be and what skills barristers should have when they're first permitted to practise. We've tried to focus on the most important things. We're consulting with all major stakeholders but it's a public consultation too and we're keen for consumer groups to understand what we expect barristers to be able to do too.' What needs careful thought is exactly how radical any proposals for change will be says Thornton–Wood. 'For all the faults of the system, it's still good and has been built up over time so we're cautious about making changes to it. We want to concentrate on changing things that are too inflexible and costly.'

Challenges in vocational training

The BPTC, which acts as the bridge between academic study and the start of life as a pupil barrister, has been under close scrutiny. 'The current BPTC has a clearly defined role in developing students as practical, professional lawyers,' says Professor Stuart Sime, BPTC course director of City Law School. 'It provides students with a sound foundation in a range of subjects like civil and criminal procedure and evidence. Its purpose is to train students in numerous "soft" skills essential for professional life too in the obvious areas of advocacy, drafting and advising. But one of the areas being considered currently by the BSB is where various skills and subjects are best addressed—in undergraduate study, in the BPTC, in pupillage or later in continuing professional development courses. This is potentially a massive topic and has been addressed previously over the years by reviews of legal training.'

The response to the initial consultation showed that although most respondents thought some form of vocational training was necessary, not all believed it should be in the form of the BPTC with some suggesting it could be integrated with the academic and professional stages of training. What is emerging clearly in this part of the consultation, however, is the issue of the high cost of training. Simon Thornton–Wood notes: 'Our concern is that over time the BPTC has got very expensive—especially in London. Professional skills training is intense and involves people in small groups under close supervision so that makes for significant cost. Many students get funding from the Inns of Court, course providers and others. But we're keen to look at whether the cost is a market effect we should be concerned about or is a result of any unnecessary stipulations we have. We're therefore looking at whether some of the cost could be avoided.'

Fees for the BPTC can run from £14,000 to around £18,000 and students also usually must meet living costs too. 'The cost—especially this practical training stage—is very high,' comments James Wakefield, director of the Council of the Inns of Court (COIC). While the COIC offers about £5m in scholarships annually, he says many students fail to get funding from it or other sources. In response to the consultations, the COIC has suggested the BPTC be split into two sections. The knowledge–based subjects would be grouped in the first. 'These tend to be the subjects students fail,' Wakefield says. 'Our idea is to allow students to study these first and from anywhere in the world and that this section must be passed before students proceed to the next skills–based segment. This wouldn't be a magic bullet but could reduce costs and save those students who are going to fail some time.' Wakefield admits that some have concerns about this model. 'There are advantages in integrating the knowledge and skill–based subjects but it's a suggestion for reducing cost and risk.'

Training providers

Training is available from BPTC providers who say they are very selective about their intake. In this current academic year, City Law School has 345 full-time and 24 part-time students. 'We've been deliberately recruiting to these numbers for some years,' says Stuart Sime who says that the school has over 1,000 applications annually. Nottingham Law School (NLS) receives around 400 first round applications a year but enrolls only around 75–76% of which have a 2.1 or better in the last two years says Helen Hudson, head of post graduate professional courses. 'We've also recently converted our BPTC into a LLM by introducing other features, which will be delivered from September 2016,' she says. The new Practice in Law Module to be introduced in the new LLM course, will, she notes, add to the practice value of the NLS's BPTC.

These providers say they also diligently monitor the effectiveness of the courses. Yet the failure rate of the course is relatively high—entering the bar remains competitive. In the 2013/14 year (the last year for which figures have been released), 1,456 people were admitted to the Bar in England and Wales while many more apparently wanted to join its ranks. Figures released by the BSB on 5 May 2015, indicate that 4,760 students started the BPTC between 2012 and 2014 and 72% have passed to date. (More may do so on re-sits and on part-time courses).

This is part of what the COIC's James Wakefield says is the risk factor of barristers' training. 'About 20% of students fail the BPTC and of those who pass, only about one third get a pupillage.' The BSB's recent statistics also show that 35% of UK/EU domiciled graduates enrolled on the BPTC in 2011–13 gained pupillage (47% of whom were women). 'We're worried that many able students will be deterred by the risk and costs involved in trying to become a barrister,' says Wakefield—a view obviously shared by the BSB which is keen to promote diversity in the profession.

The Professional Statement

A major focus currently is the review of the Professional Statement which covers a barrister's technical legal characteristics, personal values and standards, management of practice and the ability to work with others. 'This Statement looks beyond legal technical competence because increasingly, the ways the bar works is complicated and barristers need to continually adapt and develop behavioural skills and be able to manage a practice,' says the BSB's Simon Thornton-Wood. 'Although some barristers, for example, are in chambers where everything is done for them they should still understand how to manage their own practice and how to work with other people and cultures and professions. The baseline needs to be brought up—everyone understands that we all need to act in a way that brings credit to the bar.' The Professional Statement, the BSB hopes, will be a valuable point of reference for those providing training.

Others too are hoping it will set out a clearer view of what barristers should be able to do. Alex Cisneros of the Bar Council says: 'We' like to see this Statement on threshold skills be more prescriptive and tell people what is really expected from a barrister on day one of their career. It states, for instance, that barristers need good communication skills. We'd like some clarity on what this means. If it states that barristers should possess drafting skills—in relation to what documents? We think the Professional Statement should be clearer and be more "hands on".'

Other issues

Plenty of other issues will be under scrutiny including direct access training—presently delivered after completion of the BPTC. 'We ask barristers to go through special further training on this,' Simon Thornton-Wood reports. 'But this is something that's open to review for the future and there's a discussion to be had on whether this will become a more

substantial part of training. We need to see how a revised continuing professional development scheme plays out and see what impact that has on training for direct access.'

The BSB anticipates that the earliest a new system of training could begin to be put into practice would be from autumn 2017 on. For now, the BSB is receiving ideas in response to its consultations. 'Those involved include, barristers, the Inns of Court and providers and none of these groups is backwards in coming forwards,' comments Simon Thornton-Wood. 'They're coming up with new ideas on how training can be delivered. In the coming weeks and months we'll address their particular concerns and consider if we can accommodate their proposals.'

2. (Direct) Access All Areas

Is the bar making the most of direct access? With more than a third of the bar now registered, Catherine Baksi takes a look at the history of direct access and considers whether the bar is warming to the idea of dealing directly with clients.

The birth of direct access

Old-school Rumpole-style barristers have traditionally had as little contact with their lay clients as possible—keeping them at a safe distance through the buffer of their instructing solicitor. But times are changing. As solicitors have gained increased rights of audience and encroached on the work of the bar, barristers have been permitted to take instructions directly from clients, by-passing the solicitor.

When it was introduced in 2004, the public access scheme was restricted to certain practice areas—clients not eligible for legal aid and barristers over three years' call. Andrew Granville Stafford, chairman of the Public Access Bar Association, notes that uptake in the early days was slow. However, as the restrictions have been removed, there has been a growth in the number of barristers being trained.

In 2010 and 2011 public access was extended to crime, family and immigration work, then in 2013 and 2014 the scheme was opened up to barristers of less than three years' call and practitioners were allowed to conduct litigation. The rules were also amended to enable barristers to accept work from clients who were entitled to legal aid, but who preferred to instruct a public access barrister.

Changing landscape

Recent research published by the Bar Standards Board (BSB) and the Legal Services Board showed that 5,695—more than a third of the practising profession—are registered for public access work. Half (54%) of them had dealt with between one and five cases in the past 12 months, while only 2% have undertaken 50 or more cases. On average, the report shows that for around 60% of the 404 respondents, public access work accounts for between one and 10% of their fee income. The researchers acknowledge that the figures appear small, but say they represent a significant increase over the past three years, and the volumes of work are widely expected to increase.

Granville Stafford, who with Chris Bryden as Barristers Direct are one of three BSB approved providers of public access training, says people on the courses tend to be the young bar who are now able to do this work, or the 'old school' who held out for a long time but have decided to give it a go. 'The attitude of many has changed from "over my dead body" to "everyone else is doing it, why not me?"' he says.

Splitting the profession

However, Jonathan Maskew, director and co-founder of ShenSmith Barristers, which describes itself a 'unique and remote business support service to barristers and chambers' insists there has always been take-up of the practice and that a lot of innovative work is going on that people are unaware of. Many chambers, he says, have kept the fact that they do public access work firmly under their hats, or should that be wigs, for fear of damaging the relationship with instructing solicitors, who may refer their cases elsewhere if they fear they might be usurped. 'The element of first contact with the lay client is key—solicitors don't like to relinquish it, because it's a revenue stream,' explains Maskew.

But, insists Granville Smith, public access is not about doing away with solicitors: 'There will always be clients who want (or need) the services of a solicitor to conduct their litigation for them. One thing that is drilled into us is that we must consider whether our client's best interests would be served by instructing a solicitor.'

Direct hits

Public access work is undertaken across a diverse range of areas of law. However, the BSB and LSB research reveals that it is most common in family, chancery, employment, commercial, and general common law. In addition, Maskew says it works well for planning, regulatory and intellectual property work—the latter of which, he adds, is a growth area for this type of instruction.

Perhaps surprisingly, Maskew adds, criminal work is a 'stand out opportunity' since the reintroduction of means testing: 'For those who have to pay a contribution towards their defence fees, they can get a more senior barrister through direct access.'

But the challenge, he says, is getting to the clients in the first place, when they may have a long-standing relationship with a solicitor. 'It doesn't suit everybody,' adds Maskew. 'If you have a flow of good work from solicitors, it doesn't make sense to disrupt that.'

The upside

The key benefits for the public are wider choice, speedier service and reduced costs. When people think about instructing a barrister, David Goddard, senior clerk at 4 Stone Buildings and member of the Bar Council's public access panel, says they wrongly think that it will cost thousands of pounds. Whereas, early advice direct from a barrister, he says, can represent greater value for money.

In addition, adds Granville Smith, clients can make savings by conducting their case themselves and only engaging a lawyer at certain key stages—for tactical advice, representation at court or drafting particular documents.

The survey respondents suggest public access is best suited to consumers who are able to manage for themselves the administrative and other functions, including litigation, that are traditionally carried out by a solicitor. For the bar, there are challenges, most notably, says Granville Smith, the 'demanding' or 'high maintenance' client, for which solicitors' firms are better equipped to deal with.

Holding the purse strings

Then there is the issue of client money. ‘I heard a senior member of the BSB once say that holding client money is the root of all evil,’ says Granville Smith. And he has sympathy with that view, saying: ‘I do not want to be subject to the bookkeeping, the regulation or the insurance premiums, that go with handling client money.’

But he does not see rule 73 of the Code of Conduct, which prohibits barristers from receiving, controlling or holding client money, as a disadvantage to public access work. Clients, he explains, can pay their own disbursements, and while barristers cannot take money on account of fees, the escrow service launched by BARCO does the same job, and fixed fees can be paid in advance.

Jeremy Hopkins, legal services consultant at Clerkingwell Consulting, notes that there are also clerking issues, managing documents and communications and making it clear to the client what the barrister can and cannot do.

Getting the word out

A number of barristers who took part in the BSB research suggested that public access should be more widely marketed, in particular by the Bar Council, to raise awareness of it. However, there was also a reticence to do so overtly or without an assurance in any marketing that the scheme is not detrimental or a threat to solicitors.

Goddard suggests a television advert to promote it, similar to the daytime commercials for personal injury law firms. And he would have liked public access covered in an episode of BBC courtroom drama, *Silk*.

For Maskew, barristers themselves need to get their marketing and fees right. The former means making use of business and social networking—getting out and meeting prospective clients, coupled with a strong digital marketing strategy. ShenSmith Barristers produces short video presentations on YouTube, which it promotes through Twitter and Facebook. While the latter, he suggests, means fixed fees: ‘Clients don’t like hourly rates. Buyers of legal services want predictability in their legal spend’. ‘Some at the bar are reluctant to change their ways of practicing, but if they do not, new models will come into the market and take their work,’ he warns.

3. Access for all—justice in the age of crowdfunding

Could crowdfunding strengthen access to justice in an era of cuts? Julia Salasky, founder of CrowdJustice—a crowdfunding platform that enables individuals, groups and communities to come together to fund legal action—explains how the CrowdJustice model operates and how it seeks to provide access to justice for previously financially—untenable cases.

What have been your biggest challenges since you started?

It’s always a challenge to start something up—you have the kernel of an idea, and from that you need to do everything from creating the technology to finding funding to start up, to building the team—all while actually executing on the idea.

All of those elements require an enormous amount of energy and a lot of faith in the idea. There will always be people who find ways to criticise innovation that challenges the status quo and entrenched power structures, but we’ve been really lucky in that we’ve come to the market at a time when people are hungry to be involved in their communities, to be

socially aware and to make a difference—and CrowdJustice gives them a platform to do that in a concrete and tangible way.

How has the legal community reacted to this new method of funding?

There is always an adoption curve with any new technology. Law is an industry that is notoriously slow to innovate, but some of the UK's leading firms have referred clients to CrowdJustice and some of the UK's leading public law barristers have championed our work.

These lawyers have embraced CrowdJustice because it gives them the opportunity to take cases for less well-off clients, or for matters of public interest, which often wouldn't otherwise be able to get off the ground. It can also help lawyers get paid a fair rate for their work—many cases on the platform have raised tens of thousands of pounds.

What has also become apparent as we've seen more claimants successfully use crowdfunding, is that it can help clients feel less alone in their journey through the legal system.

What have been your biggest successes to date?

When the Supreme Court heard a historic case on joint enterprise earlier this year, the whole CrowdJustice team went—one of the interveners, the campaign group JENGBA, had funded its crucial intervention on CrowdJustice. We watched as the Supreme Court reversed 30 years of case law, and we watched JENGBA supporters audibly gasp with joy and disbelief as the judgment was read. It was a historic moment in law, and it felt like a privilege to be involved in even a small way.

We have also recently seen junior doctors challenge the imposition of contracts by Jeremy Hunt—over 3,900 people have donated to that case. Just to think that a few years ago that would have been impossible!

Have you encountered any issues with regulations or payment?

It's precisely regulation that means most crowdfunding platforms are not suitable for litigation. We have created a platform that provides a safe and compliant environment for donors, claimants and for their lawyers.

Setting up a legal crowdfunding platform involves a great deal of consideration around funding issues. CrowdJustice is a donation-based platform, and we've taken a robust approach to compliance, regulatory and anti-money laundering issues. What that means in practice is that:

- We ensure the claimant has instructed a lawyer
- We do anti-money laundering checks on donors so that lawyers can accept funds under their client money rules
- Funds raised go directly to lawyers' client accounts, and
- We accommodate the nuances of funding litigation as best we can

We also keep abreast of the funding landscape to ensure that the approach we take provides a safe and compliant platform for everyone who wants to use it.

Now you've been established for a while, do you see the model changing in any way?

At its heart, CrowdJustice is about using technology to help people access the law. As we grow, we see CrowdJustice naturally evolving into a source of information for anyone looking for the latest legal cases and decisions that have direct impact on their lives.

We hope that this evolution will remove additional barriers to consumers using the law—in other words, improving access to funding, but also helping to demystify the law and enabling people and communities to understand their legal rights.

Is the creation of CrowdJustice any reflection on the current levels of access to justice in the UK? Is there any message behind the organisation?

Access to justice has always been hard for anyone who is not an oligarch. And it's been getting harder, with devastating legal aid cuts and changing regulation. The legal world is full of doom and gloom at the moment, but someone outside that world may not realise how difficult the courts are to access until they need to do so.

There is absolutely a message at the heart of the organisation, which is simply that individuals and communities are not powerless. Technology really enables people to come together, and when they do so around a legal issue, they can achieve real change—sometimes against much more powerful entities.

Interviewed by Anne Bruce.

4. The future of the publicly-funded bar

Catherine Baksi takes a look at the increasingly uncertain future of the publicly-funded bar.

Reductions in legal aid

A recurring theme at the Bar Council's annual conference is that the profession is 'one bar'. While that may be the case in spirit and ethos, in reality legal aid cuts mean that there are increasingly two bars—the privately-funded and the publicly-funded bar. And uncertainty hangs over the future of the latter, like the fate of an accused as the jury troops in with its verdict.

The economic climate that followed the recession and propelled the tightening of purse strings across Whitehall and, as many see it, an ideological opposition to the principal of the welfare state, means that governments of all hues have sought to reduce the legal aid budget. But the biggest assault came with the coalition's Legal Aid, Sentencing and Punishment of Offenders Act 2012 that removed from the scope of public funding huge areas of law, leaving vulnerable clients to fend for themselves in the majority of family, immigration, welfare, housing and employment cases.

Changes to the payment regime for judicial review and for criminal advocates' fees have taken their toll. Further cuts to the fees paid to criminal barristers have been halted, but a proposed 500% hike to asylum and immigration tribunal fees, could reduce further the ability of clients to bring cases.

The fee cuts mean that, of economic necessity, solicitors' firms are driven to keep more work in house, in order for them to remain profitable. All of this adds up to less work for the publicly funded bar and for those at the more junior end in particular.

Coupled with that, are the enormous cost of training for the bar, which means young barristers enter the profession saddled with debt, and the ever-decreasing number of pupillages in sets doing legal aid work.

Life at the coalface

Hannah Evans, a criminal barrister at London's 23 Essex Street, paints a picture of the tough and poorly paid life at the coalface. 'In one of the last legal aid magistrates' court trials I was briefed in, the going rate for half a day was £50. Half-day trials last three hours, between 10 am and 1 pm. This works out at just under £17 per hour—not bad, you might think.

'But what about the time spent reading the papers and making notes the night before (sometimes, this time includes drafting legal argument); the travel to and from court (sometimes, you are sent hundreds of miles and hours from home); the time spent in conference with your client; the time spent discussing various issues with the Crown; and the time spent in chambers after the hearing, drafting an attendance note and billing for the case?'

All in all, she reckons, she typically spends no fewer than eight hours on such a case (and longer on more complex matters), equating to an hourly rate of £6.25—almost a pound below the £7.20 national minimum wage and around a third less than the £9.40 London living wage. Of course, from that princely sum, Evans has to deduct tax, chambers' rent, travel costs, and may have to wait months or even years to be paid.

It has become, she suggests, impossible to survive in London on legal aid rates unless you have independent means. And this, she knows from experience—to pay her rent, she says she has had to undertake a number of secondments and non-criminal work. Evans adds: 'I do not regret this—it was entirely necessary and I have had the opportunity to experience interesting work I otherwise wouldn't have encountered—but it is a very sad reflection on the appalling rates that are paid for legal aid criminal work.'

Evans is by no means alone. Rachel Francis, co-chair of the Young Legal Aid Lawyers (YLAL) group and a family and immigration practitioner at 1 Pump Court, in London, reports that colleagues have moved away from legal aid work, gone to work in-house doing regulatory or disciplinary work, or left the bar altogether.

Private and direct access work might also be part of the solution. Observes Evans: 'Legal aid lawyers will need to think outside of the box and diversify. 'For many, their careers won't look the way they initially hoped and/or planned. While that may be disappointing in some respects, it needn't be a bad thing.' Developing a broader skill-set, she says, will make young barristers more marketable and expose them to other interesting avenues of work.

But it is not just those at the junior end who are being forced out, and thus removing the future pipeline of legal aid barristers. Folk at the senior end are struggling too and are opting out, and jumping aboard the so-called purple lifeboat, for the greater security and certainty offered by a career on the bench.

Diversity is already becoming a casualty of the cuts, as anecdotally it appears that the ethnic and socio–economic mix of those choosing a career in legal aid is reducing, and more women than men are quitting

Seeking out solutions

Despite the uncertainty and the doom and gloom, Evans insists: ‘There is a future for the legal aid bar’. It is, she says, a ‘resilient profession’ that ‘can and will adapt’. But, says Evans, none of the challenges need pose an ‘existential threat’ to the legal aid bar.

Looking ahead, Francis sees an opportunity in the Bar Standard’s Boards’ review of the bar professional training course and the proposals for the Inns of Court to provide an alternative two–part and lower cost course. ‘The first step is to make training more affordable. That way people across a diverse range of backgrounds can still come to the publicly funded bar.’

On a practical level, chambers, says Evans, are best placed to support barristers, assisting them with the types of work they move into to diversify, marketing their services, helping them build professional networks, negotiating appropriate fee rates and chasing unpaid fees.

Help is also at hand from the Inns of Court and the Bar Council, which offer mentoring schemes and scholarships. While for Evans, the Criminal Bar Association has been a huge help, to her personally through the provision of a scholarship, and to the profession at large, through its lobbying and representative work.

Francis adds, the Labour Party’s review of legal aid, being undertaken by their former legal aid minister, Lord Bach, provides a ray of hope that the public funding may be reintroduced for some areas of social welfare law.

And, despite the profession’s weariness of campaigning to ensure access to justice remains a reality, Francis hints that there could be untapped power in the united forces of the teaching, legal and medical professions, who all seem under assault from the government. She says: ‘We are at an interesting juncture—the government’s full frontal attack on the welfare state may create an universal unity. I wonder if there is an opportunity to make something from that.’ As a start, she says, that a junior doctor will be addressing the next YLAL meeting.

Both Francis and Evans stress that the impact of austerity is not felt by the bar alone, but by all advocates, as well as defendants, victims, judges, and by the public at large.

Access to justice, bemoans Francis, is a ‘complete misnomer—it does not exist’ and the courts are already adapting to deal with increasing numbers of litigants in person and without the bar. She warns: ‘You don’t expect people to do home abortions or operations, so why expect them to do their own legal cases. It is really putting clients at risk and is pretty diabolical’.

5. Mental health and wellbeing at the Bar

Grania Langdon–Down looks at how the Bar is seeking to support the psychological wellbeing of the profession and speaks to those who are driving change and those who have been directly affected by the pressures barristers are under.

With the launch this month (May) of a new cross-profession taskforce to support mental health and wellbeing in the legal community, is the Bar doing enough to help protect barristers?

One of the key aims of the taskforce is to tackle the stigma that can surround mental health and be a barrier to accessing support. In the driven world of barristers where colleagues can also be competitors and so much is about winning and losing, the Bar is keen to take a lead in raising awareness of the importance of psychological wellbeing in the workplace.

In April last year, the Bar Council published 'Wellbeing at the Bar', the first ever survey into the wellbeing of the profession. More than 2,500 barristers responded and the survey flagged up a worrying picture, not just of the pressures barristers feel under but also their fears that admitting they are suffering from depression, anxiety or stress might be seen as a sign of failure.

The survey found:

- One in three find it difficult to control/stop worrying
- Two in three feel showing signs of stress equals weakness
- One in six feel in low spirits most of the time
- 59% demonstrate unhealthy levels of perfectionism
- Psychological wellbeing within the profession is rarely spoken about

So what is being done practically to help barristers?

Barrister and academic Rachel Spearing has been driving change at the Bar. Her experience as a circuit junior where a leader in a case took his own life made her determined to press for better support and guidance.

'By its nature, working as a self-employed barrister can be a very lonely place,' she says.

A member of the Bar's equality & diversity committee, she commissioned the wellbeing survey and led the research. 'This is about staying well and functioning at your best,' she says. 'You can't craft an argument if you are exhausted and you can't be in court back-to-back because you aren't super human.'

Spearing, a criminal law barrister at Pump Court, is now chairing the Wellbeing at the Bar programme which aims to change the Bar's perception, attitude and approach towards health and wellbeing and make it normal for barristers to invest in their own wellbeing.

The first step has been to set up a working group of representatives from the specialist bar associations, Inns of Court, circuits and clerks to create an online bank of resources which it plans to launch this summer.

'This is a baby step,' acknowledges Sam Mercer, the Bar Council's head of equality & diversity and CSR, 'but everybody recognises we are in this for the long haul. So let's start to understand what wellbeing means for those at the Bar.'

'How do you build and maintain resilience? How do you navigate interventions and support? How do you have those conversations in chambers? How do you provide support for those 20% of barristers who are employed?'

One of those resources is LawCare. The charity was set up in 1997 initially to help solicitors with alcohol problems. But it now supports all parts of the legal profession, including students and those in training, support staff and families in the UK, Isle of Man and Eire. It has an extensive website, which is currently being refreshed, and a helpline run by trained staff and 20 volunteers who help callers access the right support.

One volunteer is Henry, (not his real name), a barrister with personal experience of how much has changed over the last 20 years—and how much still needs to change. He had a drink problem for the first five years of practice. 'I was turning up for court stinking of booze,' he recalls. 'As the complaints grew, my chambers asked my former pupil master to have a word. He did—in a pub.'

At the time, support from the Bar was non-existent, so he sought help through his GP and, now in his 40s, he has been teetotal for 20 years. However, he has continued to suffer intermittent difficulties with depression, which he has kept from his chambers.

'I have looked into what the Bar is doing but it has yet to filter through to all chambers—mine is still struggling to embrace the notion of wellbeing,' he says.

The way he has learnt to cope has been to 'live better, to exercise and eat healthily,' he says. 'About three years ago, I came to a point in my life when I felt I wanted to give something back. A friend who had been helped enormously by LawCare told me about it. I sense I may have made a small difference, if only by providing a sympathetic, non-judgmental ear.'

The charity is driving the Legal Professions Wellbeing Taskforce, launched to mark Mental Health Awareness Week. Initiated by the Law Society, it brings together 15 partners including the Bar Council, the Bar Standards Board and the Solicitors Regulation Authority, CILEx, the Institute of Trade Mark Attorneys, the University of Law, BPP and Newcastle University. The aim is to identify areas for collaboration and mechanisms for establishing and sharing best practice as there has been no evaluative research done on the effectiveness of existing wellbeing programmes.

Awareness of what support is available is low in the legal profession. Only about 500 individuals called LawCare's helpline last year, including 53 barristers—18 about stress, 11 suffering from depression, five from alcohol and four each with financial problems, disciplinary issues or bereavement.

This is just the tip of the iceberg, the charity's chief executive Elizabeth Rimmer believes. 'It may be the helpline is perceived as a crisis line or like the Samaritans,' she says, 'but we want people to come to us earlier before their lives are spiralling.'

More calls are coming from students and trainees feeling overwhelmed. Both the taskforce and the Bar's working group want law schools and the Inns to develop teaching components on mental health and wellbeing so those coming into the legal profession learn how to build resilience.

At the same time, the specialist bar associations, the Inns, chambers and junior bar groups are developing initiatives. The Chancery Bar Association is holding a wellbeing seminar on 15 June 2016 at the Royal College of Surgeons with input from LawCare, a clinical psychologist and a professional performance coach.

Middle Temple's key initiative is its Survive and Thrive programme for members of the Inn and the Bar, as well as those who work closely with them, such as clerks and chambers directors. Alongside macro business-level matters, it investigates different ways of thinking, behaving and working. The Inn also offers space for drop-in mindfulness sessions, a Lean In Circle, and yoga. Bar students, who are offered a sponsor when they join Middle Temple the Inn, also have access to a counselling service.

Natalie Hearn, project manager at Matrix Chambers, says barristers can feel isolated because of different work schedules and practices so they offer several social events a month to maintain a sense of community. The chambers' annual Health Week this year focused on wellbeing and mental health initiatives, such as stress awareness.

'We are starting to address mental health concerns as a specific issue, rather than under the umbrella of wellbeing,' Hearn explains. 'We are drafting our action plan under the Time to Change initiative, in which organisations pledge to help reduce mental health stigma.'

One of the most powerful ways to raise awareness is through personal testimonies. By speaking openly of his struggle to find a better balance between his work and personal life, James Pereira QC is helping barristers at all stages of their careers realise that showing signs of stress doesn't equal weakness.

For Pereira, work became all consuming, taking up evenings and weekends and, eventually, taking its toll on his home life. 'One of the delights of the Bar is we are our own masters,' he says, 'but you have to manage that properly.' Deeply unhappy, he started to question the assumptions that 'you must never turn work away, that you must take on last minute briefs, that everything has to be done to the standard of perfection,' he says.

He started to say no to work and diarise his planning and preparation time which made a 'huge difference', though he acknowledges: 'It isn't easy to buck the trend because part of you feels you aren't really a proper barrister.'

But, says Pereira, what barristers need to realise is their reputation is built on the excellence of their work, not whether they are working all hours because those kinds of work habits can be destructive.

'The message needs to get out there that having a proper work/life balance is a step towards enhancing performance and not a step back from it and it is a choice that barristers should be able to make.'

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