



The Bar Council

The Bar Council's Response to the LSB's Call for evidence on Ongoing Competence

Introduction

1. This is the response of the Bar Council to the LSB's Call for Evidence on Ongoing Competence.
2. The Bar Council represents approximately 17,000 barristers in England and Wales. It promotes the Bar's high-quality specialist advocacy and advisory services; fair access to justice for all; the highest standards of ethics, equality and diversity across the profession; and the development of business opportunities for barristers at home and abroad.
3. A strong and independent Bar exists to serve the public and is crucial to the administration of justice. As specialist, independent advocates, barristers enable people to uphold their legal rights and duties, often acting on behalf of the most vulnerable members of society. The Bar makes a vital contribution to the efficient operation of criminal and civil courts. It provides a pool of talented men and women from increasingly diverse backgrounds from which a significant proportion of the judiciary is drawn, on whose independence the Rule of Law and our democratic way of life depend. The Bar Council is the Approved Regulator for the Bar of England and Wales. It discharges its regulatory functions through the independent Bar Standards Board (BSB).

4. We agree with the LSB that if and insofar as there were good evidence of a problem in terms of maintaining competence it would be appropriate to consider whether the right solution is some form of regulatory intervention. Regulatory action should be taken, but should only be taken, if (inter alia) it is proportionate and targeted only at cases in which action is needed.¹

5. We summarise here the evidence we have considered and the conclusions which we believe to be justified based on that evidence.

5.1. There is good objective evidence to suggest that standards at the Bar are generally high, including, in particular, evidence from the Bar Mutual Indemnity Fund (**BMIF**).

5.2. There is no sound objective evidence to suggest that standards of competence fall as barristers become more senior, and move further away from the close regulatory supervision that is present at the stage of qualification; and there is in fact good objective evidence from BMIF data that this is not the case.

5.3. There is no good objective evidence of widespread lay client dissatisfaction with, or distrust for, barristers.

5.4. Evidence from the Circuits and from the Specialist Bar Associations (SBAs) demonstrates that there are many opportunities available (in addition to those available through the Inns) for professional development.

5.5. The Criminal, and now also Family, Bar's vulnerable witness training programme shows that the Bar can and does react to potential problems in particular areas in an appropriate and effective way.

¹ Legal Services Act 2007, section 28.

5.6. We support the BSB's emphasis on self-reflection and we believe that the profession as a whole should also focus on developing ways to provide feedback so that it is easier to spot and address weaknesses that fall short of incompetence.

6. In what follows we focus almost exclusively on the self-employed bar in private practice because barristers in employed practice have more varied roles and will generally be subject to varied working styles and settings, and often to their employers' systems designed to maintain high levels of competence.

7. We have not dealt in detail with the role of the Inns. The role of the Inns is both important and central, but the Inns will make their own separate response to the Call for Evidence.

What evidence is there of patterns of carelessness or incompetence?

8. The BSB is closely involved with the qualification of barristers and can reassure itself as to standards of competence of barristers when they first qualify and commence practice. We understand the LSB's essential concern to be that, once barristers move into practice, the BSB is further removed, and regulates in an essentially reactive way through the disciplinary process. We agree that if there were evidence that barristers' standard of practice generally declines as they become more senior, or that there was a small cohort of barristers who allow their standards to decline in this way, this would merit further investigation and possible intervention.

9. We have looked to see what objective evidence there might be in relation to ongoing competence or incompetence. LeO did not respond to our requests for information. But BMIF, has provided extremely useful data which is at Appendix 1. The BMIF data provides a valuable insight both into absolute

levels of competence at the Bar, and in terms of the distribution of claims experience across practice areas and throughout barristers' practising lives.

10. There are three points to remember before considering the BMIF data.

10.1. The first is that BMIF is a mutual. Its purpose is not to make a profit for itself, but to provide the profession with appropriate professional indemnity cover as economically as possible.

10.2. The second point is to remember that much of the data from BMIF is about notifications rather than payments of damages being made: not all notifications lead to claims, and not all claims are successful. A notification does not mean that a claim is made, nor that if a claim were made it would be valid, it means that either a claim has been made or the barrister is aware of circumstances that may subsequently give rise to a claim being made.²

10.3. The third point to remember is that even when valid claims are made, they will indicate that, on the occasion in question, the barrister concerned was negligent. That may reflect a lack of competence but may equally represent an instance of one-off carelessness or oversight, rather than a competence problem. Formal reviews of ongoing competence, and a fortiori formal reaccreditation, would only ever be able to address issues of competence, not issues of one-off carelessness.

11. We highlight four specific points from the BMIF evidence.

(1) No increase in notifications with increasing seniority

² <https://www.barmutual.co.uk/claims-disciplinary-proceedings/notifying-a-claim-or-complaint-against-a-barrister/>

12. First, there is no perceptible pattern of increasing notifications by increasing call. Tables 2, 3 and 4 of Appendix 1 show, for each of 2017, 2018 and 2019, the number of notifications made by each call band of barrister. The final column expresses the number of notifications as a percentage of the number of barristers in that call band. In each of the three years, across all levels of call the rate of notification runs at about 5% - very roughly, each year about 1 barrister in 20 makes a notification to BMIF, and that is the same throughout barristers' careers.

(2) Absolute levels of notifications strikingly low

13. The same data also amounts to this: the average barrister will make a BMIF notification about once in every 20 years of practice. And there is no pattern in terms of when, within that period, that notification is likely to be made.

14. The fact that notifications are so infrequent might be thought to suggest that notifications tend to arise from one-off carelessness, rather than incompetence, because if there were ingrained incompetence it would be expected to manifest itself on a repeating basis.

(3) No evidence of serial carelessness by a small number of individuals

15. This leads on to the second point, which focuses on claims made which end up with compensation being paid to the barrister's client (which we will call "valid claims"). Even though overall levels of notifications are strikingly low, it might in theory still be the case that a small number of errant barristers accounted for the great majority of valid claims. Perhaps there are some serial repeat offenders? But the BMIF data demonstrates that there are not.

16. BMIF has been operating for 32 years. In that time, it has insured 24,140 different barristers. In 32 years, there have been just 129 barristers who have

given rise to 3 or more valid claims and another 383 barristers who have given rise to 2 valid claims. These figures are again, we would suggest, strikingly low. They do not suggest that there is a significant group of barristers, who are, in a regulatory sense, “hard to reach”, and who are practising in a way which repeatedly gives rise to successful claims of incompetence.

(4) No grounds to believe there are systemic problems in relation to ongoing competence

17. For-profit insurers are indifferent about long term claims levels: they will simply fix premiums at a level which they expect to deliver them a profit. But the position of a mutual is different, and it means that it has an interest in ensuring that, if there are pockets of poor practice or incompetence that are skewing the overall claims experience, that is identified and acted upon. The BMIF data included in Appendix 1 suggests that there are no patterns by practice area, or by type of complaint. The overall position is summarised by BMIF as follows:

“5.1 Bar Mutual does not have any data to suggest that the absence of formal reaccreditation is problematic or leads to a higher incidence of claims.

5.2 If Bar Mutual believed that there was a problem with the absence of formal reaccreditation this would be communicated to the Bar Standards Board under the Memorandum of Understanding (MoU) signed between Bar Mutual and the BSB. Bar Mutual would also endeavour to communicate this to its members through the Chairman’s Statements (interim and final), which are sent to all chambers. It would also seek to work through the Specialist Bar Associations, as it has done in the past, to communicate loss prevention advice or other matters

relevant to practise at the Bar in general, as they relate to the risk of claims.”

18. We suggest that this is highly significant. BMIF is better placed than anyone else to understand the precise patterns of claims, and therefore better placed than anyone else to determine whether there are in fact problems created by the lack of reaccreditation or formal ongoing quality assurance by the BSB. BMIF’s view is that there are no such problems.

19. There is a separate further source of evidence which suggests that there is no pattern of declining competence as people progress through practice. It comes from the BSB’s 2016 regression analysis study³ to see whether there was a correlation between either ethnicity and gender and the making or upholding of complaints.

20. The study demonstrated that:

20.1. Year of call had no effect on the likelihood of a disciplinary complaint being closed without investigation⁴; and

20.2. Year of call had no effect on the likelihood of a disciplinary complaint being referred to disciplinary action.⁵

21. Finally, before leaving the BMIF data, it is useful to consider what BMIF has to say about direct access work, which is where a barrister advises a client directly without a professional intermediary. It might be that this model of service provision, which is not typical for barristers, carried a higher level of risk to consumers. BMIF has monitored the proportion of work which its insured barristers do on a direct access basis since 1986. As section 7 of the BMIF

³ <https://www.barstandardsboard.org.uk/uploads/assets/e5829263-8fba-4d8c-9d79e6015208fd31/complaintsatthebar-ananalysisofethnicityandgender2012-2014.pdf>

⁴ Ibid #26

⁵ Ibid #34

letter demonstrates, claims involving direct access work have increased over that period, but that reflects an increase in direct access work over the same period (and this year there are 6379 barristers authorised to carry out direct access work). Bar Mutual does not apply any uplift to its rating table to reflect direct access work, and there is no evidence to suggest that direct access work gives rise to a disproportionate level of claims.

Amongst lay clients, is there a high level of subjective dissatisfaction with the work done by Barristers, and if so, what conclusions should be drawn from that?

22. The next question is whether it might be said the BMIF data fails properly to reveal levels of subjective dissatisfaction with barristers, which (if it exists) might be amenable to improvement if there were some sort of ongoing competence review mechanisms.

23. Here there are, we suggest, two points:

23.1. Is there evidence of a high level of subjective dissatisfaction with the service provided?

23.2. If and to the extent that there is, what conclusions should be drawn from that?

What evidence is there?

24. The Call for Evidence cites figures from a 2019 Ipsos Mori report on the reported levels of trust for various occupations. We think that this evidence is highly unlikely to provide a sound basis for decision making for the following reasons.

25. The question that was asked of all those surveyed was “Please look at this list of different types of people. In general, do you think each is trustworthy or untrustworthy in your Great Britain?”

26. In terms of those marked trustworthy (defined as receiving a mark of 1-2 on scale of 1-5) Doctors scored 67%, Judges scored 43%, ordinary men/women 37%, lawyers 26% and civil servants 26%, bankers 13%, and government ministers 11%. The survey was conducted online in October 2018. 19,587 people were interviewed in 23 countries. How many people were in the United Kingdom is not recorded, nor how many of them were in England and Wales. The type of person was “lawyer” with no distinction made between different professions, nor in relation to the role of the lawyer (e.g. advocate/adviser/conveyancer) in question. Finally, and perhaps most significantly, respondents were included in the survey whether or not they had ever had dealings with the “type of person” in question.

27. Whatever this survey shows (and it is probably no more than an accurate reflection of people’s *prejudices* about various “types of people”) it cannot seriously be considered to give any insight at all into the perceived competence of barristers, still less the actual competence of barristers.⁶

What conclusions can be drawn from lay clients’ perceptions?

28. Even if reliable data were to exist on the level of client satisfaction with the services performed by barristers, we suggest it would need to be approached with caution.

29. In the Crown Court, the overall conviction rate is around 80%. In non-Family civil cases, there is usually a winner and a loser: so, half of all clients

⁶ The LSB papers says it is interesting that the survey seems to show that consumers have less trust in lawyers than in doctors or teachers. There is a fundamental difference though: neither doctors nor teachers operate in an adversarial environment.

lose their case. Lay clients are not always well-placed to judge the quality of the service they receive, and it may be particularly difficult for them to distinguish between an unsatisfactory level of service, and what is, for them, an unsatisfactory or disappointing outcome. Added to that, it may sometimes be the professional obligation of a barrister to do something which will almost inevitably result in profound client dissatisfaction, because a barrister's primary duty is to the Court not to their client. Lay clients are rarely pleased to be told by their barrister that they must disclose damaging material to their opponents.

30. So, we suggest that:

30.1. There is no evidence of widespread justified lay client dissatisfaction with barrister's services; and

30.2. Even if there were, great caution would be needed in assessing what if anything could be inferred from the existence of any such dissatisfaction.

Professional clients' perceptions of the quality of service provided by the Bar

31. Most barristers, most of the time, have a professional client. And most of the time it is the barrister's professional client (as opposed to lay client) who is instrumental in the choice to use that particular barrister.

32. If there were reliable evidence as to professional clients' level of satisfaction with barristers' services, it would, we think, be useful evidence. We are not aware of any studies into this issue.

33. We note, however, that solicitors have a wide choice of barrister to instruct; that the regulator imposes no constraints on the number of barristers (and there is a gross oversupply of would-be pupils); and that the Bar operates

without any form of price control or other anticompetitive pricing constraints. One would not expect solicitors to instruct unsatisfactory counsel more than once, and it is extremely difficult to make a living at the bar without repeat work from (ex hypothesi) satisfied professional clients.

34. This all suggests that, at the very least that there is no widespread dissatisfaction amongst professional clients with the services provided by barristers.

Judicial perceptions of the quality of criminal advocacy

35. The Call for Evidence cites the 2018 Birkbeck Study commissioned by the LSB, the SRA and the BSB but incorrectly calls it “Judicial Perceptions of Advocacy (2018)”. It was in fact a report of a study limited to judge’s perceptions of *criminal* advocacy, as its correct title makes clear: “Judicial Perceptions of the Quality of Criminal Advocacy”. It was, by its own description, a “small qualitative study”⁷ based on semi-structured interviews; and as the authors noted, it may be that those judges who had strong views on advocacy may have been more likely to volunteer to be interviewed.

36. The Call for Evidence correctly records that the most commonly cited barrier to high quality advocacy was advocates taking on cases beyond their level of experience, but it is important also to note that the report stated that this was said “to arise particularly in relation to solicitors’ firms which, for financial reasons, opt to keep cases ‘in house’ rather than to instruct independent counsel with the necessary level of experience.”

37. There is some evidence in the report that some judges felt that there was a small number of barristers carrying out criminal work whose quality of

⁷ “Judicial Perceptions of the Quality of Criminal Advocacy”, page 4.

advocacy was poor. It is difficult from the report to get any real feel for the extent to which this was thought to be the case.

38. The report also recorded that Judges felt that the handling of vulnerable witnesses had improved. This is significant because (as we describe further below) the Bar responded to suggestions that vulnerable witness handling was poor by providing training directed to this issue. This demonstrates therefore that the Bar's response to that problem was effective.

39. The report records that:

“The main and most explicit demand that our interviewees made of the regulators was that they should be more robust in responding to poor advocacy when alerted to problems by judges or if a new appraisal system were to be instituted. However, there was also some uncertainty among the interviewees about whether, or how, they should report poor advocacy to the regulators.”

and we return to this important point later, noting that in late 2017 a decision was taken by the BSB, rightly in our view, not to proceed with a formal quality assurance system (“QASA”) for criminal advocates.

CPD AND VOLUNTARY STEPS TAKEN BY THE PROFESSION

40. The mark of a true profession is that its members take responsibility for their own standards: they behave properly and practice competently not because they are worried about regulatory action against them if they do not do so, but because as professional people they believe that they have a duty to maintain high standards. There is always – perhaps sadly – a need for professional regulation to police those standards, but we would suggest that the most important drivers of a desire to achieve high standards (beyond the obvious benefits of a successful practice) are professional pride and the culture

of the profession. Barristers as a group recognise that the privileges of being a part of the profession, including the privilege of exercising rights of audience, demand high standards in return, and achieving high standards requires barristers to maintain their legal skill and knowledge.

41. In addition, the Bar is subject to formal CPD requirements. Until 2017 all barristers were required to demonstrate that they had undertaken a minimum of 12 CPD hours per year⁸. The new system introduced in 2017 is more flexible and less prescriptive, but requires evidence of self-reflection, a point to which we return below.

42. The Inns of Court will describe in their response the role played by the Inns.

43. We focus on the Circuits and Specialist Bar Associations (SBAs), who have responded to our request for information. We have appended their responses: the Circuits are at Appendices 2 to 7 and the SBAs are at 8 to 16.

44. It is difficult to overstate the variety and quality of CPD opportunities made available by the Bar for the Bar. Criminal training is delivered by the CBA and through the Circuits. Particular striking is the role of the Circuits in delivering Vulnerable Witness and RASSO (Rape and Serious Sexual Offences) training. Civil training tends to be delivered by the SBAs.

45. We urge the LSB to consider the detail of all the responses we have collated. We make some general points here and identify some examples from that material. We begin with criminal training.

Criminal Training

⁸ There were (and continue to be) more onerous requirements for new practitioners under the New Practitioner Programme.

Vulnerable Witness Training

46. Following a high profile case in the Court of Appeal (R v Barker, relating to sexual abuse of the 3 year old sister of “Baby P”) where the cross-examination of the three year old child was criticised as being unsuitable for a child of that age, a great deal of work has been done by HHJ Peter Rook QC and Inns of Court College of Advocacy (ICCA) in developing an intense training programme to teach barristers how best to examine and cross-examine young or otherwise vulnerable witnesses.

47. The course is some 8 hours, involving preparatory work watching videos and preparing cross-examination in advance followed by 4 hours interactive sessions in classes of between 4 and 10. Lead facilitators (from the Circuits and the CBA) were trained, who in turn trained facilitators who in turn trained their own members of chambers. Some 4000 barristers have been trained.

48. Judges will ask if the training has been done during preliminary hearings in any such case. The Inns continue to train any outstanding criminal practitioners and now also family practitioners who asked for a family-specific course to be designed following the success of the criminal training. ICCA has formulated an [online course](#).

49. Before the implementation of this course, [the Advocates’ Gateway](#) developed training videos and “[toolkits](#)” for advocates dealing with witnesses and defendants with a wide range of vulnerabilities. These toolkits are required reading for advocates in such cases and judges will require barristers to comply with them, and to write out their questions in advance of the hearing for review by an intermediary and approval (or otherwise) by the judge.

50. So, to give just one circuit example, on the small Midland Circuit two silks trained 12 senior practitioners and judges to become trainers, and then between them they trained over 300 barristers (covering all criminal practitioners on that circuit).

Youth Court Advocacy

51. There is a presumption that children and young people are tried in the Youth Court rather than the Crown Court, even for serious offences. Youth Courts are attached to Magistrates' Courts. Youth Court and Magistrates' Court trials are poorly paid. The advocates in such cases are generally solicitors (no "higher rights" qualification is required). When counsel is instructed, they will be paid a nominal fee out of the sum claimed by the solicitor. Thus, it is generally pupils and very junior counsel who do this work.

52. There was anecdotal concern that the quality of advocacy in the Youth Court was not as good as it should be. In response to this concern the BSB conducted an investigation (with assistance from Just for Kids Law/Youth Justice Legal Centre) and published a report: [The Youth Proceedings Advocacy Review \(2015\)](#).

53. The review recommended specialist training for those practising in the Youth Court and that remuneration for such work was increased. The Youth Justice Legal Centre designed and implemented a [course](#).

54. The ICCA is also developing a course; it has a large amount of relevant material on its [website](#).

55. The BSB now require barristers to certify they have the requisite knowledge and competence before renewing their Practising Certificate in order to practice in the Youth Court.

56. The timeline for Vulnerable Witness programme begins earlier than that for Youth Advocacy, so they are at different level of maturity, but we suggest that they both demonstrate effective and proportionate regulation by the BSB coupled with an appropriate and effective response from the Bar.

Civil training

57. As we noted above, civil training is predominantly delivered through the SBAs, but it is important to note that the SBAs make that training available both in London and on circuit. By way of example only:

57.1. The Chancery Bar Association holds an annual conference, a summer conference, an annual lecture, and 7 or 8 further seminars each year;

57.2. The Professional Negligence Bar Association has an extensive series of lectures and holds an annual clinical negligence weekend;

57.3. The Property Bar Association has an annual conference, 3 or 4 seminars a year, and one or two sessions a year aimed at more junior practitioners;

57.4. The Commercial Bar Association (COMBAR) holds an annual lecture and 7 or 8 further lectures and seminars each year. They also run a Junior COMBAR programme which is more ad hoc and tends to focus on legal skills and practice management;

57.5. The Immigration Law Practitioners Association offers an array of training webinars to ensure practitioners stay informed of the latest

developments in immigration, asylum and nationality law (5 to 10 per month)⁹;

57.6. The Employment Law Bar Association holds regular lectures and webinars (approximately 1 to 2 per month).

57.7. The Personal Injuries Bar Association holds an annual lecture, 5 to 6 seminars and 2 to 3 conferences every year.

58. It is also important to note that much, if not all, of this training is now being delivered online so that barristers can continue to develop professionally even though they cannot currently meet in person.

FEEDBACK AND SELF-REFLECTION

59. For the reasons we have identified above we believe that there is nothing to suggest there are widespread problems of lack of competence at the Bar, and therefore no warrant for regulatory intervention.

60. But we acknowledge that there will be circumstances where standards fall below the highest levels, without straying into incompetence or properly engaging a disciplinary or other regulatory response. This is not an issue of competence, but of constantly striving for the highest standards.

61. We suggest that, beyond continuing training and education, the three main ways of driving up standards are sharing of good practice, feedback, and self-reflection.

62. Sharing of good practice at the Bar is built into the systems in which we work: we see our opponents' advocacy; we see our opponents' skeleton arguments, and we can see what works well and what does not.

63. But feedback and self-reflection are both more difficult for the Bar.

⁹ <https://ilpa.org.uk/events/>

64. As to feedback, opponents are unlikely to praise or to criticise, for to do so might compromise their own client's interests. Judges rightly share similar inhibitions, in order to avoid any appearance of bias, and conscious too of the fact that what might appear to be poor advocacy, for instance taking lots of hopeless points, might arise because the client was insistent that, *against* the barrister's advice, those points were run.

65. As to self-reflection, advocacy requires a degree of confidence and self-belief that may not necessarily sit easily with critical self-reflection. And there are no easy metrics to assess one's own ability. We do not pick our clients or the facts of our cases, so the outcome of cases is a very imperfect indicator.¹⁰

66. So, it is worth considering what might be done in terms of feedback or self-reflection.

67. There are of course informal systems in place. The Circuit responses identify some of the informal methods of feedback and monitoring that exist:

67.1. The Western Circuit response says that local judges know senior members of circuit chambers well, and will identify disappointing performance falling short of misconduct via heads of chambers;

67.2. The Midland Circuit response says that all members of circuit know one another and if one is not performing adequately judges usually either identify the head of criminal group or head of chambers for that person and informal advice is given. It notes, interestingly, that, recently, where negative feedback was given the person concerned was encouraged to attend the New Practitioners Programme, in order to refresh their skills;

¹⁰ If you are a civil practitioner and you win 90% of your cases that go to trial, you are probably advising far too many of your clients to settle.

67.3. The Wales and Chester circuit response says that on a small circuit, with a relatively small number of professional clients, particular skill – or lack of it – soon becomes apparent and judges will informally raise concerns about an advocate’s performance with the advocate’s head of chambers;

67.4. The Western Circuit response notes that there is a system of meetings with the CPS (CALC meetings) which deal with issues of poor performance or misconduct.

Feedback

68. Increasingly, chambers organise practice reviews with clerks where there can be feedback and a chance to review a period of practice. This should be encouraged. We think too that clerks ought specifically to be encouraged to pass on to barristers’ feedback from solicitors – whether positive or negative. The Institute of Barristers’ Clerks provides training to clerks on giving feedback to barristers. We would also encourage the judiciary to give as much (informal) feedback as it feels it properly can do, but we think that there is no role for formal feedback from the judiciary to the Bar for the reasons we have explained.

Self-reflection

69. The difficulties of achieving reliable and fair methods of formal feedback mean there needs to be a focus on self-reflection.

70. The BSB is already encouraging self-reflection. The new CPD regime has four components: Review, Record, Reflect and Report.¹¹

71. Our impression is that the profession has welcomed the greater flexibility of the new system, and that the degree of commitment to CPD

¹¹ Described here: <https://www.barstandardsboard.org.uk/for-barristers/cpd/guide-to-epp.html>.

activities in terms of total hours probably has not much changed. But we do not think that the purpose of, and benefits of, self-reflection have yet been fully grasped or embraced by the profession and we note from the BSB website that in the BSB's spot checks of CPD records it was this stage that was weakest.

72. We would be keen to work with the BSB to find ways to encourage the Bar in this respect.

OTHER COMMENTS

73. We doubt whether it is very useful to draw analogies with other professions. The Bar is, we think, unique in combining two features which are vitally important when assessments are made of appropriate regulatory approaches: first, that it is essentially a referral profession, and second that its members have duties not only to their client but also to the court.

74. There have been scandals affecting other professions, particularly some parts of the medical profession, which do not appear to have parallels in the Bar; there has been no Bar equivalent of Dr Shipman, who killed many of his elderly patients, nor of Ian Paterson who subjected over 1000 patients to unnecessary breast surgery. Nor have there been problems created by conflicts of interest similar to those that have given rise to the problems that have faced the accountancy profession; nor any equivalent of the present problems arising from the widespread provision of poor financial advice, especially in relation to pension transfers.

75. We do not suggest that this means that the Bar is somehow a "better" profession than these other, generally much larger, professions which operate in such different contexts. But we do suggest that drawing lessons directly from one profession to another is unlikely to be a particularly productive approach unless one can be sure that (a) the nature of the problems, and (b) the cause of

those problems, and (c) the structures of the profession concerned (self-employed or not, referral profession or not, how remunerated), are all truly comparable.

THE LSB'S SPECIFIC QUESTIONS

76. We turn finally to the LSB's specific questions.

(1) What is needed to demonstrate competence? Does competence need to be tested throughout the career of a professional, and how could it be assessed?

77. We are not sure that the first question is the right question with which to begin, for it tends to assume that a *demonstration* of competence (presumably to the regulator) is somehow bound to be required, and the only question is *how* that should be achieved. The right question with which to begin is surely to ask whether competence is as a matter of fact achieved, and then to try to work out how it is achieved. That probably varies between professions, but for the Bar we think that competence (and much more) is achieved, and it is achieved by a mixture of market forces, professional culture, and appropriate regulation. There is therefore no need for barristers to continue to demonstrate competence to the regulator, nor a need for the regulator to test competence. That is because a combination of the high standards required on entry to the profession, combined thereafter with market forces, peer pressure and professional pride are in practice effective to maintain competence.

78. As far as the competency framework is concerned, the BSB has developed a competency framework which we consider to be entirely fit for purpose.

79. The best quantitative evidence of competence comes from the BMIF data we have provided (please see Appendix 1).

80. There are formidable problems in assessing the skills of barristers, as was demonstrated during the consideration of QASA scheme. The difficulties of introducing a cost-effective post qualification testing regime to cover every area of practice at the bar are even greater. In the absence of any evidence of systemic incompetence, or any other good evidence of a need for ongoing formal regulator assurance, we see no grounds for embarking on such a difficult and expensive task, the costs of which would ultimately be borne by consumers.

81. We accept that there may be occasions when developments in law or practice may call for ongoing training. So far, the Bar in collaboration with its regulator the BSB has responded to identifiable needs of this type with minimal formal regulatory intervention, the best examples being the vulnerable witness training programme and youth court advocacy. If similar issues were to arise in other areas of practice the appropriate regulatory response ought, similarly, to be targeted at the specific problem or potential problem that had been identified.

(2) Consumer Expectations of Competence

82. Consumers of legal services are entitled to expect practitioners to be competent. If consumers go to the Bar, they will almost invariably experience at the very least a competent service.

83. No useful inferences can be drawn from the Ipsos Mori research.

(3) Competence Assurance

84. There is evidence from the BMIF data that there are no particular areas of practice that pose particular competence risks.

85. We have described the mixture of formal and less formal methods which we believe combine to provide a high level of confidence in ongoing competence.

86. We support the BSB's focus on self-reflection, and the Bar Council will continue to encourage self-reflection and methods through which barristers can receive feedback on their abilities.

(4) Other sectors

87. It is often useful to consider good practice in other sectors, but great care should be taken in extrapolating particular solutions from one profession to another.

88. When drawing comparisons with regulatory levers used in other professions and before trying to draw analogies one should ask, at least (a) What was the problem in that profession? (b) What are the market forces to which members of that profession are subject? (c) In precisely what context or settings does that profession deliver its services in that profession?

89. The Bar is a highly competitive referral profession and its core service of advocacy is delivered in public and in front of judges and lay and professional clients. There is little chance of hiding incompetence. Barristers owe duties, sometime conflicting, to their client and to the Court. These distinguishing features of the Bar are important, and we do not think they are shared by any other profession.

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10 June 2020

Dear Mr Vineall

I write further to my letter dated 3 March 2020 acknowledging your 2 March letter to our Chairman, Colin Edelman QC. Mr Edelman asked me to reply to your 2 March letter and I do so below adopting the numbering in your letter for ease of reference. It of course goes without saying that if you require any further information or clarification on anything that follows please do let me know and I would be happy to assist.

1. Ratings Tables used by BMIF and Changes in the last 20 years

- 1.1. As the rating tables used by Bar Mutual are public documents, there are no difficulties in you referring to them in your response to the Legal Services Board. Bar Mutual's website is www.barmutual.co.uk and for your ease of reference I attach to this response copies of the last 3 years' rating tables.
- 1.2. As you will see, the ratings have not changed materially in the last 3 years. Picking just a few examples, there were slight increases in relation to two practice areas for the 2020/2021 policy year, namely Chancery Non-Contentious (which increased from 1.2% to 1.5%) and Revenue: non-Crown: Non-Contentious (which increased from 6.5% to 7.25%). At the same time, however, there were reductions in relation to Commercial and Financial Services (which decreased from 0.7% to 0.6%) and Personal Injury and Planning (which both decreased from 1.2% to 1%).
- 1.3. Looking at a longer time horizon, the last 18 years, save for one area of practice (Revenue) the rates have not changed significantly over this period. Revenue requires some explanation, which I will come to below, but excluding Revenue Table 1 below compares the current rates for the main practice areas to those that were charged for the 2002/2003 policy year.

Table 1: Historical comparison of rates for main practice areas

Practice Areas	2020/2021 Policy Year	2002/2003 Policy Year
Chancery: Contentious	1.5%	1.9%
Chancery: Non-Contentious	1.5%	1.9%
Commercial and Financial Services	0.6%	0.8%
Crime	0.25%	0.15%
Employment	0.7%	0.8%
Family: Children	0.15%	0.25%
Landlord & Tenant: Residential	1.2%	1.25%
Personal Injury	1.00%	1.25%
Professional Negligence	2.00%	1.25%

- 1.4 Revenue is the one area where there has been a significant increase in rate over the years for some of its practitioners. In 2002 Revenue (as it was then called) had a rating of 1.9%. As this rate was amongst the highest at that time, practitioners in that field argued that the rate did not distinguish between fee income received from the Crown, HMRC or from taxpayers; and nor did it differentiate between contentious and non-contentious work, all of which generated different risks of claims. Thus, for the 2008/2009 policy year, Bar Mutual divided Revenue into Revenue: Crown instructions (where the rate was 0.9%) and Revenue: Non Crown instructions (where the rate was 3.5%). The sub-dividing of this area of practice continued for the 2010/2011 policy when it was divided into the current three sub-areas, namely Revenue, Crown instructions (at 0.5%); Revenue, non-Crown contentious (at 3.5%) and Revenue, non-Crown non-contentious (at 4.5%). The respective rates for all three areas at the 2020/2021 renewal was 0.25%, 0.5% and 7.25%.

2. Aggregate Data on the Profile of Bar Mutual's Notifications

- 2.1 We have analysed the data for the last three policy years (2017 to 2019) and Tables 2-4 below detail the number of notifications by years of membership of Bar Mutual in various ranges (e.g. 1-5 years, 5-10 years etc). The tables also show the number of insured barristers in each band. Please note that the data for the 2019/2020 policy year shows the position to 6 March 2020.
- 2.2 We also enclose tables at Appendices A-C showing the number of notifications/claims by years of membership of Bar Mutual for the last 3 years split into practice areas.

2017 Policy Year

2.3 Table 2 below shows that the highest number of notifications for the 2017/2018 policy year fell within the 26-30 year range (196 notifications). Next highest was the 6-10 year range at 138 notifications followed by 1-5 years at 129.

Table 2: Number of notifications by years of membership for 2017.¹

Years of Membership	Type	Number of Notifications	Number of Insureds in this Band	% of Insureds within their band who made notifications	% of Total Notifications for the Year
1-5 years	A	129	2459	5.2%	17.2%
6-10 years	B	138	1939	7.1%	18.4%
11-15 years	C	105	2007	5.2%	14.0%
16-20 years	D	84	2002	4.2%	11.2%
21-25 years	E	99	1910	5.2%	13.2%
26-30 years	F	196	3498	5.6%	26.1%
30+ years	G	0	0	0%	0%
	TOTAL	751	13,815		

2018 Policy Year

2.4 Table 3 below shows that the highest number of notifications in the 2018/2019 policy year fell within the 30+ years band at 120², followed by two bands which both had 105 notifications, the 6-10 years and the 16-20 years bands.

Table 3: Number of notifications by years of membership for 2018

Years of Membership	Type	Number of Notifications	Number of Insureds in this Band	% of Insureds within their band who made notifications	% of Total Notifications for the Year
1-5 years	A	102	2574	3.9%	15.3%
6-10 years	B	105	1936	5.4%	15.7%
11-15 years	C	88	1890	4.7%	13.2%
16-20 years	D	105	2010	5.2%	15.7%
21-25 years	E	83	1897	4.4%	12.4%
26-30 years	F	64	1474	4.3%	9.6%
30+ years	G	120	2219	5.4%	17.9%
	TOTAL	667	14,000		

¹ There are no Type G barristers in 2017 as this range only relates to barristers who have been insured with Bar Mutual for over 30 years and Bar Mutual has only been in existence since 1988

² This group represents all barristers who were in practice when Bar Mutual came into existence in 1988.

2019 Policy Year

2.5 Table 4 below also shows that the highest number of notifications in the 2019/2020 policy year fell within the 30+ year range (114 notifications). Next highest was 6-10 years at 109 notifications followed by 1-5 years at 107.

Table 4: Number of notifications by years of membership for 2019

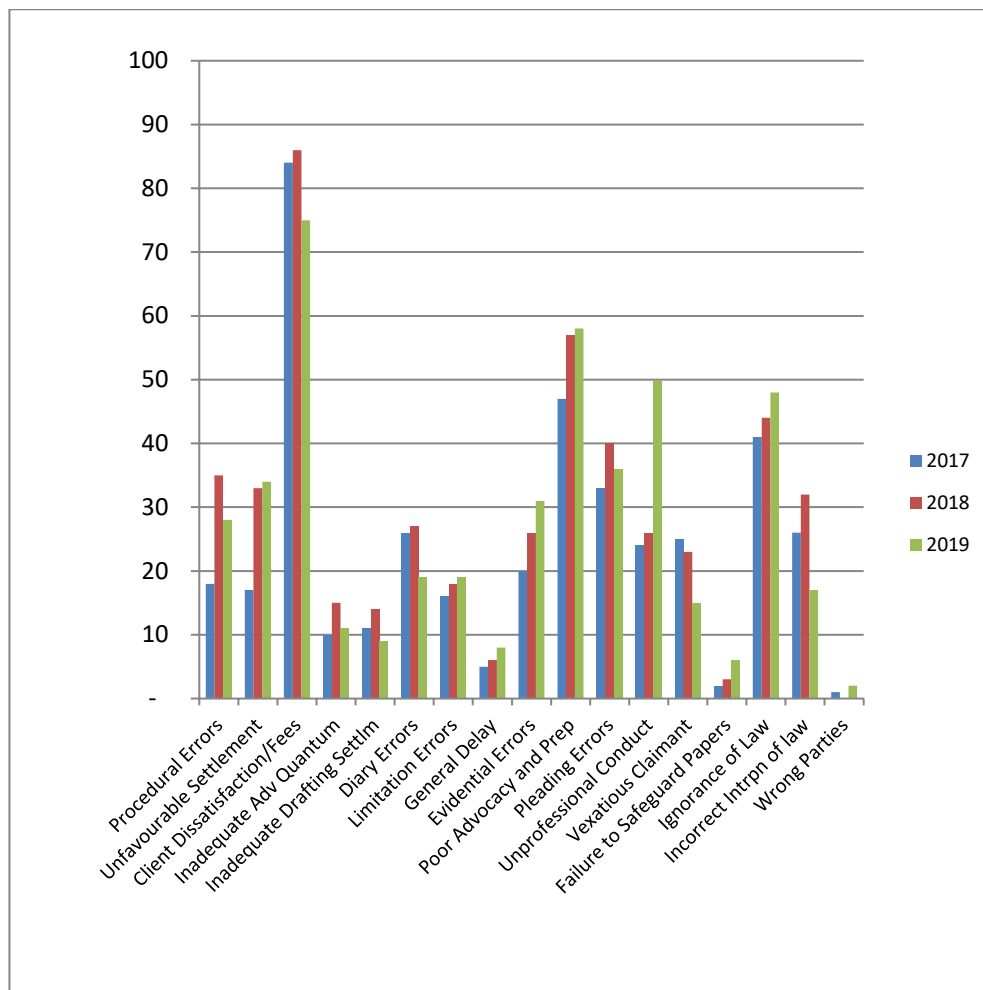
Years of Membership	Type	Number of Notifications	Number of Insureds in this Band	% of Insureds within their band who made notifications	% of Insureds overall who made notifications from within their band
1-5 years	A	107	2642	4.0%	15.6%
6-10 years	B	109	1965	5.5%	15.8%
11-15 years	C	95	1868	5.1%	13.8%
16-20 years	D	91	1978	4.6%	13.2%
21-25 years	E	86	1886	4.6%	12.5%
26-30 years	F	85	1537	5.5%	12.4%
30+ years	G	114	2348	4.9%	16.6%
	TOTAL	687	14,224		

3. Data on the Range and Distribution of Types of Alleged Errors

3.1 Table 5 below shows the types of errors alleged in the notifications for the last 3 policy years. This shows that for all 3 policy years the error which has attracted the most notifications is "*Client dissatisfaction including fee dispute*", which had an average of 82 notifications per year. This type of claim is to be expected as barristers regularly face the scenario where, perhaps due to an unfavourable outcome at court, a client or a solicitor does not wish to pay the barrister's fees, and pursuit of the unpaid fees is met with a counterclaim for breach of duty. The second highest error recorded for all 3 policy years was "*poor advocacy and preparation*", which had an average of 54 notifications each year, followed by "*ignorance of law*", which had an average of 44 notifications each year over the last 3 years.

3.2 Please note, however, that not all of the notifications have been/could be allocated to a particular error because (1) insufficient information has been provided to Bar Mutual and/or (2) the claimant has failed to particularise the alleged error or provide any or any sufficient details about the potential claim (perhaps because the claim is spurious in nature) and/or (3) the matter has been notified but is not insured by Bar Mutual and/or (4) further information has been requested by Bar Mutual but has not been provided.

Table 5: The Types of Errors Alleged for the last 3 Policy Years



4 Monitoring of Risk Factors and the Influence of these Risk Factors on the Claims Experience

- 4.1 Yes, Bar Mutual does monitor risk factors to determine whether particular risks or errors have been reoccurring or could be prevented in the future. However, we do not consider that there is any discernible pattern to the notifications we receive, which are a broad mix of notifications from all practice areas and for different types of errors. Although it is generally the case that the areas we categorise as Family, Personal Injury, Commercial and Financial Services, Chancery and Employment generate the most claims or notifications (numerically), we do not see any particular claims trend in these areas of law, and within each area there is no discernible commonality in the types of alleged errors giving rise to notifications.

5 Reaccreditation and the Incidence of Claims

- 5.1 Bar Mutual does not have any data to suggest that the absence of formal reaccreditation is problematic or leads to a higher incidence of claims.
- 5.2 If Bar Mutual believed that there was a problem with the absence of formal reaccreditation this would be communicated to the Bar Standards Board under

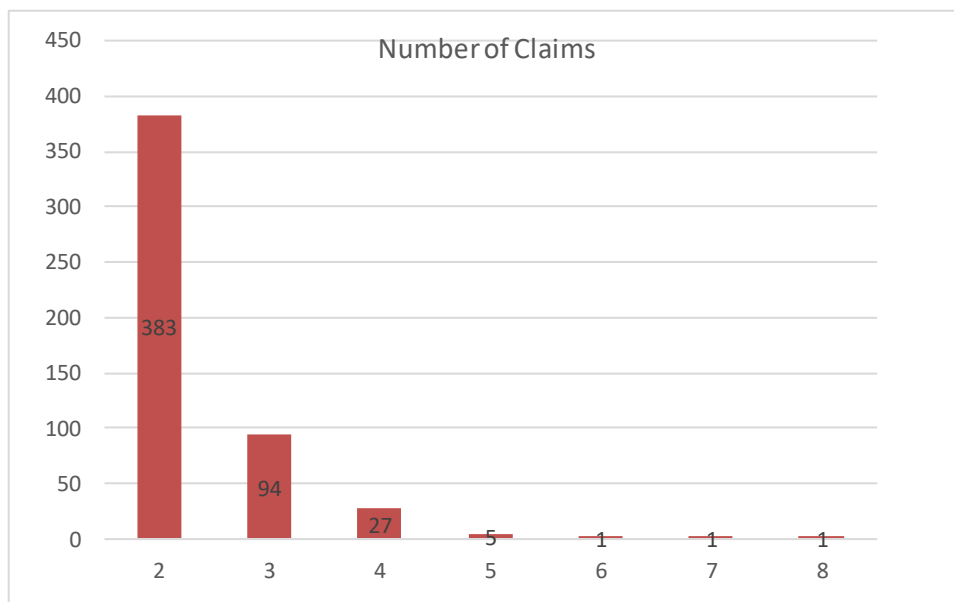
the Memorandum of Understanding (“MoU”) signed between Bar Mutual and the BSB. Bar Mutual would also endeavour to communicate this to its Members through the Chairman’s Statements (interim and final, which are sent to all chambers). It would also seek to work through the specialist Bar Associations, as it has done in the past, to communicate loss prevention advice or other matters relevant to practice at the Bar in general, as they relate to the risk of claims.

6 Repeat Offenders

6.1 It is the case that Bar Mutual has a record of more than one notification against particular barristers. But taken in isolation this can be misleading. Some barristers are more cautious than others and so may simply make notifications more frequently than others. Second, and as you recognise in your letter, the better enquiry is whether the claims against these barristers result in compensatory payments. And of course thirdly, from an insurer’s perspective, an insured generating 10 claims where the total paid is say £50,000 is a more attractive risk than an insured with only 1 claim but where the insurer has had to pay £1 million in respect of that 1 claim.

6.2 As to the issue of repeat offenders generally, if the notifications where defence costs alone have been paid and no compensatory amount has been paid to the claimant are excluded, then the list of repeat offenders breaks down to that shown in Table 6 below.

Table 6: Number of barristers with more than one payment in damages or compensation

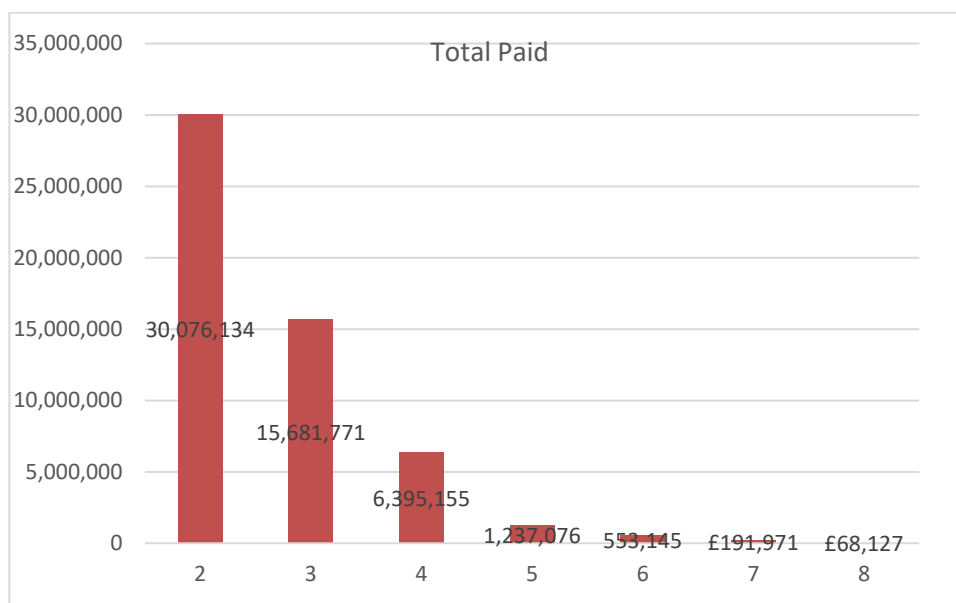


6.3 In its 32 year history there have been 512 barristers who have had more than one payment in damages or compensation paid on their behalf (i.e. more than one successful claim against them). The highest number of claims payments in relation to any individual barrister is 8. This particular barrister has 16 notifications of claims or potential claims but the total sum paid out in damages or compensation is actually a modest £68,127. Another barrister has had 7

payments of damages or compensation totalling £191,971; and a third has had 6 payments totalling £553,145.

- 6.4 Over this period, and since its inception 32 years ago, Bar Mutual has insured 24,140 different barristers. This shows that the instance of repeat offenders at approximately 2% of this figure is in fact very low.
- 6.5 We also include below at Table 7 a breakdown of the total sums Bar Mutual has paid in claims and defence costs in relation to barristers who have had more than one successful claim against them. A total of £54 million has been paid for the 512 barristers identified at paragraph 6.3 above, about one-quarter of Bar Mutual's total payments of £221 million since 1988. All figures are gross i.e. before accounting for reinsurance recoveries and recoveries from third parties.
- 6.6 There are 383 barristers who have 2 payments in their name, and the total for this group is £30 million. Next highest is the category where there have been 3 claims payments made on behalf of the same barrister, and the total sum paid here is £15.5 million.

Table 7: Breakdown of sums paid in relation to the number of payments made in damages or compensation



7, Direct Access

- 7.1 Bar Mutual regularly monitors the number of notifications which arise from Direct Access work. Table 8 below details the number of notifications which have been made by barristers involved in Direct Access work from 2006 to the present day.
- 7.2 This shows that the number of notifications arising from Direct Access work has increased during the most recent policy years, with the 2018 and 2019 policy years receiving the highest number of notifications, at 69 and 67 respectively. However, as with repeat offenders, caution should be applied in viewing these figures in isolation and they need to be considered in context. Firstly, although

the notifications are higher in the later policy years, this does not necessarily mean that the risk factor is higher as an increasing number of barristers now undertake Direct Access work compared to when this method of obtaining instructions was first introduced. According to the Bar Council's Barristers' Register there are currently 6,379 barristers who are authorised to conduct Direct Access work. This would mean that if a similar number of notifications are made for Direct Access work in the current policy year as were made in 2019 (i.e. 67), then only circa 1% of those barristers would have notified a claim or a circumstance.

- 7.3 And secondly, although the 2018 policy year had the highest number of notifications arising from Direct Access work, only a modest sum (£80,629) was paid by Bar Mutual in claims payments on those notifications. Indeed, the highest year for claims payments relating to Direct Access work was in 2014, at £958,740, and there were only 19 notifications on that policy year.

Table 8: Breakdown of notifications involving Direct Access work by policy year

Policy Year	Notifications	Paid Claims (£)	Paid Costs (£)	Reinsurance Recoveries (£)	Third Party Recoveries (£)
2006	2	0	20,021	0	0
2007	5	0	0	0	0
2008	3	0	973,562	5,340	0
2009	5	0	145,655	0	0
2010	5	106,844	547,966	0	218,500
2011	13	1,443	9,060	0	0
2012	20	5,500	40,800	0	4,316
2013	18	63,713	57,624	0	10,000
2014	19	958,740	593,803	0	0
2015	7	20,000	10,967	0	0
2016	17	427,071	303,314	0	350
2017	30	43,581	431,277	0	0
2018	69	80,629	145,739	0	0
2019	67	115,035	109,675	0	0
2020	6	0	0	0	0
TOTAL	286	1,822,555	3,389,462	5,340	233,166

I hope the above information proves useful and answers your immediate queries.

Yours sincerely



Ahmed Salim
For Bar Mutual Management Company

APPENDIX A
2017 Policy Year

Area Of Practice	No of Years of Membership	Number of Notifications
Unclassified	A	5
Admiralty	A	1
Chancery - contentious	A	12
Commercial and Financial Services	A	12
Construction	A	1
Criminal	A	8
Defamation	A	1
Employment	A	9
Family - Children	A	2
Family - Other	A	3
Immigration	A	4
Insolvency	A	7
Intellectual Property	A	1
Landlord & Tenant Non-residential	A	2
Landlord & Tenant Residential	A	6
Other	A	6
Other Common Law	A	15
Personal injury	A	27
Planning	A	1
Professional Discipline	A	2
Public Law	A	1
Revenue - Non Crown - contentious	A	2
Unknown	A	1
Unclassified	B	2
Arbitrator, Umpire or Mediator	B	1
Chancery - contentious	B	15

Commercial and Financial Services	B	10
Competition	B	1
Construction	B	3
Criminal	B	3
Defamation	B	2
Employment	B	16
European	B	1
Family - Children	B	4
Family - Other	B	9
Immigration	B	2
Insolvency	B	4
Landlord & Tenant Non-residential	B	3
Landlord & Tenant Residential	B	8
Other	B	4
Other Common Law	B	13
Personal injury	B	25
Planning	B	1
Professional Discipline	B	2
Professional Negligence	B	3
Public Law	B	3
Unknown	B	3
Chancery - contentious	C	8
Chancery - non-contentious	C	2
Commercial and Financial Services	C	6
Competition	C	1
Construction	C	1
Criminal	C	11
Employment	C	7
Family - Children	C	5

Family - Other	C	8
Immigration	C	1
Insolvency	C	3
Landlord & Tenant Non-residential	C	2
Landlord & Tenant Residential	C	6
Other	C	1
Other Common Law	C	10
Personal injury	C	21
Professional Negligence	C	9
Public Law	C	2
Unknown	C	1
Arbitrator, Umpire or Mediator	D	1
Chancery - contentious	D	6
Chancery - non-contentious	D	1
Commercial and Financial Services	D	12
Construction	D	3
Criminal	D	8
Defamation	D	1
Employment	D	9
Family - Children	D	4
Family - Other	D	7
Immigration	D	2
Insolvency	D	3
Intellectual Property	D	1
Landlord & Tenant Residential	D	2
Other	D	1
Other Common Law	D	3
Personal injury	D	11
Planning	D	1

Professional Negligence	D	5
Public Law	D	1
Revenue - Non Crown - contentious	D	2
Unknown	E	3
Arbitrator, Umpire or Mediator	E	1
Chancery - contentious	E	11
Chancery - non-contentious	E	2
Commercial and Financial Services	E	10
Construction	E	1
Criminal	E	9
Employment	E	4
Family - Children	E	7
Family - Other	E	7
Insolvency	E	1
Landlord & Tenant Non-residential	E	1
Landlord & Tenant Residential	E	7
Other	E	3
Other Common Law	E	4
Personal injury	E	16
Planning	E	3
Professional Discipline	E	1
Professional Negligence	E	4
Public Law	E	2
Revenue - Non Crown - contentious	E	2
Unknown	F	3
Arbitrator, Umpire or Mediator	F	4
Chancery - contentious	F	26
Chancery - non-contentious	F	1

Commercial and Financial Services	F	19
Competition	F	2
Construction	F	4
Criminal	F	25
Defamation	F	2
Employment	F	9
Family - Children	F	7
Family - Other	F	16
Immigration	F	1
Insolvency	F	1
Intellectual Property	F	2
Landlord & Tenant Non-residential	F	2
Landlord & Tenant Residential	F	1
Licensing	F	1
Other	F	6
Other Common Law	F	9
Personal injury	F	20
Planning	F	6
Professional Discipline	F	8
Professional Negligence	F	8
Public Law	F	5
Revenue - Non Crown - non contentious	F	4
Revenue - Non Crown - contentious	F	2
Unknown	F	2

APPENDIX B
2018 Policy Year

Area Of Practice	No of years of Membership	Number of Notifications
Chancery - contentious	A	8
Commercial and Financial Services	A	8
Construction	A	2
Criminal	A	5
Employment	A	3
Family - Children	A	7
Family - Other	A	9
Immigration	A	2
Insolvency	A	4
Intellectual Property	A	1
Landlord & Tenant Non-residential	A	1
Landlord & Tenant Residential	A	8
Other	A	3
Other Common Law	A	6
Personal injury	A	29
Planning	A	2
Professional Discipline	A	2
Public Law	A	1
Revenue - Non Crown - non contentious	A	1
Chancery - contentious	B	12
Chancery - non-contentious	B	3
Commercial and Financial Services	B	16
Construction	B	3
Criminal	B	9
Employment	B	1

Family - Children	B	2
Family - Other	B	11
Immigration	B	2
Insolvency	B	7
Intellectual Property	B	2
Landlord & Tenant Non-residential	B	2
Landlord & Tenant Residential	B	4
Other	B	1
Other Common Law	B	6
Personal injury	B	17
Professional Discipline	B	1
Professional Negligence	B	4
Public Law	B	2
Arbitrator, Umpire or Mediator	C	1
Chancery - contentious	C	9
Chancery - non-contentious	C	1
Commercial and Financial Services	C	9
Construction	C	3
Criminal	C	6
Defamation	C	2
Employment	C	3
Family - Children	C	7
Family - Other	C	8
Immigration	C	3
Insolvency	C	2
Landlord & Tenant Non-residential	C	3
Landlord & Tenant Residential	C	4
Licensing	C	1
Other Common Law	C	4

Personal injury	C	17
Professional Discipline	C	1
Professional Negligence	C	2
Public Law	C	1
Revenue - Non Crown - contentious	C	1
Chancery - contentious	D	13
Chancery - non-contentious	D	2
Commercial and Financial Services	D	12
Construction	D	2
Criminal	D	6
Employment	D	8
Family - Children	D	6
Family - Other	D	11
Landlord & Tenant Residential	D	5
Other	D	3
Other Common Law	D	7
Personal injury	D	17
Planning	D	1
Professional Discipline	D	1
Professional Negligence	D	4
Public Law	D	5
Revenue - Non Crown - non contentious	D	1
Revenue - Non Crown - contentious	D	1
Chancery - contentious	E	5
Chancery - non-contentious	E	3
Commercial and Financial Services	E	7
Construction	E	1
Criminal	E	5
Employment	E	10

Family - Children	E	4
Family - Other	E	10
Immigration	E	1
Insolvency	E	1
Intellectual Property	E	2
Landlord & Tenant Non-residential	E	1
Landlord & Tenant Residential	E	3
Other	E	5
Other Common Law	E	5
Personal injury	E	15
Planning	E	1
Professional Discipline	E	1
Professional Negligence	E	1
Revenue - Non Crown - non contentious	E	1
Revenue - Non Crown - contentious	E	1
Chancery - contentious	F	10
Chancery - non-contentious	F	2
Commercial and Financial Services	F	13
Construction	F	1
Criminal	F	2
Employment	F	6
Family - Children	F	2
Family - Other	F	5
Immigration	F	1
Intellectual Property	F	1
Landlord & Tenant Non-residential	F	3
Landlord & Tenant Residential	F	1
Other	F	4
Other Common Law	F	2

Personal injury	F	3
Professional Discipline	F	1
Professional Negligence	F	4
Public Law	F	2
Revenue - Non Crown - non contentious	F	1
Arbitrator, Umpire or Mediator	G	3
Chancery - contentious	G	22
Commercial and Financial Services	G	14
Criminal	G	13
Defamation	G	3
Employment	G	7
Family - Children	G	3
Family - Other	G	12
Insolvency	G	5
Intellectual Property	G	1
Landlord & Tenant Non-residential	G	1
Landlord & Tenant Residential	G	2
Other	G	3
Other Common Law	G	8
Personal injury	G	13
Professional Negligence	G	6
Public Law	G	1
Revenue - Non Crown - non contentious	G	2
Revenue - Non Crown - contentious	G	1

APPENDIX C
2019 Policy Year

Area Of Practice	No of years of Membership	Number of Notifications
Unknown	A	5
Chancery - contentious	A	10
Commercial and Financial Services	A	14
Criminal	A	4
Defamation	A	1
Employment	A	4
European	A	1
Family - Children	A	6
Family - Other	A	6
Landlord & Tenant Non-residential	A	2
Landlord & Tenant Residential	A	4
Other	A	3
Other Common Law	A	13
Personal injury	A	30
Professional Negligence	A	1
Public Law	A	1
Revenue - Non Crown - non contentious	A	1
Unknown	A	1
Unknown	B	10
Chancery - contentious	B	9
Chancery - non-contentious	B	2
Commercial and Financial Services	B	11
Construction	B	5
Criminal	B	5
Defamation	B	1

Employment	B	9
European	B	1
Family - Children	B	2
Family - Other	B	4
Insolvency	B	2
Intellectual Property	B	1
Landlord & Tenant Non-residential	B	3
Landlord & Tenant Residential	B	9
Other	B	2
Other Common Law	B	6
Personal injury	B	17
Professional Discipline	B	2
Professional Negligence	B	4
Public Law	B	1
Revenue - (Crown Instructions)	B	1
Revenue - Non Crown - contentious	B	1
Unknown	B	1
Unknown	C	2
Arbitrator, Umpire or Mediator	C	1
Chancery - contentious	C	15
Chancery - non-contentious	C	1
Commercial and Financial Services	C	11
Criminal	C	6
Defamation	C	1
Employment	C	9
Family - Children	C	3
Family - Other	C	7
Insolvency	C	1
Landlord & Tenant Non-residential	C	1

Landlord & Tenant Residential	C	3
Other	C	2
Other Common Law	C	8
Personal injury	C	15
Planning	C	1
Professional Negligence	C	7
Public Law	C	1
Unknown	D	4
Admiralty	D	1
Chancery - contentious	D	9
Chancery - non-contentious	D	2
Commercial and Financial Services	D	15
Construction	D	2
Criminal	D	7
Employment	D	10
Family - Children	D	6
Family - Other	D	9
Immigration	D	3
Insolvency	D	6
Landlord & Tenant Residential	D	2
Other	D	2
Other Common Law	D	1
Personal injury	D	6
Professional Negligence	D	5
Public Law	D	1
Unknown	E	2
Arbitrator, Umpire or Mediator	E	1
Chancery - contentious	E	3
Commercial and Financial Services	E	7
Construction	E	1

Criminal	E	8
Employment	E	13
Family - Children	E	6
Family - Other	E	10
Immigration	E	1
Insolvency	E	1
Intellectual Property	E	2
Landlord & Tenant Non-residential	E	2
Landlord & Tenant Residential	E	4
Other	E	2
Other Common Law	E	4
Personal injury	E	13
Professional Discipline	E	2
Professional Negligence	E	3
Revenue - Non Crown - non contentious	E	1
Unknown	F	6
Arbitrator, Umpire or Mediator	F	2
Chancery - contentious	F	14
Chancery - non-contentious	F	1
Commercial and Financial Services	F	8
Criminal	F	3
Employment	F	5
Family - Children	F	4
Family - Other	F	7
Landlord & Tenant Non-residential	F	1
Landlord & Tenant Residential	F	3
Other	F	4
Other Common Law	F	5
Personal injury	F	12

Professional Discipline	F	1
Professional Negligence	F	5
Public Law	F	1
Revenue - Non Crown - non contentious	F	1
Revenue - Non Crown - contentious	F	1
Unknown	F	1
Unknown	G	3
Admiralty	G	2
Arbitrator, Umpire or Mediator	G	4
Chancery - contentious	G	10
Chancery - non-contentious	G	2
Commercial and Financial Services	G	10
Construction	G	1
Criminal	G	13
Defamation	G	1
Employment	G	5
Family - Children	G	2
Family - Other	G	16
Landlord & Tenant Non-residential	G	4
Landlord & Tenant Residential	G	8
Other	G	2
Other Common Law	G	7
Personal injury	G	6
Planning	G	2
Professional Discipline	G	2
Professional Negligence	G	9
Revenue - Non Crown - non contentious	G	4
Unknown	G	1

Appendix 2: Response from the Midland Circuit

Midland Circuit Education

The Midland Circuit has a dedicated Director of Advocacy Training. The Circuit is responsible for ensuring all Pupils and New Practitioners comply with their training requirement, the Circuit has also have rolled out Vulnerable Witness training for all criminal practitioners and is in the process of assisting family practitioners in developing their training programme.

Formal provisions

The Circuit takes on responsibility for training pupils in Advocacy and case analysis. As part of that training advice on accountancy is also given. This is a 2 ½ day residential training course and is extremely rigorous, pupils must be signed off as having demonstrates competence in all required areas.

Until last September the Circuit also ran a practice management course however this is no longer required by the BSB.

The Circuit trains New Practitioners and ensures they comply with their 42 hours of training, comprising of a two day advocacy training weekend, and a separate morning training in ethics.

Apart from the mandatory training the circuit also runs education sessions on an ad hoc basis. An example of sessions run in recent memory include an update on criminal case law, a PI update and a similar exercise for family practitioners.

In respect of the Vulnerable witness training Andrew Smith QC and Michelle Heeley QC trained 12 senior practitioners and Judges to become trainers, and then between them trained over 300 members of the Midland Circuit in respect of the questioning of vulnerable witnesses. The training involved 8 hours preparation and then 4 hours face to face training, with an assessment at the end. All criminal practitioners attended and satisfactorily completed the training.

Informal support

The Circuit also provides informal support. There are regular circuit messes which provide an opportunity for practitioners to meet members of the judiciary in an informal setting. This proves useful for developing a strong collegiate atmosphere and allows for informal feedback.

Circuit has set up a bullying reporting hotline, this is manned 24/7 and allows practitioners to phone and report any issues.

At Circuit events members are reminded that they have the support of senior members such as Silks and senior juniors. The contact details of Circuit leaders and representatives are widely publicised, and juniors with concerns are encouraged to speak to their representatives.

Feedback

Where there are concerns about a member of circuit there is an informal method of feedback. All members of circuit know one another and thus if one member is not performing adequately judges usually speak to the either of the Head of Criminal group or the Head of chambers for that person, and then informal words of advice are given. In recent times where negative feedback has been given a member has been encouraged to attend the NPP programme, in order to refresh their skills.

Given how small circuit is poor practice is quickly identified and quiet words had.

Some Judges will have members of circuit into their rooms to advise on specific issues.

It is in everyone's interests that circuit members do a good job and thus there is informal monitoring at all levels.

Michelle Heeley QC

Director of Advocacy Training for the Midland Circuit

Appendix 3: Response from the North Eastern Circuit

NORTH EASTERN CIRCUIT CONTRIBUTION TO THE BAR COUNCIL'S

RESPONSE TO THE LSB

1. Circuit provides a full continuing education programme for practitioners of all levels of call and across the main areas of practice in the North East. With a geographically dispersed membership stretching from Sheffield in the south to the Scottish Borders 200 miles further north, and from Hull in the east to the furthest reaches of West Yorkshire some 100 miles to the west, we have developed a system of moving our training to various parts of the Circuit, or ensuring that it takes place in locations and at times that are accessible by public transport for the benefit of our 900 plus members. We actively encourage a collegiate atmosphere in order to promote a high level of self-regulation. We seek to support and where necessary challenge practices falling below the levels expected of, and by, the profession.
2. Our formal/compulsory training is initially grouped by reference to experience:
 - i) Pupils:
 - Pupils advocacy (annual one and a half days' course).
 - Pupils practice management (annual one day).
 - ii) New Practitioners
 - New practitioners' advocacy (annual one day course).
 - New practitioners' ethics (annual one day course).
 - iii) All practitioners (crime and family)

- Vulnerable witness training (one day course) (compulsory for criminal practitioners provided by Circuit; and being rolled out by FLBA with support and offers of trainers from Circuit).
 - RASSO training (course run every two years; CPS require certification every three years).
3. Each of the courses above are supported by formal courses for trainers; and we have a strong group of trainers from middle ranking juniors to QC's with Circuit Judges helping on VWAT and RASSO courses. We have trainers taught by the Inns who then run "training the trainers courses" on Circuit each year for advocacy, VWAT, and RASSO.
 4. Each of our formal courses is designed to ensure up to date legal knowledge and skills, with add-on assessment of ethics, professionalism and judgment. Each course has a heavy emphasis on advocacy and ensuring that standards are maintained with the ever- increasing competition from solicitor-advocates.
 5. In addition to formal training we provide a wide range of informal training:
 - i) We have commissioned a series of online lectures accessible through the members portal on our Circuit website. These lectures cover a wide range of topics from Professor Ormerod giving updates on criminal law; Dr Brian Herron a forensic neuropathologist speaking about non-accidental head trauma in infants; updates on Family law from senior practitioners; and various different civil lectures covering practice and procedure. These lectures allow members to keep up to date and acquire additional CPD points.
 - ii) We provide Equality and Diversity training (including fair selection) via two webinars on our website.

- iii) We have instituted a programme of educational lectures before mess, encouraging members of Circuit and student members of the Inns to attend (our first of these dealing with Social Media and the Law took place in Leeds in March in conjunction with Middle Temple).
 - iv) We have instituted an annual day-long forensic science seminar to include lectures and Q & A sessions with pathologists, biologists, coroners and other associated experts.
 - v) We have annual criminal update lectures before mess from Professor Ormerod (a member of Circuit).
 - vi) We have instituted an annual Civil Practitioners lecture and mess.
 - vii) We now subsidise the annual Circuit FLBA day-long seminar.
 - viii) We have provided Wellbeing “first aid” training and will continue to develop and integrate Wellbeing issues within our wider formal education programme.
6. In addition to the above training we provide substantial and easily accessible support across the range of disciplines, much of which has been particularly useful under the current unusual circumstances:
- i) We have a weekly online Q&A session for members via Zoom. We rotate the panel and topics between Crime, Family and Civil; we have had Presiding Judges, Resident Judges, DFJ’s, DCJ’s, the Chair of the Bar and others answering questions. We ask for and receive questions in advance and then invite follow up questions from the attendees.
 - ii) We have a Help@NEC email address and phone line where members can access advice from senior practitioners relating to difficulties in their practices.

- iii) We have a Tech@NEC email address and phone line where our practicing barrister technology expert provides assistance; he also provides regular written updated guidance on the different platforms in use.
 - iv) We have a Wellbeing@NEC email and phone line where our practicing barrister well-being team are available; and if necessary, our retained counsellor whose services are provided for by Circuit, can be consulted. We have had well-being seminars and continue to ensure well-being is factored into our formal and informal education programme.
7. In addition to the above we have Circuit gatherings for Grand Court each term which encourage members to air their views and suggest new initiatives; and additionally each legal centre on Circuit organises its own Bar Messes sanctioned and subsidised by Circuit to encourage the exchange of views and information between Bar and Bench.
 8. All of our education provision is provided free of charge by practitioners dedicated to the pursuit of excellence and ensuring a high standard of practice on Circuit.
 9. Under the current Covid-19 restrictions we have ensured continuity of our programme in so far as possible by adopting online media (live where possible or if necessary recorded). In particular, our advocacy team have worked hard to augment the limited opportunities for advocacy experience of pupils with weekly online exercises with trained advocacy trainers, where possible.

JAMIE HILL QC

EDUCATION OFFICER FOR THE NORTH EASTERN CIRCUIT

17th May 2020

Appendix 4: Response from the Northern Circuit

ADVOCACY

The Northern Circuit has been at the forefront of advocacy training for the Bar for many years. It remains a leading force in that regard. Peter Birkett QC pioneered advocacy training both locally and nationally and was intimately involved with the Advocacy Training Council until he handed the baton on to Will Waldron QC, who Chaired advocacy training on the Northern Circuit for a decade between 2010 and 2020. He also sat on the ATC and, following its creation, became a Deputy Governor of the Inns of Court College of Advocacy (Circuits), a position he still holds. In that capacity, he ensured that the Northern Circuit was constantly abreast of advocacy training issues and delivered training of the highest standard. He continues in his role on the ICCA Board. Chris Melton QC has now taken over as Chair of Advocacy and is developing advocacy training still further, taking the circuit to the next level of excellence.

Advocacy training is delivered as follows:

1. Pupil training, under the directorship of Will Waldron QC: provided once per year to all pupils on circuit in accordance with national standards. The standards of advocacy on the Northern Circuit are recognised as amongst the best in the country and pupillage training reflects that reputation. Pupils have access to senior and experienced trainers, all accredited to deliver training under the Hampel training method. In addition to small groups training in the skills of narrative advocacy, examination in chief and cross-examination, there are plenary sessions looking at latest developments such as vulnerable witness handling as well as written advocacy sessions. Every pupil on circuit has ready access to training as and when required beyond the annual training exercise by means of 'masterclasses' (when resource allows) and informal discussion/training on an ad hoc basis when pupils have issues or questions they wish to raise.
2. New Practitioner Training, under the directorship of Darryl Allan QC: provided on an annual basis and again in accordance with national standards. It is held on two evenings and a full Saturday and comprises plenary and small group sessions in the same style as the pupillage course but with more emphasis on discursive teaching.
3. Expert witness course, under the directorship of Chris Melton QC. This is a unique training course outside London and is delivered once a year on a residential basis at Lancaster University's hotel complex, in association with the Royal College of Psychiatrists. It is aimed at barristers up to 10 years call but often has delegates of 15 or more years' experience. There are 3 separate 'courts', Family, Criminal and

Civil delivering training in all aspects of expert witness handling. Specially drafted exercises form the basis of a court hearing in each discipline. Psychiatrists at Registrar level are allocated as experts to each side in the three courts and delegates have the opportunity to discuss the claims in conference before conducting a complete trial over the weekend. Instruction is provided in how to prepare for and conduct conferences with experts. Circuit Judges 'sit' in each court and provide feedback to both delegates and experts. The psychiatrists are all on the cusp of Consultant level and are themselves part of the training exercise, being tutored by experienced Consultants. There is cross-learning between Bar and medics. It is no exaggeration to describe this course as training of the very highest calibre. There are limited opportunities these days for younger barristers to gain experience of working with experts. Handling expert witnesses is a difficult and demanding skill and this course, provided by vastly experienced trainers, is a shining example of how the Bar is adept at delivering top class training in advocacy to its members.

Trainers from the Northern Circuit have delivered training at a national level, being at the forefront of vulnerable witness training and expert witness handling courses for the Bar in London and elsewhere. The circuit hosted ICCA's own expert witness handling course (personal injury and accountancy exercises), which was well attended and well received.

During the Covid-19 crisis, Chris Melton QC was instrumental in designing and delivering 'virtual advocacy training' for pupils approaching or in their second six months but who were deprived of court opportunity by the restrictions. Northern Circuit Trainers were intimately involved in this innovative training, in association with ICCA, and it is a shining example of how the Bar is adaptable and imaginative when it comes to delivery of first-rate training to its members.

The Circuit will continue to forge ahead with advocacy training. There can be no better qualified persons to deliver specialist advocacy training to the Bar than those who advocate on a daily basis.

WILL WALDRON QC

4TH JUNE 2020

Appendix 5: Response from the South-Eastern Circuit



The South Eastern Circuit
Suite 23
30 St Dunstan's St
Canterbury, Kent CT2 8HG
United Kingdom

Dear Rose,

I write on behalf of the South East Circuit in my capacity as Director of Education for the Circuit to provide you with the requested information in response to the LSB's call for evidence on the ongoing competence of legal professionals.

I am sure it won't surprise you to learn that the South Eastern Circuit provides significant ongoing support and professional development to practitioners. It is a lively and active Circuit and our members are fully involved and integrated in our educational, welfare and social programmes. There is open and continuous dialogue between members of the Circuit and the Executive, all of whom are well known and highly visible; and in particular with our most approachable Leader of the Circuit Mark Fenhalls QC whose email is never silent and whose door is always open. Similarly our Administrator Aaron Dolan brings a unique vitality to the Circuit. Present and involved in every event, his support on every level to members -personal and professional, is legendary and exceeds any and every expectation that could be placed upon one human being.

The Circuit provides a dynamic programme of Education. Our courses are by their very nature holistic. They are designed not only to improve legal knowledge in relation to each topic but also to provide necessarily practical

training in relation to advocacy, ethics, professionalism and judgement. Whilst attempting to group training courses under the headings you have suggested the above should be born in mind.

Our educational programme is tailored for all call levels, including Queen's Counsel. We do not presently have a dedicated **Junior Practitioners programme**, however, lest anyone think we have neglected young practitioners, nothing could be further from the truth. Many years ago we understand that the SEC agreed with the Inns of Court that it would be counterproductive for the Circuit to be running programmes that might duplicate what is on offer from the Inns. Nonetheless last year we agreed that we would run an annual NPP – this was planned for 2020 but is now on hold due to COVID. We are determined that whatever new programmes we do offer provide something new and different, and take account of the increasingly precarious nature of the profession for our most junior members.

Feedback forms are provided after each event. Comments and suggestions are carefully scrutinised and tailored improvements made if necessary or appropriate.

The SEC constitution honours its duty of care to all Circuiteers and should help be required, then we suggest they contact the SEC Junior and or administrator. During the current crisis, the Leader of the Circuit has been writing weekly messages and I understand that many have corresponded with him about a range of professional and personal problems. He is also holding weekly zoom meetings for Heads of Chambers, where all manner of questions are raised and information shared as we seek to weather the current storm. We have held a hugely successful “open mic” session with Resident Judges about their collective experience of remote / digital advocacy. More such sessions are planned. We are particularly proud of the technology guides which we have produced at short notice – see below – to assist with remote working, which have been shared with all six Circuits and the Specialist Bar Associations.

A snapshot of our activities previous and ongoing, includes:

LEGAL KNOWLEDGE AND SKILLS:

Rape and Serious Sexual Offences:

Each Autumn the circuit hosts a half day refresher course to its members. It is open to all members but is considered compulsory for those requiring continued inclusion on the CPS RASSO list.

Topics & Speakers have included:

- “Things to know when you are instructed in a sex case” HHJ Patricia Lees
- “Admissibility of Expert Evidence on Memory” Eleanor Laws QC
- “Effective Strategies in Court for Addressing Rape Myths and Stereotypes” Dr Nina Burrowes
- “Recent Developments with regard to Section 41 YCJEA 1999” (Sexual History of Complainants)
- “Drafting Indictments” particularly with regard to Historical Offending
- “Recent Developments in Consent” (HHJ Rook QC)
- “Victims’s right to review and advice pre charge” (Caroline Hughes CPS Specialist Prosecutor)
- “The Impact of Technology on Sexual Offences”
- Sentencing

Our next course is scheduled for September 2020.

Every 3 years the circuit hosts a full training programme on this subject for its members who are applying with a new application to the CPS. Our next is scheduled for October 2021

In light of COVID and following talks with the CPS – the deadline for those who wish to extend their inclusion on the RASSO list has been extended until

March 2021. We will carefully monitor the situation over the summer months and may switch or additionally offer an online course for the current year.

ADVOCACY

Vulnerable Witness Training (Crime): In 2018/19 the circuit trained 150 Facilitators from a number of sets of Chambers on circuit. Further training 'in-house' continues to be monitored. The SEC is also assisting the ICCA with online training during the pandemic.

Vulnerable Witness Training Programme: Working with the ICCA to introduce a VWTP to Circuit Members, similar to the Criminal Programme, this training will focus on Family practitioners.

It is expected the online training will commence shortly before Summer – the process is currently being arranged.

The International Advanced Advocacy Course: In its 26th year, we have had to cancel the 2020 course due to the pandemic. We are however making plans, assuming life returns to some sort of balance to run the 26th year in 2021.

The aim of this course is to encourage and develop the highest standards of advocacy amongst practitioners in London and the South East. The course is the most demanding and intensive of any advocacy course in the UK.

The faculty consists of senior juniors, silks and judges, all of whom have undergone teacher training including specific training for this course. The ratio of participant to teacher is approximately 2.5:1.

Every participant undertakes each piece of work. Each piece of work is filmed. Advocacy takes place in small break-up groups of around 12. There is immediate critique in the class room followed by private one-on-one video

critique. The purpose of the sessions during the week is to improve advocacy skills in all areas, including interlocutory work, associated with a trial.

Midway through the week a day and a half is devoted to working with experts in a trial setting. The experts will either be specialist consultant endocrinologists and neurologists (a medical negligence/manslaughter case) or accountants from one of the large accountancy firms. Voice coaching is also available Tuesday, Wednesday and Thursday.

On the last day of the course a full trial takes place (also filmed) for criminal practitioners before a judge and jury, and for civil practitioners before a High Court Judge or Deputy. The jury's deliberations are filmed: each participant receives the film. Jurors also complete a confidential questionnaire on each advocate's performance.

This course is internationally recognised as arguably the best and most intensive advocacy course in the world. In recent years, we have been fortunate enough to have participants from the War Crimes Tribunal in The Hague, and faculty and participants from the Scottish Bar, the Florida Bar, the South African Bar, and the Bars of Australia, India, Pakistan and Hong Kong. We, and they, all gain immeasurably from this dimension

Lord Walker said the following in the House of Lords on 10 July 2014, when talking about the Bar's work in advocacy training: *"The most outstanding course, of which at least my legal colleagues will be well aware, is the week-long advanced advocacy course held every year at Keble College, Oxford, which goes on to more advanced matters, including appellate advocacy, and the important topics of handling vulnerable witnesses and expert witnesses"*.

Due to the cancellation, we are looking at the possibility of running a one-day course virtually this August.

Professional Updates: a number of courses have taken place providing members who attend with up to date guidance and information, topics include:

- **Criminal Legal Aid Review and AGFS**
- **International Circuit Representation**
- **International Criminal Law and Human Rights**
- **Pupillage Workshops**
- **Youth Justice**

It is our intention to run a series of updates later this year for our Family and Civil members.

PRACTICE MANAGEMENT

Better Case/Practice Management: (Annual – November) Originally planned to take place in November 2020, this is likely to be bought forward. We believe this would be of a huge assistance to circuit members under the new way of working. Timing and content of course depends on the nature and progress of changing guidelines on social distancing and the practical changes that take place in the courts.

Diversifying your Practice: Originally planned to take place at the Old Bailey, this will now move online and take place in September – details will be rolled out this August.

SEC Criminal Fee Reform (July 2019) Focussing on the implementation of the Scheme coming into effect 01.09.19. There was a new CPS fee scheme introduced in early May and the “Accelerated Asks” defence fee consultation is about to move into its next phase, to be followed immediately by the second stage of the MoJ’s “holistic Criminal Legal Aid Review”. Guidance, support and explanatory material will be available from the Circuit.

HMCTS Reform: a successful lecture which we plan to repeat in late 2020 once further information is released relating to COVID.

New Technology:

1. Immediately after the courts were suspended a move was made to remote working. The only platform on offer at the outset from the Courts was “Skype for Business”. We produced two “how to” best use Skype for Business guides, covering all devices and one specifically tailored to smart phones which could be used to connect clients remotely. These guides were widely welcomed by Judges and barristers alike.
2. The “Cloud Video Platform” has been rolled out rapidly to prisons and courts across the country. This technology improves the quality of communication with prisons, but does not address capacity. We have produced a further training guide for CVP and set up a network of technology representatives in all chambers who wish to participate – there are around 50 at present. These chambers have been given access to a special virtual training room, one of six which the Leader of the Circuit obtained from HMCTS for each Circuit. Our technology team has trained an individual in each chambers who has been able to then book slots in the room and run sessions for barristers.
3. There is a constant process of feedback between the tech reps and they have discovered a number of possible operational improvements. These improvements are being shared with officials at HMCTS and the SEC Judges who are considering all technology developments, led by one of the Presiders, Mrs Justice Whipple. The tech reps are amongst the volunteers we have provided to HMCTS who have helped test the CVP links between courts and prisons. This process is ongoing and evolving almost every day.

WORKING WITH CLIENTS AND OTHERS

Bullying and Harassment: The Circuit highlighted this growing problem, working with the Bar Council and SBA's a 'reporting tool' was implemented.

Wellbeing: The Circuit has held and continues to hold numerous seminars on this important subject. Topics, to date, include:

- Parenting Tips for Busy Working Parents
- Smashing Stigma & Promoting Mental Health in the Workplace to Help the Bar
- The Annual Wellness Forum for which the circuit are involved with the planning
- Maximising our potential without compromising our wellbeing
- Talks from the Judiciary privately discussing possible Wellbeing hurdles as members progress up the ranks.
- Vicarious Trauma
- Kindness and Compassion at the Bar
- Coping with Isolation (COVID)
- Social Distancing (COVID)

We have recently held two very well attended wellbeing sessions on Zoom. More will follow.

ETHICS PROFESSIONALISM AND JUDGEMENT

The Annual Dame Ann Ebsworth Memorial Lecture: this usually occurs each Spring. We have taken steps to provisionally book a speaker and a slot at the Old Bailey in October if Social Distancing rules permit. If this proves impossible we will hold a virtual lecture.

Whilst this is titled in memorial of a former leader of the Circuit, the substance of the lecture has for the past 4 years has revolved around current events which have a direct impact on the Bar.

In 2019 we were delighted to host Baroness Hale who spoke about her career and progress from an employed barrister through to her ground breaking role as President of the Supreme Court.

Ethics: for a long time, the Advocacy Course dedicated a morning to ethics, in light of changes with the BSB and feedback of the ethical training required for practitioners at this advance course, this segment was done away with. This topic is now segmented into any pupillage workshop.

Guides:

As and when new legislation comes into effect, the circuit keeps its members updated via a monthly newsletter, quarterly magazine and website.

Following Lockdown and the move to remote hearings, the circuit has drafted a number of useful guides to assist members learning this new method of working – these guides are available from the SEC website:

https://southeastcircuit.org.uk/images/uploads/SEC_CVP_Guide_v.1.2_18.05.20.pdf

https://southeastcircuit.org.uk/images/uploads/GENERAL_GUIDANCE_ON_PDF_BUNDLES_%28f1%29.pdf

https://southeastcircuit.org.uk/images/uploads/COVID_19_CJS_Officials_User_Guide_for_CVP_VMR_Prisoner_consultations_v.3_FINAL_15_05_2020.pdf

https://southeastcircuit.org.uk/images/uploads/SEC_Guide_-_Skype_for_Bus_for_Android_iPhone_Users_08.04.20.pdf

https://southeastcircuit.org.uk/images/uploads/Annex_1_-_ScreenShots_for_Skype_for_Bus_Android.pdf

https://southeastcircuit.org.uk/images/uploads/Annex_2_-_ScreenShots_for_Skype_for_Business_iPhone.pdf

https://southeastcircuit.org.uk/images/uploads/Skype_for_Business_Users_Guide_27.03.20_%28Combined%29.pdf

Scholarships:

The circuit is proud to provide four Junior members a full scholarship award to undertake the CIVIL Florida Advocacy Course – this is also a chance for a Civil silk to attend as a member of the Florida Faculty.

The circuit is proud to provide four Junior members a full scholarship award to undertake the CRIMINAL Florida Advocacy Course – this is also a chance for a Crime silk to attend as a member of the Florida Faculty.

In addition, and working with the four inns of court and Criminal Bar Association, each year we offer 25 scholarship awards to circuit members.

INFORMAL SUPPORT ON CIRCUIT

Socials:

We are fortunate to have the four Inns of Court located within the South East where we are able to host and co host many of our events.

Social gatherings are vital to the circuit's link to its members and the bench for health, wellbeing and learning from day to day practice.

In ordinary years, the Executive of the Circuit hosts a number of social events in any one year, these include:

Garden Parties, Black Tie Dinners and the Summer party (designed specifically for Junior members).

In addition, each Bar Mess, of which there are eleven is responsible for hosting 2 socials each year. These include a Spring Garden Party and Winter Warmer drinks receptions.

Both, the Mess's and the central executive honour retirement of all circuit judges via a dinner and dance, open to all Circuiteers.

The Executive honour the work from the Leader, Recorder and Junior by hosting an informal dinner (open to members) following their term, together with retirement dinners for Judicial members at the Central Criminal Court.

Unfortunately, in person gatherings are currently on hold but it is the intention of the circuit to host the following online gatherings before October.

- A Judicial get together where invitees will be invited to enjoy their own refreshments.
- An online quiz working with all Bar Messes centralised, once again all invitees will be invited to enjoy their own refreshments
- Online Pupillage 'Fair' (these details are currently under review)
- Social Mobility and access to the Bar from those in full time education (these details are currently under review)

This work could not be achieved with the help and dedication of Circuit Judges, Circuiteers, the Executive, Leaders PA and the SEC Administrator.

If you would like to discuss any aspect of our response please do not hesitate to contact me,

Best wishes,

Allison Hunter QC

23 Essex St

01.06.20

Appendix 6: Response from the Wales and Chester Circuit

RESPONSE BY THE WALES AND CHESTER CIRCUIT

Formal provision

We would be grateful if you could outline what you do as a Circuit and the extent to which the Bar is involved in these initiatives. If you can group the activities against the CPD themes, that would help us: they are:

- *legal knowledge and skills;*
- *advocacy;*
- *practice management;*
- *working with clients and others; and*
- *ethics, professionalism and judgement*

It would also help to know if your CPD events are aimed at any particular section of the Circuit: for example, do you have a junior practitioners' programme?

ANSWER

CPD events aimed at all Circuit members

Annually the Wales and Chester Circuit runs a day-long seminar covering the latest changes in **legal knowledge and skills**. This seminar either addresses the general spectrum of practice areas or, if there is a specific demand, targets a particular topic (e.g. serious sexual offences, advocacy and the vulnerable). The seminars comprise 6 hours of lectures and seminars and are presented by senior members of the Bar, members of the judiciary, senior CPS personnel and experts in particular fields (disclosure, digital interrogation, fingerprint analysis, etc).

When a substantial roll out of training is required, such the '**Advocacy** and the Vulnerable' course, members of the Bar on Circuit are readily recruited to ensure the appropriate training is made available locally to all circuit members. In that particular case, a series of seminars were held in both North and South Wales to ensure all criminal practitioners had undertaken the training.

Circuit also holds ad-hoc lectures by local members of the judiciary focusing on the development of **advocacy** skills in the Crown Court (Circuit Judge) and the presentation of argument in the Court of Appeal (High Court Judge). Beyond members of Circuit and the judiciary, the Wales and Chester Circuit is also able to draw on its close links with legal academics within both Swansea and Cardiff University. In this way, we have been able to deliver seminars covering **practice management** issues, such as the introduction of GDPR, and **ethics training** (now available online also).

Subject to demand, Circuit holds Pupil Supervisor training courses approximately every couple of years which entail four hours of presentations and a Q & A session echoing the model run by the Inns.

CPD events aimed at New Practitioners

The Wales and Chester Circuit runs an annual programme for New Practitioners over the course of a weekend. Attendance guarantees new practitioners a minimum of 1.5 hours of **ethics training** and 4.5 hours of **advocacy training** (i.e. half of the compulsory hours required to be completed within the first 3 years of practice). The aim is to ensure that new practitioners complete the compulsory ethics and advocacy training by attending the course during two of their first three years of tenancy. The course is run by a selection of senior barristers who have completed the Hempel training course together with other senior practitioners and members of the local judiciary. A dinner is held in the middle of the course to enable the new practitioners to mix with the trainers and the judiciary and gain more informal feedback.

Advocacy Training for Pupils

Circuit holds annual **advocacy** training over 2 months at the end of the first six months of pupillage. In Crime, a mock trial is held in 3 or 4 courtrooms of a Crown Court. Each trial is presided over by a Judge or Recorder. Feedback is given by the advocacy trainers and the Judges. 5 evening sessions are also held by advocacy trainers to deal with examination in chief, cross examination and closing speeches. In Civil, a session is held on drafting skeleton arguments. This is followed by 2 sessions in the County Court in front of a Judge, where pupils make and respond to an application for an injunction. Feedback is again given by the trainers and the Judge.

Informal support on circuit

Could you also provide a short narrative description of the perhaps less measurable aspects of Circuit support that are available through circuit meetings and social events, and again give an indication of the extent to which barristers on circuit are involved.

ANSWER

Practitioners across Circuit benefit from particularly close professional relationships fostered by working regularly at a relatively small number of local courts. Barristers at all levels of experience find themselves in the same robing rooms with the opportunity

to canvass the opinions and expertise of others. Whilst there is no formality to such contact, it may well be the most valuable way in which **judgement and expertise** are developed. In the same way, members of the Bar, through links with Chambers or at dinners held by Circuit, have the opportunity to discuss past performance with members of the local judiciary.

Feedback

We would also be interested to know to what extent any formal or informal methods of feedback exist through which, if there are practitioners who are not up to scratch, they are identified and encouraged to improve, or offered help or support to enable them to do so.

ANSWER

Where Circuit runs a course, such as ‘Advocacy and the Vulnerable’, if an attendee does not reach a satisfactory level of competence then they will not be approved. That is the same for the pupil training and new practitioner course. Beyond such types of course there are no formal avenues for feedback. On a small Circuit with a relatively small number of professional clients, however, particular skill, or the lack thereof, soon becomes apparent. In the event of particular problems, pupil masters, Heads of Chambers and senior members of Circuit are readily available to those requiring help or voicing concern. It is not unknown for local judges to quietly raise a concern arising from an advocate’s performance with the head of the advocate’s Chambers.

DAVID ELIAS QC

Appendix 7: Response from the Western Circuit



31 Southgate Street, Winchester, Hampshire SO23 9EB

DX 2514 Winchester

Tel: 07788 636067 mail@westerncircuit.co.uk

12th May, 2020

Dear Mr Vineall,

Thank you for your letter to Kate Brunner QC about the LSB request for evidence regarding the on-going competence of legal professionals. It has been passed to me because I take responsibility for provision of training on the Western Circuit.

To deal first with the general picture; the Circuit provides

1. Training for pupillage supervisors and for those who provide advocacy training to pupils,
2. Training for new practitioners,
3. Formal training days open to all Circuiteers,
4. Provision of one-off training programmes in specific areas,
5. Mentoring for all women on the Circuit under 10 years' call,
6. Encouragement to Circuit sets to support the training and development of members.

I have not touched on our pupillage training programme because your letter does not ask for those details but that programme is extensive and rigorous and involves a large number of experienced Circuiteers in its provision.

Training for those responsible for pupils

The Circuit runs a course every summer to train members of Circuit who are either about to become pupillage supervisors or who hope to do this. The course lasts for a morning and covers the regulatory requirements and also the skills of being a supervisor. It includes presentations from a clerk and a new tenant. The course calls for reflection not only on the

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Circuit Junior: Bathsheba Cassel, Walnut House, Exeter, DX 115582 Exeter

Wine Treasurer: Emma Martin, Albion Chambers, 29 Park Street, Taunton TA1 4DG, DX 7822 Bristol

Circuit Secretary: Charlotte Feest, 31 Southgate Street, Winchester SO23 9EB, DX 2514 Winchester

process of pupillage but also on how one assesses competence and skill as a practitioner, how that is taught, how best to model the way in which a practitioner works.

Similarly, the courses run to teach established practitioners how to teach advocacy to the pupils and new practitioners focus not only on learning the Hampel method of advocacy training but also on the practitioner's own skill as an advocate. In order to be able to pass on expertise in this field, the practitioner needs to unpick what they do themselves and why that is (or is not!) effective and how they have learned to deal with the demands of oral and written advocacy. The course also involves drawing together advocates with different fields of expertise so that there is a process of sharing and comparing the skills needed and an ability to learn from one another.

Training for New Practitioners

We run a full programme of NPP training on a rolling basis across a three-year period. Within each cycle, there are different programmes for civil, criminal and family practitioners although any NPP member of Circuit is free to choose to do any of the courses so that anyone can cover whatever field of knowledge is best suited to their practice.

For each of the three areas of practice, there are two courses, one of which focusses on advocacy and one of which features more legal knowledge. Those courses are all designed by senior Circuiteers and local judges. They are taught by those people and a group of trainers who have a wealth of experience to call on in guiding the NPPs.

The Circuit also has an annual ethics course for the NPPs which is run by a team of three senior practitioners. That course involves working through different scenarios, each participant being called on to give a view, robust discussion being promoted, and the course allowing space for discussion of specific questions that the participants might have.

Formal Circuit training days

Each year the Circuit runs a training day which is open to all members of Circuit. It consists of talks and workshops, some of which cover legal updates, and some of which are more practical. During our last training day, we ran sessions on the following topics;

1. Forensic science (of relevance to family and criminal practitioners),
2. Well-being,

3. Paperless working,
4. Voice production,
5. Reporting restrictions in family and criminal courts,
6. The changes to the structure of pupillage,
7. CPS procedural update.

Previous courses have covered different aspects of forensic science, electronic presentation of cases, sentencing updates, proceeds of crime act updates, good practice in dealing with vulnerable complainants, understanding the psychology of a jury, forfeiture procedure.

We also run the rape and serious sexual offences programme which all those who prosecute such cases are required to undertake on a regular basis. That course is endorsed by the CPS and draws on experts from a number of fields to provide lectures on;

1. Structure of criminal offences in this field,
2. Sentencing practice,
3. Operation of section 28,
4. CPS policy,
5. Experience of a rape complainant,
6. Investigatory process.

The Circuit has run shorter courses recently in addition to the full day courses. Those have covered such areas as well-being and making applications for appointment.

We have sought, over the last few years, to broaden the range of lectures and workshops which we provide. However, our experience is that those who specialise in fields such as personal injury, employment, or chancery work tend to find their requirements are met by their SBA and so there is insufficient demand for us on the Circuit to run specific courses tailored to their needs.

Specific training programme

When the vulnerable witness programme was developed, we provided training across the Circuit. Generally, we sought to provide the training via the larger sets on Circuit by ensuring that we trained a number of practitioners within each set as trainers. Those people were then required to provide training to their fellow members. Each session on the Circuit was attended by one of the two lead trainers to ensure that there was a consistency of standards. We also ran

two Circuit-wide training days to ensure that those in smaller sets were also engaged in the programme.

We have swiftly developed and implemented a programme across the Circuit to provide training to any who needs it on the new Cloud Video Platform that is to be used to assist with virtual Court hearings. The Circuit has responded quickly and flexibly to this new demand.

Mentoring of all women under 10 years' call

The Western Circuit Women's Forum provides mentoring to all women joining the Circuit as junior practitioners. That is done by women who are over ten years call. The success of any individual relationship obviously depends on those two engaged in it but the programme has been used by many to address specific professional challenges, to ask confidential questions about practice, and to develop thinking about practice.

The WCWF also runs a programme of talks and informal gatherings to allow women on the Circuit to better support one another, to foster good practice, and to promote healthy career development. Those are well-attended and have continued to be so while they are currently conducted via Zoom!

Encouragement of individual sets' practice

Each set, obviously, has a different way of approaching on-going professional development but the Circuit has pointed sets towards specific experts in different fields from time to time or provided material for use in different advocacy training exercises and the like.

You ask about systems for addressing poor practice. For criminal practitioners there is a system of meetings with CPS (CALC meetings) which deal with allegations of poor performance or misconduct. Beyond that, there are no formal systems on the Circuit for this. I am aware, though, that this is dealt with more often through sets of Chambers. Generally local solicitors and Judges know senior members of Chambers well and, my own experience as head of a large set in Bristol, is that there is no hesitation in informal discussion with me over the conduct of one of my members who has disappointed. That makes the need for the Circuit to become involved rather less. Obviously, should it be necessary at any stage to involve the Circuit Leader, all HoCs on Circuit are aware that that option is open to us. There is, of course, also the formal referral to the BSB where that is appropriate or necessary.

I am conscious that in setting out our training in this way, I have not matched the training to the CPD themes. I hope that that doesn't hinder your work. I've tried to explain what each type of training covers so that you have the full picture rather than referring three or four times to any one type of training as it addresses a number of the different CPD themes.

Please don't hesitate to contact me if I can clarify anything or assist further. My email address is anna.vigars@guildhallchambers.co.uk.

Best wishes,

Anna Vigars QC

Appendix 8: Bar European Group

21 May 2020

By email only

Dear Ms. Malleson,

Re: Call for evidence from the Legal Services Board: SBA input

I am writing in response to the letter from Nick Vineall QC and the request for evidence from the Legal Services Board ('LSB'). I do so in my capacity as the current Chairman of the Bar European Group.

The Bar European Group ('BEG') was founded in 1977 as a specialist bar association of the Bar of England and Wales. It is a forum for practitioners and academics to attend meetings, talks, conferences and other social events for those whose area of practice or interest is European law and issues concerning the European Union. We have a representative on the Bar Council in our capacity as a Specialist Bar Association. We are consulted by the Bar, the Ministry of Justice, the Law Commission and the House of Lords Select Committee on issues concerning European law.

BEG's membership is predominantly comprised of barristers, but also includes Judges, solicitor advocates, government lawyers, academics and students. Members either practise or share an interest in the area of European law. We hold a series of meetings throughout the year on relevant topics. In addition, BEG organises and hosts an annual Elland Lecture in memory of the late William Elland, chairman of the Group in 1992, who died during his term of office.

In 2019-20, we have held two lectures on issues concerning Brexit, which were very well attended. The first was held at the Inner Temple, the second at Freshfields. A panel of eminent speakers discussed a variety of topics concerning the European Union (Withdrawal) Act 2018 and what the future might hold after Brexit. The first session consisted in a series of presentations followed by a Question and Answer session chaired by the journalist Joshua Rosenberg. The second session saw a series of topics concerning Brexit, chaired by Mr. Justice Fordham. Both events were capable of being used for CPD purposes. They covered legal knowledge and skills, as well as some aspects of practice management, as barristers explored what role EU law and knowledge might have in the post-Brexit legal world.

The highlight of the year for many members of BEG is the annual Conference. It is now a long-established tradition that the conference takes place in another Member State of the European Union or neighbouring European country. Recent conferences have taken place in Sicily, Crete, San Sebastián and Gdansk. This year's conference was due to be held in Granada (in fact, this coming weekend). Unfortunately, but unsurprisingly, Covid 19 has obliged us to cancel the conference this year.

The format which the Conference takes is consistent each year. It takes place over two days. On the first day, we have approximately seven to eight hours of lectures, talks and panel sessions. We invite an eminent keynote speaker each year to give a longer talk at the start. In 2019, the keynote speech was given by the UK's Advocate General at the CJEU, Eleanor Sharpston. A succession of Judges, practitioners and academics then present papers covering topics of interest, selected in advance by the organising panel of the BEG Committee. I attach a copy of last year's conference programme as an example of the format. Each session is usually chaired by a Supreme Court justice, a Court of Appeal or High Court judge.

In addition, the Conference has informational sessions, where matters such as recent events in Brussels and well-being at the Bar are addressed. The Bar Council's representative from Brussels, Evanna Fruithof, has been a valuable and long-serving attendee at the annual Conference. She provides members with a very detailed run down of the latest EU initiatives which are of interest to practitioners, ranging from civil justice reforms, to mutual recognition issues, European Arrest Warrant developments and so on.

BEG events (including an annual AGM and summer party) provide an opportunity for friends and colleagues to exchange information and thoughts on recent legal developments and practice issues. We do not provide formal feedback as such, but we have been endeavouring to encourage junior members of the profession to take an active part in events. Our experience has been that junior practitioners gain valuable experience from being able to present their papers orally to an array of Judges and their peers. Informal (constructive) feedback is often given. We find this helps cement the attraction of BEG with more junior members of the Bar and ensures its ongoing sustainability. This year's conference was due to have show-cased only papers from more junior practitioners, with a focus on what future practice in EU law would involve. We are currently considering whether it will be possible to host a replacement conference in the United Kingdom once lockdown measures are lifted.

Finally, BEG also has its own magazine, the Advocate, which is published roughly twice a year. This journal contains a mixture of legal articles and shorter case summaries. It will also provide a review of the annual conference, together with book reviews of recent academic works on EU law. One of the articles in the Advocate has even been cited in an Advocate General's Opinion in Case C-213/09 Chabo (at fn 32). This is a testament to the quality of the writing in the magazine.

If I can be of any further assistance, please do let me know.

Yours sincerely,

Kieron Beal QC

The EU and the UK: Solidarity - past, present and future?

BAR EUROPEAN GROUP

ANNUAL CONFERENCE 2019
25-27 MAY 2019 – GDANSK, POLAND

SUNDAY 26 MAY 2019

9.00 - 9.20 REGISTRATION

9.20 - 9.30 WELCOME BY BEG CHAIR: Kieron Beal QC

9.30 – 10.30 KEYNOTE SPEECHES: SOLIDARITY

(1) Advocate General Eleanor Sharpston QC: “What has the EU ever done for us?”

(2) Professor Tomasz Koncewicz, University of Gdańsk/Braudel Fellow European University Institute: “Polish counter - revolution and the promise of the First Principles of the EU. Of myths, regime trajectories, boats and one journey.”

10.30 - 11.30 CLASS ACTIONS AND TELECOMS

Chair: Mr. Justice Barling

(1) Mrs. Wanda Buk, Undersecretary of State at the Polish Ministry of Digital Affairs: “5G – EU strategies and obligations for the Member States.”

(2) Daniel Lloyd, barrister, TLT Solicitors: “FAANG Wars”

(3) Professor Stanisław Piątek, University of Warsaw: “the New Electronic Code”.

(4) Dr. Kamil Szmida, Member of the Warsaw Bar Council: “Effective private enforcement of competition law and the principle of subsidiarity.”

11.30- 11.45 TEA AND COFFEE

11.45 – 12.50 DATA PROTECTION AND GDPR

Chair: Lord Justice Green

(1) Douglas, Director of Legal Affairs and International Relations,
GCHQ: “National security and data.”

(2) Timothy Pitt-Payne QC – 11 KBW: “Is the GDPR the dog that did
not bark?”

(3) Mr. Arwid Mednis – PWC Poland and Faculty of Law at Warsaw
University: “Cybersecurity and information protection.”

12.50 – 2.00 LUNCH

2.00 – 3.25 COMPETITION LAW IN THE UK AND POLAND

Chair: Sir Stephen Richards

Speakers: (1) Professor Marek Szydło, Wrocław University: “State aid –
balancing fiscal sovereignty and equal competition in the internal
market.”
(2) Fergus Randolph QC, Brick Court Chambers. “Damages Directive
update.”
(3) Derek Holt and Felix Hammeke, Alix Partners: “Quantification of
Damages.”
(4) Malgorzata Modzelewska, “Competition litigation in Poland.”
(5) Mr. Tomasz Wardyński, CBE, “Competition policy in the era of the
fourth industrial revolution.”

3.25 - 3.40 TEA AND COFFEE

3.40– 4.40 PRIVATE INTERNATIONAL LAW

Chair: Barbara Dohmann QC, Blackstone Chambers

- (1) Philip Moser QC, Monckton Chambers: “Jurisdiction issues with and without Brexit.”
- (2) Tom Richards, Blackstone Chambers: “Choice of law clauses – a source of frustration?”
- (3) Dr. hab. Agnieszka Frąckowiak, Wrocław University: “Mutual trust in the administration of justice in the EU – current challenges.”

4.40 – 4.55 pm WELLBEING AT THE BAR: Nina Caplin

4.55 – 5.00 pm THE EUROPEAN LAW INITIATIVE – Philip Moser QC

7.00 CONFERENCE DINNER (TO BE BOOKED SEPARATELY)

MONDAY 27 MAY 2019

9.30 – The view from Brussels – Evanna Fruithof

9.50-10.0 - Dr Steve Terrett, British Law Centre, Warsaw.

10.00- 11.00 FREE MOVEMENT OF PERSONS

Chair: Sir Patrick Elias

- (1) Madeleine Sumption, Director, Migration Observatory at the University of Oxford: “Ending free movement in the UK: policy dilemmas”
- (2) Evanna Fruithof, Bar Council Brussels Office: “The New Services package.”
- (3) Dr. Marcin Piechocki, LL.M, Adwokat / Attorney at law: “Free Movement of Lawyers.”

11.00 - 11.15 TEA AND COFFEE

11.15 - 12.15: INTERNATIONAL TRADE AND THE EU

Chair: Sir David Edward

(1) Professor Panos Koutrakos, City University of London and Monckton Chambers: “International investment arbitration and autonomy of EU law.”

(2) Mr. Rafal Stepnowski, Boeing, Gdansk: “International trade from a Polish perspective.”

(3) George Peretz QC, Monckton Chambers: “WTO and Brexit.”

(4) Professor Alastair Sutton, Brick Court Chambers: “Trade negotiations.”

12.15 – 1.00: BREXIT – AN UPDATE AND A PANEL DISCUSSION

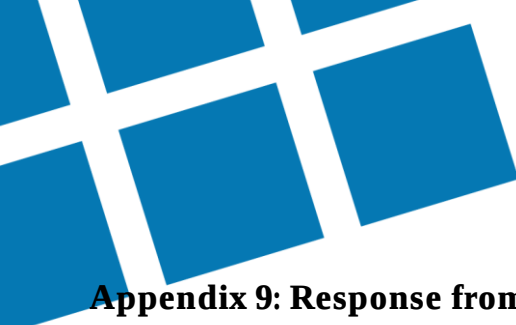
Chair: Lord Lloyd-Jones JSC

(1) Anneli Howard, Monckton Chambers

(2) Daniel Denman, UK Cabinet Office

(3) Professor Takis Tridimas, KCL, London and Matrix Chambers

1.00 -4.00 LUNCH AND THE BOAT TRIP (OPTIONAL – TO BE BOOKED SEPARATELY)



Appendix 9: Response from the Chancery Bar Association

19 May 2020

Nick Vineall QC

Dear Nick,

Re: Request for evidence for Bar Council response to LSB

I am currently responsible for responding to consultations on behalf of the ChBA. I am replying to your recent letter to Eason requesting evidence for the purpose of responding to the Legal Services Board's call for evidence on the ongoing competence of legal professionals.

We set out below the evidence we are able to provide as requested. We imagine you are likely to share many of the views we have about this call for evidence and so have set out first some general comments.

General Comments

- There is no simple 'one-size-fits-all' definition of the Bar and so no single definition of the competencies required for each barrister. The Consumer Panel definition focusses solely on delivering legal advice which, whilst an important function for many barristers, ignores the fact that the primary role for most barristers is that of advocacy. However, a definition that focussed solely on advocacy would not fit well with those many practitioners who have other roles (including employed barristers and those with solely/mainly advisory practices). In reality, the 'job' takes many different forms and we are concerned that a restricted test of competence would fail properly to recognise this.
- In addition to the above objection, a fixed definition of competence as an advocate would be impossible. There are a myriad of different styles and approaches, each of which can be equally effective, and each case presents its own particular, and often unanticipated, challenges. Competence could not be assessed by reference to how many cases a barrister won or lost, nor whether they succeeded in obtaining the approval of the tribunal they appeared before.
- It is equally misleading to consider client satisfaction, since in most (if not all cases) there is a direct relationship between success and satisfaction which bears little relationship to the advocate's skill or knowledge. The variety of cases and situations which arise in Chancery litigation (and probably litigation as a whole) make it, in our view, impossible to devise a system of inspection or observation which would be fair or workable.
- The consultation anyway starts from the misconception that the consumers of barristers' services are inexperienced and vulnerable. However, at least in the field of Chancery work, the vast majority of barristers are instructed by solicitors or other professionals who are well



able to determine their own requirements and to decide whether those they choose to instruct meet them.

- In the system that exists (and because most barristers are instructed by professionals) market forces play a very strong role in determining competence, particularly at the Chancery Bar. An incompetent Chancery barrister would quickly find it very difficult indeed to be instructed and the market also plays a strong role in the success of good barristers.
- Little weight can be given to Ipsos Mori research which indicates that British consumers have less trust in lawyers than doctors and teachers. We suspect that the word “trust” here has nothing to do with competence. We infer that the implied criticism is based on a perception, encouraged by the popular press, that lawyers charge too much and are adept at securing results which are thought to be unjust. We support any attempt to increase public confidence in the legal profession, but we do not believe that the competence of Chancery barristers (or the bar as a whole) is the real issue.

Evidence

The Chancery Bar Association provides a comprehensive programme of education and training resources, which have been available for many years and have a consistent record of high attendance by its members. The programme has evolved in step with changes to the regulatory environment and changes to the practice and procedure of the Courts.

The current programme includes:

Annual Conference

1. The ChBA Annual Conference is normally held over a Friday afternoon and Saturday morning each January using the facilities of the Royal College of Physicians near Regent’s Park. This is a substantial event with a variety of content which qualifies for 9 hours of CPD points for anyone in the NPP scheme (and so qualified for everyone, prior to the recent changes to CPD). The quality of the presentations is uniformly exceptional and the content is at an advanced level, with speakers regularly drawn from the senior judiciary, leading academics and members of the association with particular expertise in specialist areas. By way of example, over the last 4 years (2017 – 2020) the conference has included the following:
 - 1.1. Lectures lasting 40 mins or so on current legal topics from judges or academics:
 - 1.1.1. Mrs Justice Rose on procedural evolution in Chancery business (2017).
 - 1.1.2. Mr Justice Morgan on privacy for hearings in the Chancery Division (2017).
 - 1.1.3. Professor Sarah Worthington QC on Equitable Property (2018).
 - 1.1.4. Mr Justice Marcus Smith on history and progress in legal development (2018).
 - 1.1.5. Lord Justice Lewison on the veil of incorporation (2018).



- 1.1.6. Mr Justice Zacaroli on the trial process in the Business and Property Courts (2019).
- 1.1.7. Professor Birke Hacker on substance over form (2019).
- 1.1.8. Mrs Justice Falk on statutory interpretation (2020).
- 1.1.9. Dr Louise Merrett on Private International Law post-Brexit (2020).
- 1.2. Interviews with leading members of the judiciary:
 - 1.2.1. Sir Geoffrey Vos, Chancellor of the High Court (2017).
 - 1.2.2. Lord Neuberger, former President of the Supreme Court (2018).
 - 1.2.3. Lady Black, member of the Supreme Court (2019).
- 1.3. Short talks or longer panel sessions (with a number of speakers) on a range of topics connected with practical aspects of conducting cases, practice management, wellbeing or diversity:
 - 1.3.1. The role of private investigators (2017).
 - 1.3.2. Understanding stress and managing wellbeing (2017 and 2018).
 - 1.3.3. Ethics (2017).
 - 1.3.4. CPD changes (2017).
 - 1.3.5. What barristers need to know about IT (2018).
 - 1.3.6. Cross-examination and questioning (2019).
 - 1.3.7. Social Mobility (2019 and 2020).
 - 1.3.8. Mediation (2019).
 - 1.3.9. Appellate Advocacy (2020).
 - 1.3.10. Networking (2020).
 - 1.3.11. Yoga at your desk (2020).
 - 1.3.12. The Disclosure Pilot Scheme (2020).
 - 1.3.13. Data Protection (2020).
- 1.4. A choice of interactive 2-hour workshops on each of the two days. Members can usually choose one of four workshops on each day, depending on which topics are most relevant or interesting to them. These sessions involve discussion of a case study or problem in groups of around 10 members, who then make contributions to a plenary session involving a larger group of attendees. It would take too long to list all the topics covered, but the broad areas of law covered over the last 4 years include (in alphabetical order):
 - 1.4.1. Advocacy (in relation to which the ICCA provided the trainers and the materials).

- 
- 1.4.2. Civil Fraud.
 - 1.4.3. Company.
 - 1.4.4. Contentious Probate.
 - 1.4.5. Court of Protection.
 - 1.4.6. Disclosure.
 - 1.4.7. Insolvency.
 - 1.4.8. Intellectual Property.
 - 1.4.9. Interim Remedies.
 - 1.4.10. Landlord & Tenant.
 - 1.4.11. LLPs.
 - 1.4.12. Pensions.
 - 1.4.13. Professional Liability.
 - 1.4.14. Proprietary Estoppel.
 - 1.4.15. Real Property.
 - 1.4.16. Tax.
 - 1.4.17. Trusts.

- 2. Attendance at the Annual Conferences has been as follows: 210 in 2017; 249 in 2018; 247 in 2019 and 242 in 2020.
- 3. Every year attendees are invited to provide feedback and a significant number of members do so. This feedback is reviewed carefully when planning the next year's conference so that it continues to address issues of most relevance and concern to members.

Summer Conference

- 4. In addition to the main winter conference, each year since 2014 there has also been a shorter summer conference, primarily aimed at more junior members of the association (but open to all members).
- 5. Over the last 4 years (2016 – 2019) the summer conference has included the following:
 - 5.1. Lectures on:
 - 5.1.1. Res judicata, issue estoppel and *Henderson v Henderson* (2016).
 - 5.1.2. Is unjust enrichment a satisfactory legal concept? (2016).
 - 5.1.3. Arbitration and assistance from the Courts (2017).
 - 5.1.4. Gains based remedies (2017).
 - 5.1.5. Effective cross-examination (2018).



- 5.1.6. Proprietary Estoppel (2018).
- 5.1.7. Social Responsibility (2018).
- 5.1.8. Equity and Trusts in the 21st Century (2019).
- 5.1.9. The science of wellbeing (2019).
- 5.1.10. Anonymity in the Chancery Division (2019).
- 5.2. Addresses by members of the senior judiciary including:
 - 5.2.1. Mr Justice Mostyn (2016).
 - 5.2.2. Lady Justice Gloster (2017).
 - 5.2.3. Mr Justice Fancourt (2018).
 - 5.2.4. Lady Justice Asplin (2019).
- 5.3. Workshops on:
 - 5.3.1. Proprietary Estoppel (2016).
 - 5.3.2. Fraud claims in insolvency proceedings (2016).
 - 5.3.3. Unfair prejudice petitions (2017).
 - 5.3.4. Legal professional and mediation privilege (2017).
 - 5.3.5. Ethics (2018).
 - 5.3.6. Busting trusts and lifting veils (2018).
 - 5.3.7. Antecedent transactions in corporate insolvency (2019).
 - 5.3.8. Representing those who cannot represent themselves (2019).
- 6. Attendance at the Summer Conferences has been as follows: 122 in 2016; 82 in 2017; 108 in 2018 and 82 in 2019.

Annual Lecture

- 7. Each year, usually in April or May, the ChBA invites a member of the senior judiciary to speak on a current legal topic of their choosing. Recent examples include:
 - 7.1. Lord Justice Briggs on Equity's Darling reigns Supreme (2017).
 - 7.2. Sir Geoffrey Vos C on Preserving the Integrity of the Common Law (2018).
 - 7.3. Lord Sales on Fraud on a Power (2019).
- 8. The attendance each year is around 150 to 220 members.

Seminar Programme

- 
9. The ChBA provides a series of around 7 or 8 seminars every year, normally once a month except during the court vacations in August/September or in months where there is an annual conference (January), summer conference (June) or annual lecture (April). Each seminar takes place at 5.30pm for an hour and a half on a weekday evening and is usually chaired by a High Court judge from the Chancery Division or Commercial Court with three speakers drawn from the profession or academia with particular experience in the relevant area.
 10. The titles of the seminars in the last 2 calendar years were:
 - 10.1. Partnership (Feb 2018).
 - 10.2. Contractual Discretions (Mar 2018).
 - 10.3. Restitution (May 2018).
 - 10.4. Real Property (July 2018).
 - 10.5. Developments in the law of limitation (Oct 2018).
 - 10.6. Financial Services and Fraud (Nov 2018).
 - 10.7. Corporate Misfeasance & Directors' Duties (Nov 2018).
 - 10.8. What has Pensions Law ever done for us? (Feb 2019).
 - 10.9. Developments in Real Property (Mar 2019).
 - 10.10. Trusts – some lessons from the offshore jurisdictions (May 2019).
 - 10.11. Privilege (July 2019).
 - 10.12. Receivership (Oct 2019).
 - 10.13. Landlord & Tenant (Nov 2019).
 - 10.14. Forgery & Shams (Dec 2019).
 11. Roughly 50 members attend each seminar.

New Practitioners Programme

12. The ChBA holds a number of seminars each year providing introductions to Chancery topics targeted specifically at junior members on the NPP. In the last 2 years these included:
 - 12.1. Costs Budgeting / Summary Assessments (Mar 2018).
 - 12.2. CLIPS (May 2018).
 - 12.3. Winding Up Petitions (Jun 2018).
 - 12.4. Possession Actions (Nov 2018).
 - 12.5. Disclosure (Mar 2019).
 - 12.6. Mortgagees Remedies (May 2019).

- 
- 12.7. Wills (Oct 2019).
 - 12.8. Court of Protection (Nov 2019).

Junior Chancery Bar

- 13. The ChBA has a sub-committee which represents the interests of junior members (defined as members of the ChBA of 10 years' call or less). This sub-committee organises seminars and workshops that are intended to cover areas of particular interest for junior members, with an emphasis on practical skills rather than 'black-letter' legal topics. These sessions are usually led by a mix of more established practitioners, and in some cases members of the judiciary, and junior practitioners.
- 14. In the last 2 years these included:
 - 14.1. Practice and Business Development.
 - 14.2. International Travel Grants.
 - 14.3. Collaborative Working.
 - 14.4. Developing an International Practice.
 - 14.5. Advocacy in the Applications Court.
- 15. In general, between 15 and 30 members attend each seminar or workshop.

International Events

- 16. The ChBA normally organises two international conferences each year. Although, inevitably, the number of members attending these events is less than for events in London, those whose practice requires knowledge of law and practice in offshore jurisdictions are regular attendees. Speakers and workshop leaders are all sourced from the membership. In the last 3 years the ChBA has held the following conferences:
 - 16.1. Hong Kong in May 2017.
 - 16.2. Gibraltar in October 2017.
 - 16.3. Shanghai in May 2018.
 - 16.4. Isle of Man in November 2018.
 - 16.5. Bermuda in May 2019.
 - 16.6. Jersey in November 2019.

Website / Newsletter

- 17. The ChBA has a Website which is regularly kept up to date (www.chba.org.uk). The News section of the site keeps members informed about a wide variety of issues, including issues related to competence such as changes to legislation or Court rules, the publication of



updated guidance by professional bodies such as the BSB, consultations concerning proposed legislative or regulatory change and so on. There is also a weekly newsletter sent by email to all members which notes such issues and provides links to more detailed information.

18. The Website includes an extensive members' section (only accessible by members) which contains downloadable copies of many of the papers and speeches delivered at the events referred to above, so that members can refresh their memory or, if unable to attend, can nevertheless keep themselves informed. Some of the seminars are recorded on video and members are able to download these free of charge.
19. The members' section of the Website also has links to professional guidance, either published by the ChBA itself or by other bodies such as the BSB. This has been particularly important during the recent Covid-19 lockdown, when all guidance concerning hearings and the conduct of cases has been collected together to assist members.
20. Guidance is also available on the Website in relation to other matters broadly relevant to competency, such as conditional fee agreements, wellbeing, mentoring and so on.

Covid-19

21. The current lockdown imposed following the Covid-19 pandemic disrupted the ChBA's normal schedule of conferences and seminars, leading to the postponement or cancellation of most. However, the Chancery Bar Association responded quickly to provide members with ongoing assistance through online seminars. Seminars provided so far include:
 - 21.1. Remote hearing and working seminar.
 - 21.2. Paperless working seminar.
 - 21.3. Interim applications and injunctions.
 - 21.4. Virtual Mediations.
22. Each of these talks was very well attended, with at least 60 participants and the recorded videos have each been watched many hundreds of times. For example, 647 members have viewed the remote hearings seminar and 247 the paperless working seminar.

I hope this information is useful in the preparation of your response. If anything is unclear, or you have any further questions, please do not hesitate to contact me.

Would it be possible, please, to see a draft of your response before it is sent?

Yours sincerely,

Andrew Twigger QC

Chair of ChBA Consultation Subcommittee

Appendix 10: Response from the Commercial Bar Association

Our education programme is longstanding and well established. It consists of a rolling programme of monthly lectures within the legal terms, which are given by a mixture of judges, practitioners and academics. We are able to attract speakers of the highest calibre. Most of our lectures focus on legal and procedural issues of topical interest: i.e. legal knowledge. However, some deal with professional skills like advocacy. We also hold events on career development: how to apply to become a QC or a judge, for example, or how to be appointed to the treasury panel. I attach below a list of lectures for 2018-2019.

As a result of the coronavirus lockdown, our lectures are currently remote via Zoom.

We also have a Junior COMBAR programme which is more ad hoc and tends to focus on legal skills and practice management of particular interest to those in the early stages of their careers. For example: well being; specific advocacy skills (e.g. cross examining experts); building a practice.

Please do not hesitate to contact me if I can give you any more information.

Kind regards
James

Professional Education Lectures 2018-2019

2018

23 January

Legal Professional Privilege: Recent Cases

Rosalind Phelps QC, Nik Yeo, Tamara Oppenheimer, Rebecca Loveridge

27 February

Disclosure reforms

Lady Justice Gloster, Mr Justice Knowles, Chief Master Marsh and Ed Crosse

20 March

Repudiatory Breach and Damages for 'Loss of Bargain'?

Professor Edwin Peel

24 April 2018

Contractual Interpretation – Recent cases

Alan Maclean QC and Andrew Scott

15 May 2018

Shareholder Actions and Group Claims: Some Legal Issues

Helen Davies QC

12 June

Negotiating Damages

Adam Kramer and Professor Edwin Peel

16 October [Annual Lecture]

Commercial Cases in the Supreme Court: Another round in the Case of Certainty & Principle v Fairness & Flexibility

The Rt Hon Lord Neuberger of Abbotsbury

6 November

Ten years on, what have we learned from Lehman Brothers?
Professor Sarah Worthington

11 December

Commercial Negligence: Recent Developments
Simon Salzedo QC

2019

22 January

The COMBAR Judicial Assistant Scheme: Experiences of the JAs
Sam Rabinowitz, Owen Lloyd, Lia Moses and Alyssa Stansbury

12 February

How far can you go? The limits of contractual estoppel
Sir Kim Lewison

26 March

The Attorney General's Panel of Civil Counsel and the Current Panel Competition
Simon Harker, Government Legal Department

30 April

Commercial Arbitration against State Entities
Dame Elizabeth Gloster DBE, Alexander Gunning QC, Christopher Harris QC and Charlotte Tan

21 May

Order discharged: avoiding embarrassment at the inter parties hearing (letters of request, freezing injunctions and others
Mrs Justice Cockerill

18 June

Update on developments in contract law
Professor Edwin Peel

16 July

Is the Trial process in the Business and Property Courts fit for purpose in the 21st Century?
Mr Justice Zacaroli

15 October

Rectifying Rectification FSHC Group Holdings v Glas Trust [2019] EWCA Civ 1361
Rosalind Phelps QC and Professor Paul Davies

12 November [Annual Lecture]

Future proofing for commercial lawyers in an unpredictable world
Sir Geoffrey Vos

10 December

Third party costs orders: Travelers Insurance Co v XYZ [2019] UKSC 48

Colin Edelman QC and Jamie Carpentry

Appendix 11: Response from the Criminal Bar Association



Chair: **Caroline Goodwin QC**
Trinity Chambers, The Custom House,
Quayside, Newcastle upon Tyne NE1 3DE
M: 07714 754732
E: c.goodwinqc@trinitychambers.co.uk

22nd May 2020

Dear Rose,

Re: Request for evidence for Bar Council response to LSB

My apologies for the delay, we have been somewhat busy elsewhere.

In response to the LSB's call for evidence on the ongoing competence of legal professionals.

The Criminal Bar Association (CBA) has a long history of providing education and professional development to its members.

We provide a professional structured programme each year, providing practical training in relation to all areas of Criminal law.

Our educational programme is tailored for all call levels, including Queen's Counsel.

Feedback forms are provided at each event.

Our key events over the course of the past 12 months, Include:

LEGAL KNOWLEDGE AND SKILLS:

Lectures:

1. The Young Bar and Essential Magistrates Court Law Seminar
2. Women in Criminal Law
3. Neuroscience and the Law
4. Women as Leaders – 100 Years (Ann Goddard Memorial Lecture)
5. Female Retention at the Criminal Bar
6. Disclosure

Conferences:

Winter Conference 2019 – Annual update which included:

- Updates in Crime
- (Mobile) Electronic Evidence: Some Difficulties for the Law
- Mobile Telephones / Technological advances
- Sentencing
- Hate Crime

Spring Conference 2019 – Organised Crime which included

- Using Domestic Law to Target Gangs
- Using Domestic Law to Target Gangs
- Evidence: Admission of Gang Association Evidence
- Cyber Crime
- Drug Trafficking and Organised Crime
- International Evidence Gathering
- Illegal Firearms
- Child Sexual Exploitation
- Money Laundering

Rape and Serious Sexual Offences:

Every 3 years the CBA hosts a full day fully CPS accredited course for its members applying to the CPS RASSO list. Our next was scheduled for May 2020 which has now been moved to Winter 2020.

In light of COVID and following talks with the CPS – the deadline for those who wish to extend their inclusion on the RASSO list has been extended until March 2021. We will carefully monitor the situation over the summer months and may switch or additionally offer an online course for the current year.

We have a rolling programme of 6 Lectures per year and two large conferences (Spring / Winter).

In addition, we host a full panel at the Annual Bar Conference.

ADVOCACY AND PRACTICE MANAGMENT

Professional Updates:

A number of courses have taken place providing members who attend with up to date guidance and information on changes in the law and working practice as and when required.

We offer scholarships to a number of members to attend Domestic and International of Advocacy Training Courses.

Whilst our social engagements (see below) are currently on hold, our learning does continue but has been pushed back two/three months as we get to grips with the new way of working.

Training taking place over the next six months, including the lecture series starting in September include the following, with topics being agreed this August:

- The Kalisher Lecture
- October Lecture

- The Annual Ann Goddard Memorial Lecture
- December Lecture
- February Lecture

WORKING WITH CLIENTS AND OTHERS

Bullying and Harassment: Working with the Circuits and Bar Council to highlight this growing problem with the implantation of a 'reporting tool' was implemented.

Wellbeing: The CBA in conjunction with the South East Circuit held and continues to hold numerous seminars on this important subject. Topics, to date, include:

- Parenting Tips for Busy Working Parents
- Smashing Stigma & Promoting Mental Health in the Workplace to Help the Bar
- The Annual Wellness Forum for which the circuit are involved with the planning
- Maximising our potential without compromising our wellbeing
- Talks from the Judiciary privately discussing possible Wellbeing hurdles as members progress up the ranks.
- Vicarious Trauma
- Kindness and Compassion at the Bar
- Coping with Isolation (COVID)
- Social Distancing (COVID)

In addition, the Criminal Bar Association is considered lead counsel in speaking with government to address concerns of the membership.

ETHICS PROFESSIONALISM AND JUDGEMENT

The Annual Ann Goddard Memorial Lecture: this occurs each November and focusing on Professionalism.

Social Mobility:

Full programme on the website – we speak at a number of schools, courts and colleges each year and hold a panel for the annual Pupillage Fair managed by the Bar Council.

Scholarships:

Each year, the Criminal Bar Association offer 5 full scholarships to Junior members to attend the Annual South East Circuit Advanced Advocacy Course.

The Criminal Bar Association raises fund each year to be awarded to those members who apply to the CBA Advocacy Bursary Competition.

Socials:

- The CBA Executive meet once a month (under usual circumstances) which is followed by a small drink's reception. We are known for hosting a number of social events in any one year, these include:

- The Annual Summer Party designed specifically for Junior members and the Judiciary.
- An Annual Winter Dinner for Junior practitioners to meet the more senior.

The executive honour the work from the Chair and Secretary by hosting an informal dinner (open to members) following their term, together with retirement dinners for Judicial members at the Central Criminal Court.

This work could not be achieved with the help and dedication of Criminal Judges, Members, the Executive, Chair, Officers and of course the CBA Administrator

GOOD PRACTICE

A number of Chambers around the country are pivotal in their particular region in terms of training, they include:

- Garden Court Chambers
- 18 Red Lion Court
- Carmelite Chambers
- Exchange Chambers
- Trinity Chambers
- Deans Court Chambers
- Albion Chambers

I trust this is acceptable, should further information, please contact the CBA Administrator.

Yours,

Caroline

Caroline Goodwin QC
Chair

Appendix 12: Response from the Employment Law Bar Association

EMPLOYMENT LAW BAR ASSOCIATION RESPONSE TO LSB

INTRODUCTION

1. I write in response to the LSB's request for information about the continuing professional development activities offered by the Employment Law Bar Association (ELBA).
2. ELBA provides members with opportunities for continuing professional development, through speaker meetings and now webinars. They are open to all ELBA members and pupils.

SUMMARY

3. I have set out below lists of (a) the speaker meetings held since I have been Chair; (b) webinars held recently; and (c) forthcoming webinars.
4. Most of our speaker meetings/webinars are for the development of legal knowledge and skills.
5. We also hold practical sessions about career development (for example 7b and 7e below) and on advocacy (for example 8e and 9c below).
6. We have recently held a series of webinars specifically addressing digital working and the impact of the Covid-19 pandemic on the employment tribunals and the Employment Appeal Tribunal (8a, 8b, 8d, 8g below) and will continue to do so (for example 9d and 9e below).

SPEAKER MEETINGS

7. Our speaker meeting programme, since I have been Chair, is as follows:

- a. 17 September 2019 Restrictive Covenants and Severance
James Laddie QC, Daniel Oudkerk QC,

Adam Solomon QC, Amy Rogers

- b. 8 October 2019 Women and the Directories
Chambers UK
- c. 15 October 2019 Expert Evidence
Carol Davis
- d. 20 November 2019 Equality: do we really believe in it?
President of the Supreme Court, Lady Hale
- e. 2 December 2019 Applying for Silk and Judicial Appointments
Lady Justice Simler, Alexandra Marks, Russell Wallman
- f. 14 January 2020 Covert Recordings
Kate Gallafent QC

RECENT WEBINARS

8. We have held the following webinars during the past few months:

- a. 7 April 2020 Digital Working
Benjamin Gray
- b. 9 and 14 April 2020 Employment Tribunal hearings during
the Covid-19 pandemic
*President of the Employment Tribunals (England & Wales),
Judge Doyle*
- c. 29 April 2020 Trade Secrets and Confidential Information
Jane McCafferty QC

- d. 6 May 2020
(jointly with ELA) Interview with the President of the Employment Appeal Tribunal
President of the Employment Appeal Tribunal, Mr Justice Choudhury
- e. 19 May 2020 How to win in the EAT: a Judge's view
Mrs Justice Eady
- f. 27 May 2020 Whistleblowing after Osipov and Jhuti
Schona Jolly QC
- g. 16 June 2020 Meet the new President of the Employment Tribunals (England & Wales),
Judge Barry Clarke

FORTHCOMING WEBINARS

9. We are due to hold the following webinars over the next few months:

- a. 24 June 2020 Black Lives Matter
Elaine Banton & Jane Russell
- b. 1 July 2020 Belief and Religious Discrimination
Tariq Sadiq
- c. 10 July 2020 Advocacy Training Half-Day
Anesta Weekes QC, Andrew Hochhauser QC, Benjamin Gray
- d. 16 July 2020 Cloud Video Platform (CVP) Familiarisation
Regional Employment Judge Rohan Pirani & Tom Croxford QC

e. 28 July 2020

Update and Q&A with President of the Employment
Tribunals (England & Wales)
Judge Barry Clarke

WELLBEING

10. We have previously held panel discussions (in 2017 and 2018) on the important subject of Wellbeing, with a judge, barrister, clerk and solicitor sharing their insights from their different perspectives.
11. We intend to hold further Wellbeing sessions for our members. We think this is particularly important in light of the current crisis.

CONCLUSION

12. I hope this information is helpful. Please let me know if you would like any additional information.

DIYA SEN GUPTA QC
CHAIR, ELBA
24.6.20

Appendix 13: Response from the Family Law Bar Association

We do the following to support the Family Bar and all but Family Affairs updates

Autumn lecture series each year 6-8 weekly seminars at LSE 1.5 hours of law updates in including in children money international

Updates on law and practice 3x pa in Family Affairs

A Weekend of Family Law Lectures both at Cumberland Lodge and Conference

Advocacy and vulnerable training programme planned for 2021

Appendix 14: Response from the Personal Injuries Bar Association



PERSONAL INJURIES BAR ASSOCIATION

Honorary President:
Honorary Vice Presidents:

The Right Honourable Lord Justice Irwin
The Rt Hon Dame Janet Smith, DBE
The Hon Sir Brian Langstaff
The Hon Mr Justice Edis
The Hon Mrs Justice Yip

Chair:	Steven Snowden QC, 12 King's Bench Walk, DX 1037 London Chancery Lane	snowden@12kbw.co.uk
Vice-chair:	Sarah Crowther QC, Outer Temple Chambers, DX 351 London Chancery Lane	Sarah.CrowtherQC@outertemple.com
Secretary:	Richard Wilkinson, Temple Garden Chambers, DX 382 London Chancery Lane	richardwilkinson@tgchambers.com
Treasurer:	Nigel Spencer Ley, Farrar's Building, DX 406 London Chancery Lane	nsley@farrarsbuilding.co.uk

Rose Malleson
Policy Analyst: Education, Diversity & Inclusion, and CSR
The Bar Council of England and Wales

24 June 2020

Dear Rose,

Please find attached at Appendix 1 PIBA's seminars, webinars, lectures and conferences from 2017 to 2020.

In summary:-

2017 - 5 seminars, 1 annual lecture (Lord Sumption), 3 conferences (Oxford, London & Northern);

2018 - 6 seminars, 1 annual lecture (Irwin LJ), 3 conferences (Oxford, London & Northern);

2019 - 6 seminars, 1 annual lecture (Turner J), 2 conferences (Oxford & Northern);

2020 - 1 seminar, 14 webinars (to 2.7.20) (the annual conference at Oxford was cancelled due to Covid-19).

PIBA provides a forum for discussion on matters of common concern and interest to its members; to ascertain and represent the views of members on matters affecting their professional interests; and to further the study, understanding and development of the law relating to personal injuries.

Yours sincerely

John Meredith-Hardy

(Executive Committee Personal Injury Bar Association)

APPENDIX 1

2017	London Seminars
01/02/17	Back Injury Claims
01/03/17	It's All Counsel's fault (key problem areas and how to manage your practice to avoid them)
02/05/17	Quantum Key Principles
13/06/17	Understanding Brain Injuries
08/11/17	Duty of Care in Sport
	Annual Lecture
16/11/17	Lord Sumption: Abolishing Personal Injuries Law - A project
	Annual Conference
1/2 April 2017	Contributory Negligence: the case for guideline discounts View from the bench from Langstaff J Amputation - differing perspectives Number crunching: getting Ogden by the throat (for juniors) Current Costs Issues: Budgets, Assessments and Assignments Low exposure asbestos claims from the claimant's and defendant's perspectives Musculoskeletal Pain: Is it all in the head? Written and oral advocacy before the District Judge (for Juniors) Medicolegal aspects of Pain Medicine Psychiatrist v Psychologist - who needs them anyway? (for juniors) Fraud: the lie of the law - from Anti-surveillance to Zurich v Hayward (for seniors) Advanced RTA fraud: advocacy, deceit and experts (for juniors) Expert Evidence and how to survive it! - A junior's Guide Rehabilitation after Traumatic Brain Injuries Causation: Material Contribution - Where are we now? Wellbeing at the Bar Working with clients Liability update Quantum update Procedural Q&A including a look at experiences with the discount rate
18/11/17	London Winter Conference Autonomous Vehicles Technology, Testing & Regulation Personal Injury after Brexit Data Protection IT issues and Solutions Accommodation and Adaptations
18/11/17	Northern Conference Illegality in Personal Injury Claims: A New Test? Making Sense of Psychiatric Evidence Vicarious Liability and Non-Delegable Duties post <i>Woodland</i> and <i>Armes</i> Contempt and Surveillance Accident Reconstruction Expert Evidence

2018	London Seminars
18/01/18	London Hoist by their own petard - recent developments in the law relating to illegality etc.
07/03/18	Overseas Claims
31/05/18	GDPR
28/06/18	Pension Loss Calculations
03/07/18	Ethical dilemmas for PI practitioners
19/11/18	Serious Injury Work
15/11/18	Annual Lecture Irwin LJ Can compensation bring satisfaction?
24/25 March 2018	Annual Conference HHJ Lucraft QC (Chief Coroner) Ethical Issues in Practice Occupational Asthma & HAVS Different forms of ADR: Mediation, ENE and arbitration Accommodation claims Limits of scanning & what to ask from a radiologist PI into clinical negligence Treatment modalities for CRPS Lower limb pathology Acquired brain injuries pension loss for juniors Support that brain injured children need View from the Bench for juniors PPOs v Lump Sums PPOs for beginners Introduction to future loss claims Vicarious Liability Motor insurance update Costs update Financial Management Liability Update Quantum Update
17/11/18	London Winter Conference Ethical issues in practice Advocacy before the Coroner Data Protection. IT issues and Solutions
10/11/18	Northern Conference Ogden Tables and Loss of Earnings Discount Rate Update Motor Insurance Update Handling Foreign Claims Limb Reconstruction after Severe Lower Limb Injuries ICYMI: Civil Procedure Update

2019

London Seminars

17/01/19 Quantum Schedules
02/05/19 Disease Claims
15/05/19 Developments in Causation
23/05/19 Costs
12/06/19 Electric cars, bikes and the future
17/09/19 Pension loss claims

10/10/19

Annual Lecture

Compensating Criminals. The Decline and Fall of the Defence of Illegality
Mr Justice Turner

23/24 March 2019

Annual Conference

Baroness Hale - Opening Address
BMIF talk
Interpreting the various neuropsychology tests
Shoulders
Court of Protection
Animals Act claims
Wheelchair treatment & equipment - seating needs
Introduction to fatal accident claims
Sex and fertility after spinal cord injury
Brexit/travel
Committals and contempt
Enterprise Act
Costs
wellbeing at the Bar
Special Educational Needs - a practical guide for PI Practitioners
Ethical issues in practice
Law surrounding driverless vehicles
Liability update
Quantum update

09/11/19

Northern Conference

Clinical Negligence for Personal Injury Practitioners
Brain Injury Rehabilitation
Life expectancy in Personal Injury Claims; The use of Medico Legal Expert Evidence
Postal Combat: Problems with the Low-Value Protocols and Beyond
Vicarious Liability

2020

02/03/20

London Seminar

Amputation Claims and Prosthetics

Webinars

01/04/20

Wellbeing in the time of COVID-19

08/04/20

Back and Neck Injury Claims for Juniors

15/04/20

Portal Combat: Problems with the Low Value Protocols and Beyond

07/05/20

Quantum Update

30/04/20

Mainstream Technology: The benefits to people who have disabilities

06/05/20

View from the Bench

13/05/20

Experts: from instruction to cross examination

09/04/20

Paperless Working

20/05/20

Fundamental Dishonesty

27/05/20

Learning to love Ogden: a Workshop

03/06/20

Provisional Damages

17/06/20

Remote Negotiations and Hearings - Developments and Tips

02/07/20

Liability Update

Appendix 15: Response from the Professional Negligence Bar Association

Clodagh Bradley QC,
Chair of the Professional
Negligence Bar Association,
1 Crown Office Row
Temple
London EC4Y 7HH
clodagh.bradley@1cor.com

Nicholas Vineall QC
c/o Rose Malleson
Chair Education and Training Committee
The Bar Council
289-293 High Holborn
London WC1V 7HZ

By email to: RMalleson@BarCouncil.org.uk

26 May 2020

Dear Nicholas

Request for evidence for Bar Council response to LSB

I hope that this letter finds you and yours well in these challenging times.

I am writing in response to your letter with your email of 6 May 2020, in my capacity as Chair of the Professional Negligence Bar Association in order to provide you with some information about our provision of continuing professional development to our members and beyond in order to promote and ensure the ongoing competence of the Bar.

We are very fortunate as an SBA as we are extremely well supported by many eminent members of the Bar, the judiciary and academics who give up their time to further the

education of others. The format of most seminars includes ample opportunity for discussion and debate either during or after the presentations and most of our events are followed by an informal session with refreshments.

You have indicated that you would like to know more about the kinds of activities which we provide which address the following CPD competencies or skills:

1. legal knowledge and skills;
2. advocacy;
3. practice management;
4. working with clients and others; and
5. ethics, professionalism and judgement

To give you a flavour of our endeavours, below is a list of our continuing professional development activities since September 2019, together with the number of hours of CPD which they entail and in square brackets the above-enumerated competencies or skills which they address:

1. Sept 2019 Conference *Annual Clinical Negligence Weekend* – 9+ hrs CPD [1, 2, 3, 4, 5]: this is an annual residential conference at which a range of eminent speakers from medical and legal backgrounds speak about a wide range of topics.
2. Oct 2019 Conference *Professional Liability Day* – 4.5hrs CPD [1, 2, 3, 4, 5]: this day of CPD focuses of professional negligence other than medical negligence, for example lawyers, accountants, surveyors etc.
3. Nov 2019 Seminar *“Lawyers and Funders Costs Liabilities”* Seminar - 1.5hrs CPD [1, 3, 5] - this seminar was chaired by Mr Justice Snowden and the speakers were Paul Mitchell QC, Thomas Grant QC and Andrew McLeod.
4. Dec 2019 AGM + *“Mastering advocacy: the judicial perspective”* – [1, 2, 3, 4, 5] – 1 hr CPD: this seminar was exceptionally well-attended as the panel was made up of so many eminent judges, namely Lady Justice Nicola Davies, Mr Justice Soole, Mrs Justice Yip, Mr Justice Martin Spencer and Mr Justice Waksman, each offering their insights into what we as advocates do right and wrong including:

- Written submissions: some dos and don'ts
 - Oral advocacy: what works and what does not?
 - Witness handling: what the judges need
 - Bundles: what judges like to see and don't
 - Expert evidence: pitching your presentation right
 - Interventions: when they help and when they don't
 - Overzealous opponents: management strategies from the judicial perspective.
5. March 2020 *"Dealing with Expert Evidence: A Two-Part Masterclass for the Junior Bar"* – unfortunately this event was postponed due to COVID-19. 2x 1 hr CPD [1, 2, 3, 4, 5]. We are hoping to re-schedule this two-part series of seminars, using video conferencing facilities in the near future. It is particularly aimed at the Junior Bar.
6. April 2020 Seminar *"Professional Duties of Confidentiality"* – postponed due to COVID-19 – [1, 2, 4, 5]. We are hoping to re-schedule this event using video conferencing facilities in the near future once we have consulted the speakers who had agreed to give the seminar: Hugh Tomlinson QC, Philip Havers QC and Tom Grant QC. The speakers are each eminent practitioners in the field of professional negligence and Hugh Tomlinson has also published a number of leading legal textbooks.
7. April 2020 - Peter Taylor Memorial Address by The Honourable Chief Justice Ma, Chief Justice of the Court of Final Appeal in Hong Kong - postponed due to COVID 19 - [1, 2, 5] - rescheduled for November 2020.
8. 27 April 2020 - livestreamed online Seminar *"The Supreme Court on Tort: Intention, Independent Contractors and Illegality"* – 1 hr CPD [1, 4, 5] - we had 161 participants in this seminar present by both an academic and practitioners in the field. The speakers were: James Lee, Reader in English Law, The Dickson Poon School of Law, King's College London; and Associate Academic Fellow of the Inner Temple; Claire Watson- Junior counsel to the respondent in *Whittington v XX* and Paul Mitchell QC- A member of the PNBA executive committee.

9. Further events planned for this year include:

- a. Summer 2020 - date TBC - *“Dealing with Expert Evidence: A Two-Part Masterclass for the Junior Bar”* (see above).
- b. Summer 2020 - date TBC - *“Professional Duties of Confidentiality”* (see above).
- c. Sept 2020 – *Annual Clinical Negligence Weekend* -9+hrs CPD [1, 2, 3, 4, 5]
- d. Oct 2020 – *Professional Liability Day* – TBC - 5.5 hrs CPD
- e. 11 Nov 2020 – *Peter Taylor Memorial Address* – by The Honourable Chief Justice Ma, Chief Justice of the Court of Final Appeal in Hong Kong - 1.5 hrs CPD [1, 2, 5]
- f. Dec 2020 – AGM with seminar to follow - topic and speakers TBC

We encourage our members to provide us with feedback so that we can tailor future events to their needs and ensure that we are addressing the sorts of issues which will assist them most in their careers. We also seek to ensure that our Executive Committee’s membership includes a spread of practitioners in the various areas of professional negligence and also a range of seniority so that we can meet the needs of our most junior members as well as those who have entered the most senior ranks of the profession and beyond. We are proud of the close connections we have nurtured and maintained with the judiciary who continue to provide us with invaluable support in our various seminars and lectures. We have also co-opted a member to our Executive Committee from Manchester to try to ensure that the views of those outside of London are represented. We have a close eye on diversity issues as we feel that by promoting diversity we will promote the profession as a whole. This is a message which we regularly convey in our seminars, and it was particularly evident in the series of lectures presented at the clinical negligence weekend in September 2019.

The PNBA’s seminar and lecture notes are available online to our members and their pupils free of charge via our website at www.pnba.co.uk and many of our speakers produce handouts to accompany their presentations which provide useful resources for our members to go back to at a later date.

Since COVID-19 we have produced an excellent live-streamed online seminar on 27 April 2020 and we aim to provide more in the near future so that our members' continuing professional development can continue to progress despite the restrictions on in-person socialisation.

With best wishes,

Clodagh Bradley QC

Chair of the Professional Negligence Bar Association

Appendix 16: Response from Property Bar Association

The PBA has 442 members (all practising barristers or mediators who were formerly barristers) and 17 academic members (all highly regarded academics with a specialism in property law). Our academic members provide an important bridge between practice and academia, and play a significant role in some of our educational events.

By way of educational activities, the Property Bar Association organises seminars and workshops which are open to the whole membership; seminars and workshops that are aimed particularly at junior practitioners under 7 years' call, and an annual conference.

Seminars/Workshops open to the whole membership:

We generally have 3 or 4 of these a year.

Looking back over the last 3 years or so, the subject matter has almost always fallen into the "legal knowledge and skills" bracket, although we have had sessions on "What every barrister needs to know about IT", which would fall into the "practice management" theme and one workshop on "competency-based selection" which was about preparing our members for applications for Government panels, silk or judicial roles, and doesn't readily fit into any of the themes.

We generally have 40-60 members attending these events.

Junior PBA seminars/workshops:

In addition to the above, we run one or two sessions a year which are particularly aimed at junior members.

These have tended to relate to the "legal knowledge and skills" or "advocacy" themes.

We would have about 15-20 junior members typically attending these events, which are often held jointly with the Property Litigation Association (of solicitors specialising in property litigation).

In response to the pandemic and the reduced training opportunities for pupils, we are running pupils' advocacy training sessions, focussing on possession hearings.

Annual Conference

The educational highlight of the PBA's year is our annual conference, held in December.

This generally comprises a keynote lecture (e.g. by a senior Judge or a well-known academic), a series of interactive workshops (attendees can choose from a menu of options) and one or more panel discussions. The sessions tend to be under the "legal knowledge and skills" and "advocacy" themes.

We have about 110-120 attendees at Conference, which is also open to non-members.

Feedback mechanisms

There is an active market in the provision of advocacy and advice relating to property law; many of the solicitors who instruct our members are themselves specialists in this field, have a sophisticated understanding of the Bar and instruct a range of barristers in different Chambers and of different seniorities. Moreover, whilst some of the Property Bar's lay clients are individuals and some of those are vulnerable, there are also many highly sophisticated commercial clients who are regular users of the Bar, including the junior Property Bar (such as banks, retail chains, pension funds and large landlords). This competitive market drives barristers to succeed and improve their skills. A barrister who is not competent will not last very long at the Property Bar.

Solicitors who have strong relationships with particular Chambers routinely provide informal feedback on barristers' performance, often through the clerks. Senior barristers who lead a junior are also an important source of feedback, both directly to the junior and through the clerks. Formal mechanisms are more patchy but some Chambers have well-developed practice development programmes at which clerks and practice managers convey the messages which they have received from solicitors or other barristers.