



## Bar Council of England and Wales

### Country Report: England & Wales for the Vienna Bar Presidents' Conference 2022

This Report is an overview of the work of the representative side of the Bar Council of England and Wales during the year 2020. This excludes the work of the independent regulator within the Bar Council, the Bar Standards Board.

#### **International**

##### *Rule of Law*

- Following the launch of the government's "Homes for Ukraine" scheme, we set up our own 'matching' system, pairing so far around 100 Ukrainians lawyer families with around 200 barristers who have so far offered sponsorship. We are also trying to assist with requests for work from Ukrainian lawyers who have lost employment as well as with work experience for Afghani refugee lawyers.
- Like many others we condemned publicly the military aggression launched by the Russian government. We are supporting in various ways the prosecution and redress efforts in relation to the war crimes committed.
- A new Heads of Mission Training Course has been launched to increase the knowledge of senior diplomats in relation to the UK rule of law and our legal services structures.
- We are continuing to stimulate our profession to engage in rule of law work through our International Rule of Law lecture and our UN lecture.

##### *International Business Development*

- In relation to overseas visits, since COVID has been receding we are planning visits to East Africa, Kazakhstan and Poland before the end of March 2023.
- On 16/18 June we will be a conference of all the common law legal professions of Europe in Limassol, Cyprus in conjunction with the Cypriot Bar Association.
- We have been working to increase legal services market access in key jurisdictions and MoUs are under preparation with a number o overseas jurisdictions.

#### **Anti-Money Laundering (AML)**

Our AML Working Group has drafted guidance for the Bar to assist members in addition to the UK legal sector AML guidance (approval by the Treasury is awaited).

The Working Group also submitted responses to consultations issued by Treasury and the Home Office on the AML regulatory and supervisory regime and proposed changes to economic crime legislation respectively.

The Group has briefed Parliamentarians on the first part of the new economic crime bill (March 2022). A further economic crime bill, announced in the Queen's Speech 2022 will introduce reforms to Companies House and create new powers for authorities to seize crypto assets more quickly and easily.

## **Regulation**

In 2021 the Bar Council submitted a [response](#) to the Legal Services Boards's (LSB) Quality indicators in the legal services market discussion paper. We highlighted existing ways potential clients can assess quality as well as the limitations on consumer reviews and the incompatibility of a focus on success rates with barristers' duty to the court in the administration of justice. The LSB has now issued its final policy statement on Quality Indicators,<sup>1</sup> setting the framework regulators must follow.

Another LSB project, with a focus on Ongoing Competence of legal professionals, is nearing completion. The Bar Council submitted comments and we await the final statement of policy.

## **Law Reform**

Our Law Reform Committee responds to approximately 20 consultations a year, mostly issued by the Law Commission and government departments. Topics in 2021 included automated vehicles, human rights, judicial review, exclusivity clauses in contracts of employment, immigration, intimate image abuse, corporate criminal liability, legislation to counter state threats and flexible working. These can found on the Bar Council [website](#).

We continued our popular law reform essay competition, receiving over 50 essays. Four prizes were awarded on a range of topics including drug consumption rooms in the UK, penalty clauses in employment contracts, environmental crimes and climate change.

We also moved our law reform lecture online allowing 232 attendees to attend. Our speakers, The Rt. Hon. Lord Carnwath of Notting Hill and Inger Andersen, Under-Secretary-General of the United Nations and Executive Director of the United Nations Environment Programme, spoke about law reform in the context of climate change and has been broadcast on Law Pod UK. You can read more about the essay competition [here](#) and the lecture can be found [here](#).

## **Ethics**

The Ethical Enquiries Service continues to provide a valuable service to hundreds of barristers a month. In the period 5 April 2021 to 6 April 2022, 5,285 calls were answered and 604 emails

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<sup>1</sup> <https://legalservicesboard.org.uk/wp-content/uploads/2022/04/Statement-of-policy-on-empowering-consumers.pdf>

were responded to. A team of eleven ethical advisers, supported by the Ethics Committee, respond to daily telephone and written queries from members of the Bar.

The committee has been working on new guidance on issues, such as clients recording a conference with their barrister or recording court proceedings without permission, returning instructions in criminal cases and considerations for employed barristers working pro bono and who may be in a whistleblowing situation with their employer.

## **Equality, Diversity & Inclusion (EDI)**

### ***Race Equality Work***

- Race Summit and Report: At our race summit in Autumn 2021 we published a seminal report revealing data on race inequality at the Bar. In response we set out 23 recommendations these include setting targets, data monitoring, and action planning. We have now agreed an action plan and are encouraging all bar-based stakeholders to adopt the report's recommendations. We will produce a progress report one year on.
- We have recruited a Panel of race awareness trainers who are now delivering training. 26 barristers' chambers have booked the course to date. Feedback has been very positive.
- "10,000 Black Interns" (extended internships): 74 chambers have collaborated to take part in this new programme, with 24 places on offer.

### ***Equitable Briefing (Accelerator Programme)***

This programme is designed to address inequalities between male and female barristers. We have continued to make steady progress across the nine projects of this programme. They include supporting young practitioners, practice management guidance on fair allocation of work, work with Legal Directories, advocacy with government departments on fair briefing practices, publication of mentoring resources, development of flexible working practices, the "Women in Law Pledge" on sex equality targets, tackling harassment and bullying, continuing support for "Talk to Spot" (anonymous online reporting platform for bullying and harassment) and promoting Culture Change.

### ***Pride/LGBTQ+***

- Pride. We are in the process of organising participation in Pride in London & Cardiff (summer 2022).
- Trans and Non-Binary Briefing. We are exploring how the Bar Council might best support barristers in this area and have published a Trans inclusion statement.

### ***Social Mobility***

We created a Working Group to review Bar Council work on Social Mobility, which has now reported with a set of recommendations including on effective monitoring to support us in tracking progress.

## **Sustainability Network & Net Zero**

We have established our Sustainability Network with 46 members which supports chambers in tackling the climate emergency and achieving a Net Zero target. We have also established a Climate Working Group to assist the whole Bar to achieve Net Zero by 2030 and to provide

ethical support and education to the profession as to how the climate emergency affects their practice. We are looking to collaborate with other professions and internationally. For further information contact [rmalleson@barcouncil.org.uk](mailto:rmalleson@barcouncil.org.uk)

## **Pro Bono**

In 2021 we supported Pro Bono Week which was aimed at celebrating pro bono achievements at the Bar and encouraging more barristers to volunteer/take on pro bono work. We are currently exploring how learning from remote hearings can be applied to pro bono cases where no other representation is available.

## **Young Bar**

We have published research on the experience of the Young Bar to identify policy priorities, namely addressing workloads, reform of current working practices, remuneration & wellbeing. Support for the Young Bar is embedded into relevant wider Bar Council programmes (sustainability, wellbeing, equitable briefing etc.). Our focus is now on building networks and partnerships to support practice development both within our jurisdiction, and internationally, and making the Young Barristers' Committee the voice for young barristers across England & Wales.

## **Employed Bar**

In 2022 our key focus is on promoting 'One Bar' and strengthening links between the employed Bar and the self-employed Bar, the Inns of Court, and the Specialist Bar Associations. We will be celebrating the best of the employed Bar with the return of our Employed Bar Awards in October, hosted in partnership with Gray's Inn and their Employed Bar Dinner. Further initiatives on how employed barristers can seek judicial posts are planned for the second half of the year.

## **The Courts**

The latest data published by Her Majesty's Courts and Tribunals Service shows that there are still a large backlog of cases in the criminal Courts. The backlog that existed before Covid worsened during Covid and is only very slowly being reduced:

Magistrates Courts and Crown Courts (March 2021 to March 2022)

<https://www.gov.uk/government/statistical-data-sets/hmcts-management-information-march-2022>

### Magistrates Court

	<b>Month Receipts</b>	<b>Disposals</b>	<b>Outstanding</b>
Mar 2021	110,662	112,029	407,686
Mar 2022	115,789	124,073	364,465

## Crown Court

	<b>Month Receipts</b>	<b>Disposals</b>	<b>Outstanding</b>
Mar 2021	9,559	9,264	59,907
Mar 2022	8,807	9,280	57,838

We are concerned that the Government recruitment of more police officers will result in more charges and that there will not be enough solicitors and barristers available to prosecute and defend these cases because criminal legal aid fees are so low that solicitors and barristers have been diversifying to non-legal aid areas of work.

## **Legal Aid**

### *Means Testing – eligibility for civil and family legal aid.*

On 15 March 2022 the Ministry of Justice published its long delayed “Legal Aid Means Test Review” consultation. <https://consult.justice.gov.uk/legal-aid/legal-aid-means-test-review/> The Bar Council will respond by the deadline of 7 June. There are many people who have some income and so are not eligible to receive legal aid representation. But do not have enough money to pay privately for legal representation. The Government’s proposals will increase the income thresholds whereby those who have a small income will now be eligible for legal aid support. However, the changes do not go as far as the Bar Council would like.

### *Criminal Legal Aid*

On 15 March 2022 the Ministry of Justice published its Response <https://consult.justice.gov.uk/digital-communications/criminal-legal-aid-independent-review-response/> to the Legal Aid Independent Review (CLAIR). Sir Christopher had proposed an immediate 15% increase in all legal aid fees as a first step. The response by the Government to the review is to propose a 15% increase to fees but as a final amount, with no further investment indicated. The Bar Council will respond by the deadline of 7 June.

## **Bar Council of England and Wales**

**May 2022**