



Bar Council of England and Wales

Country Report: England & Wales for the Vienna Bar Presidents' Conference 2020

Equality & Diversity

Equitable Briefing & Mentoring

In 2019, to mark the 100th anniversary of the first women being admitted to the Bar of England and Wales, the Bar Council commissioned a programme of work to support women and other under-represented groups across the Bar. As a result, the “Accelerator Project” has been set up which, over three years, aims to improve the retention of women in the profession. Programme elements include:

1. Promotion of the **Women in Law Pledge**¹, under which chambers and firms implement action plans to support female lawyers.
2. Developing resources to support the **First Seven Years** of a barrister’s practice
3. Working with **legal directory** publishers to improve the diversity of their listings
4. Promotion of **Mentoring** and support for stakeholders delivering mentoring
5. Developing **flexible working models** adapted and tested to work for the Bar
6. **Practice management** guidance and standards
7. **Changing Client Briefing Practices** to reduce gender-based discrimination
8. **Tackling sexual harassment and bullying**
9. **Culture change**, focussed on shifting unhelpful behaviours to progress

Sexual Harassment and Bullying Support

The Bar Council continues to focus resources on tackling sexual harassment and bullying across the profession. In late 2019, we launched **Talk to Spot**, an online platform to facilitate contemporaneously recording incidents and optional reporting (including the option to remain anonymous)². Anonymised reports are then used as an evidence base to inform training (including with the judiciary) and policy making. This new service supports an existing helpline, an Assistance Programme, policy and practice guidance and training for chambers.

¹ <https://www.barcouncil.org.uk/support-for-barristers/equality-diversity-and-inclusion/women-in-law-pledge.html>

² <https://www.barcouncil.org.uk/support-for-barristers/equality-diversity-and-inclusion/talk-to-spot.html>

Wellbeing at the Bar

During 2019, the Bar Council has continued to promote wellbeing, rolling out an Assistance Programme for barristers and their staff. Mental Health training is also now available for barristers and chambers' staff. Over 2020, we will continue to monitor the wellbeing of the profession, continuing our popular chambers' certification programme and refreshing resources like our leadership film³.

Justice Week

Justice Week 2020 runs from 24-28 February. Together, the Bar Council, Chartered Institute of Legal Executives (CILEx) and The Law Society are promoting the importance of the rule of law to young people. At a time of widespread discussion about citizens' rights and obligations, the role of Parliament and the rule of law, Justice Week activities will boost young people's support and understanding of the justice system in England and Wales.⁴

Court Reform

The Bar Council continued to engage with the Government's court reform programme, the [latest update](#) having been published in Summer 2019. The Public Accounts Committee took [oral evidence on the programme's progress](#), and published a [report](#) expressing concern that certain developments had stalled and that closing courts without providing adequate alternatives could result in reduced access to justice.

Whilst the Bar Council welcomes investment in improvements in Court IT, we raise concerns about changes which might become a barrier to access to justice and negatively affect barristers' working lives and the diversity of the profession:

- We expressed concerns that the introduction of video/online hearings could diminish access to justice, particularly for the minority of UK citizens that have no internet access.
- We are engaged in a steering group on the Flexible Court Operating Hours Pilot and have highlighted [issues surrounding family care commitments](#) that may preclude some counsel from attending earlier and later hearings.
- We are monitoring the delegation of judicial functions at the new Courts and Tribunals Service Centres, stressing that its decisions must continue to have judicial oversight.
- We are working with the Criminal Bar Association (CBA) to voice [our concern at the low number of sitting days](#) that is leading to greater backlogs of cases.
- We have attended HMCTS workshops on the effective implementation of new online systems for civil money claims and contributed experts to focus groups to improve key elements of the justice system, for example, the effective use of forensics in criminal law.

Legal Aid

Civil and Family

In February 2019 the Ministry of Justice (MoJ) published their Post Implementation Review <https://www.gov.uk/government/publications/post-implementation-review-of-part-1-of-laspo> of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ('LASPO'). LASPO had

³ <https://www.wellbeingatthebar.org.uk/our-vision/>

⁴ <https://www.barcouncil.org.uk/media-campaigns/campaigns/justice/justice-week-2020.html>

removed legal aid for several areas of civil and family law. The Bar Council was disappointed that the MoJ did not reverse previous legal aid cuts. However, it at least agreed look at the means test in areas where legal aid is still available. Our concern is that the income threshold is so low that too many litigants still cannot afford legal representation. The Government is furthermore reviewing the Exceptional Case Funding ('ECF') scheme under which individuals who are not within the scope of legal aided areas may potentially still get some assistance. The Bar Council is taking part in both reviews.

Legal Aid – criminal

In 2019 we welcomed a c. 10 % increase in legal aid fees for advocates in Crown Court defence cases. This did not, however, compensate for the fact that fees had fallen in real terms by about 40% since 2007. The Bar Council continues to be involved with the Ministry of Justice's Criminal Legal Aid Review, which is looking at the sustainability of the whole process, from representation at the police station stage to the Crown Court stage. We continue to lobby for further improvements fee rates.

In relation to Prosecution work, the Crown Prosecution Service (CPS) increased fees for advocates in 2019 and again in February 2020. Although welcome, these have not made up for the previous cuts. The Bar Council is seeking further improvements.

Anti-Money Laundering (AML)

On 10 January 2020, the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 were updated by the new Money Laundering and Terrorist Financing (Amendment) Regulations 2019, implementing the EU 5th Money Laundering Directive. We are updating our [own guidance to the Bar](#) accordingly, while also updating the joint Legal Sector AML Guidance. Barristers remain low risk. We hope to see this recognised in policy, including in the upcoming National Risk Assessment and the approach taken by the Office for Professional Body AML Supervision as the oversight supervisor.

Regulation

- The Legal Services Board's (LSB) Internal Governance Rules are being implemented by the Bar Council and Bar Standards Board (BSB). These Rules limit the influence of the Bar Council representative side on the regulator.
- The LSB recently published a Call for Evidence on the topic of Ongoing Competence of Authorised Persons. The LSB is concerned by a perceived lack of assurance of competence beyond initial qualification. The Bar Council will pro-actively engage with the LSB on this.
- At the end of 2019, the BSB issued a Call for Evidence on its Handbook (Code of Conduct) to simplify the Code of Conduct. We consider a more principles-based (rather than a rule-based) approach to be more likely.

Law Reform

We continued our successful and popular law reform essay competition, which received almost 60 entries, and our annual lecture given in 2019 by Supreme Court Judge, Lady Arden. Our Law Reform Committee responds to c. 20 consultations a year, mostly from the Law Commission and government departments. Topics in 2019 included surrogacy, employment rights, simplification of immigration rules and automated vehicles, to name but a few. All responses to external consultations are available on the Bar Council [website](#).

International

The Bar Council continued its support for the international rule of law and the development of international practice. We are committed to remaining a full member of the CCBE regardless of the outcome of the Future Partnership Agreement.

Rule of Law

- We actively supported the CCBE in its campaign for a Council of Europe Convention on the Independence of Lawyers, securing UK government support.
- We continued to support legal professions under threat through intervention letters and media work for the Day of the Endangered Lawyer.
- We succeeded in a bid for a major consortium project to work to develop the rule of law in China.
- The Chief Justice of Ethiopia gave our 13th International Rule of Law Lecture.
- We welcomed over 60 bar leaders to the Opening of our Legal Year, discussing the future of international court structures.

International Business Development

- We supported our members in building professional links through visits to Mexico, Colombia, Kazakhstan, Russia, Cyprus, South Korea and China
- Jointly with the other UK legal professions, we signed an MoU with the Belgian Bars to facilitate international legal practice in the future.
- We ran exchange programmes with lawyers from Brazil, Mexico, Colombia and China.

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