

Interim Response by the Young Bar Committee of the Criminal Bar Association to the call for evidence from the Independent Review of Criminal Legal Aid Panel

Introduction

1. The CBA represents the views and interests of practising members of the criminal Bar in England and Wales. The CBA Young Bar Committee is a sub-committee of the CBA.
2. The Young Bar Committee (YBC) discusses issues raised by young barristers about the criminal justice system and inform the CBA. A young barristers' practice differs from that of established practitioners, and they face different challenges as a result.
3. The CBA YBC adopt the contents of the interim response submitted on behalf of the CBA. The CBA YBC have serious concerns about the current fee rates and the sustainability of those rates for the young bar. As a result, the CBA YBC urges the IRCLA Panel to recommend a significant increase in the legal aid fee structure if there is going to be any prospect of ensuring the continuation of the independent criminal bar and the retention of talented young advocates.
4. This response has been prepared having spoken to a number of individuals who have recently left the criminal Bar, either to move to another area of practice, or to move in-house or left the Bar altogether. Those responses are submitted to the IRCLA Panel as a confidential annex to this report. Quotations are included in the open response below to illustrate issues discussed.
5. One respondent who is currently considering whether to return to the criminal Bar after a period of time away summarised the feelings of many at the junior criminal Bar:

'If I don't go back, it will be because - in my view - the combination of

- (i) long hours and weekends lost to work,*
- (ii) late and diminishing fees, and*
- (iii) high levels of stress and anxiety, mean that it's simply not conducive to a decent quality of (family) life.*

I also don't want to spend every year of my career campaigning, protesting, and fighting just to get paid for the work I do. It's too demoralising and exhausting."

6. The IRCLA Panel should be aware that there is a swell of anger at the most junior end of the profession. A significant reason for the anger is the feeling that the criminal Bar has, for many years, been taken for granted. There is no sense that the criminal Bar provides a chance for career progression. More and more work is being assigned to counsel to undertake without remuneration for the extra hours. Some individuals have voted with their feet, while others await with some scepticism the outcome of this review. The Young CBA would encourage the IRCLA Panel to speak to young individuals who have left the independent criminal Bar and to those still in practice to further understand the strain that is felt. This has been greatly exacerbated by the pandemic. The Young CBA would be happy to facilitate such discussions. It is felt that this would do much to develop a sense of trust in the process of this review.

Retention

7. Remuneration and retention go hand in hand. If there is to be any meaningful drive towards improving diversity of race, gender and other characteristics at the Bar it will only ever be a superficial exercise if fees do not allow those from diverse backgrounds to earn living at the independent criminal Bar.
8. The publication of the statistics within the Bar Council Data Compendium for leavers from the independent criminal Bar confirm what many at the Bar have known for some time; young practitioners are leaving. The average age of criminal barristers continues to rise. The medium to long term effect of this is that there will be a lack of skilled criminal advocates to prosecute and defend in the most serious cases in the future.
9. It is hoped that IRCLA Panel will be aware of the challenges faced by students in even making it to the independent criminal Bar. Individual students invest significant years of their lives in education as well as a substantial financial burden. Those burdens not only include the costs of education and living during that education, but the pursuit of experience through relevant employment (for example paralegal positions and voluntary positions) to stand out during the pupillage application process. Employment during those years is often poorly remunerated, no doubt due to the extremely tight margins most legally aided criminal solicitor firms must work on. The result is there is a significant financial commitment undertaken by any individual arriving at the criminal Bar.

10. This background must be considered against the income of junior individuals. The Bar Council data compendium outlines the median fee income for practitioners between 0-2 years call is £11,200. The median fee income for practitioners between 3-7 years call is £43,900. The expected fee income for many at the junior criminal Bar is simply unsustainable.
11. It is unarguable that new money is urgently required into the fee scheme. Over a third of leavers from the criminal Bar were below 7 years call in 2019/20 (20% below 2 years call, and 16% below 7 years call). The Panel should consider why so many individuals who have invested significant time and money in the pursuit of a career are so quick to leave. The only conclusion is that it is symptomatic of the serious, pressing, and fundamental issues which face the sustainability and future of the criminal Bar. Fees are one of the most significant of those issues.
12. When one examines the qualitative data, the work required to be undertaken for the fees paid is a significant factor in driving away young, bright advocates. Individuals from diverse and non-traditional backgrounds are the first ones forced to leave. One recent leaver from the independent criminal Bar said:

“I was the first person in my family to go to University. I only practiced in general crime, predominantly defending on legal aid rates. To make a living one has to pile the cases high. That increases stress in an already difficult and demanding job. It leads one to work all hours of the night and every weekend to ensure that they provide the service that every defendant rightly deserves when facing the loss of their liberty. I personally found it near impossible to find any type of work/life balance. Leaving the independent Criminal Bar was the hardest decision that I have ever made. I am not the first and I certainly won’t be the last unless there is an increase in criminal legal aid and an improvement in working conditions.”

13. Young women and men starting families consider the criminal Bar unworkable with family life. One recent young mother who no longer undertakes criminal work said:

“I found the remuneration and working conditions of the publicly funded criminal bar to be incompatible with home and family life. The hours required and the last-minute nature of the criminal bar are completely incompatible with home and family life without sufficient pay to facilitate the other regular responsibilities and commitments which are so regularly disrupted by the nature of the work.

I do not consider that I could sustain my home and family life at the publicly funded criminal bar alone.”

14. The improvement of fees through new money into the scheme will allow individuals to implement a better work-life balance and contribute to greater retention of young practitioners.

Magistrates' Court Fees – London

15. A great deal of the work within the Criminal Justice System in England & Wales, takes place in the Magistrates' Court. Greater London has a significant concentration of these courts. Some of this work is carried out by solicitors directly, however, criminal legal aid solicitors are stretched thin, also dealing with Police Station appearances and conducting litigation for financially vital Crown Court cases. The result is that in London, solicitors regularly have to instruct pupils and junior juniors from the independent bar to represent defendants in first appearances and summary trials in the Magistrates' Court. This in turn means that this work will usually make up the majority of the income of those at the beginning of their careers at the criminal bar in London.
16. For many of those undertaking pupillages in predominantly criminal sets, and in some mixed sets, Legal Aid defence work in the Magistrates' Court is the bread and butter of the early years of practice. It is the arena in which all criminal counsel ultimately cut their teeth and gain the skills which they will eventually use in Crown Court trials and beyond.

The Magistrates' Court Fees Protocol

17. The fees in the Magistrates' Court and the systems in place for the payment for counsel are outdated, and abhorrently under paid. It is not possible to live on the fees paid in the magistrate's court. They are completely dislocated from the amount of work undertaken by counsel. One recent practitioner who has moved their practice away from criminal work said:

"Having done a lot of magistrates' court work, the rates of pay for defence work are unsustainable. I am a recent tenant, and as soon as my guaranteed earnings stopped, I was struggling to pay rent/ bills and had to rely on my partner to pay more."

18. Those practising in these courts in Greater London are subject to the '2019 Revised Protocol for the Instruction and Payment of Counsel in Magistrates' Court Cases within the Greater London Area'¹ (hereafter 'The

¹ <https://www.barcouncilethics.co.uk/wp-content/uploads/2017/10/2019-Magistrates-Court-Protocol-final.pdf>

Protocol'). This represents the current incarnation of an agreement between the London Criminal Courts Solicitors' Association, the CBA and the Bar Council regarding best practice and minimum fees for work done in the Magistrates' court under the LAA Standard Crime Contract.

19. The minimum fees set out in the Protocol are as follows (exclusive of VAT):

a. £50 for:

First appearances, remands, bail applications, sending hearings and sentences.

Aborted hearings other than trials, unless counsel is attending court already and does no billable work on the case.

b. £75 for:

Half-day trials, trials adjourned on the day or discontinued, or where a defendant pleads guilty at trial and counsel's billable attendance time at court is less than 3 hours.

c. £100 for:

Hearings other than trials where counsel's billable attendance time at court is 3 hours or more.

d. £150 for:

Full day trials, or where counsel is instructed to attend for trial and counsel's billable attendance time at court is 3 hours or more.

20. The Protocol also makes provision for what is included within the definition of 'billable attendance time':

'Billable attendance time at court' includes attendance, advocacy, preparation and the magistrate considering a verdict. It does not include preparation prior to attending court, travel or waiting.

21. It is worth noting that whilst these are indeed only *minimum* fees (and indeed it is open to Chambers and solicitors to agree for the payment of higher fees) the reality is that the overwhelming majority of Chambers and firms in London continue to pay pupils and young juniors at these minimum rates.

22. Unlike payment of counsel's fees in the Crown Court, payment of Magistrates' Court fees are reliant on direct payment out of the LA 'pot' paid to solicitors. This in turn leads to a dramatic variation in

the speed at which these fees are ultimately paid out to counsel, with solicitors having to consider the cashflow of their firms.

23. The Protocol makes provision for counsel to be paid within 30 days following receipt of their invoice. The collective experience of many pupils and junior juniors is that Magistrates' court fees are often paid substantially after this, if at all (in the case of some firms). Many junior juniors, having been at the bar for a number of years, still have outstanding fees from early Magistrates' Court work carried out in the very beginning of their pupillage years. This compounds an issue with extremely low flat fees and can lead to very real day-to-day cash flow difficulties for some.

How (if at all) do these fees reflect work?

24. It may be helpful to give some context to the amount of work ultimately reflected in the final fee which will be paid in accordance with the Protocol. For the purposes of this exercise and for simplicity, we will consider a £50 first appearance. For the purposes of this, we will consider a typical third-six pupil² practising in Chambers in London, almost solely reliant upon Magistrates' fees.

Pre-court

25. Due to the nature of the work, pupils and junior juniors can often receive instructions at the last minute, particularly for first appearances. Where the papers/IDPC is provided early, counsel would be expected to spend time considering the papers before arrival at court. Pre-court preparation, legal research and contact with solicitors is not billable under the Protocol and will not be reflected in the flat £50 paid.
26. Every criminal offence starts its life in the Magistrates' court – even those which ultimately end up in the Crown Court. As such, the pupil could be dealing with anything from an allegation of petty shoplifting to a complex drugs case, fraud, violent offence or murder. Some will inevitably require substantially more preparation and research than others and yet the ultimate fee will remain the same.
27. Even with offences which are inevitably beyond the jurisdiction of the Magistrates' Court, the pupil will have to ensure that they are fully and carefully prepared to advise on the basis of whatever

² 18-month pupillages consisting of an additional 6 months' further practising element after the completion of the preceding 12 months' pupillage are increasingly seen as the norm amongst predominantly criminal sets in London. Many third-six pupils are no longer in receipt of guaranteed earnings and will no longer be in receipt of a pupillage award, meaning that the fees earned through their practice often represent their sole income.

evidence has been served, which can vary from a handful of pages to many hundreds and exhibits. The consequences to the defendant may be substantial – the first appearance, other than in exceptional circumstances, marks the first and only occasion in which they will receive full credit for a guilty plea. This change was introduced by the “Reduction in sentence for a guilty plea Sentencing Guidelines” in March 2017 and has placed an enormous amount of pressure on the advocate attending a first appearance.

28. Where remote attendance via CVP is not available or practical, counsel will often have travelled some distance to get to court. Whilst travel fees are covered by the Protocol, delays in payment can mean counsel being substantially out of pocket awaiting remuneration (and at times *paying* to work, when initial outlay on travel is compared against the £50 fee). Counsel often has to spend time on the train working, preparing cases and researching their recently received case on the way to court.

At court

29. A ‘first appearance’ can vary dramatically based on several often unforeseeable factors. Depending on the nature and seriousness of the offence and the instructions of the defendant, it might include a bail application, sending exercise, sentencing exercise or a host of other contested legal applications (or a combination of some of the above). Since the 2017 Guidelines, it also will now inevitably involve advising client on the strength of the evidence so that they can make a fully informed decision about whether to plead guilty and retain full credit or not.
30. The pupil will need to be afforded sufficient time to attend on the defendant and provide sufficient advice. If the instructions have been received at the last minute, this will have to be balanced with the aforementioned preparation and legal research. The defendant may have complex learning needs, significant mental health difficulties or other vulnerabilities. It cannot be stressed enough that first appearances frequently have high stakes. If a defendant enters a guilty plea, they may be sentenced there and then (including to immediate custody). The first appearance can significantly impact the future life of a case – and yet it is reflected in a flat £50 fee.
31. It is the lived experience of those who appear at the Magistrates’ court that there are frequent delays, often caused by court capacity and unforeseen issues. There is inevitably a lot of waiting around, which is not considered ‘billable attendance’ unless it is time spent waiting for a verdict in a trial. As such, a single £50 hearing can end up engaging a full working day’s worth of hours at court alone.

32. It is also worth noting that these fees include cases in which the defendant is a child. It is widely recognised that youth advocacy is a specialist area, requiring significant soft skills and training in certain cases – not to mention the added consequences where a child is deprived of their liberty and remanded or refused bail. This is already reflected in prosecution fees - under the current CPS fee scheme, CPS fees for counsel prosecuting youth cases in the Magistrates' court are higher than those in which the defendant is an adult.

After court

33. The pupil's work toward the £50 fee does not end upon the conclusion of the hearing in court. A full and detailed written note of the day's events will need to be prepared, ready to send to the instructing solicitor on the day of the hearing (or within 24 hours) in accordance with the Protocol. If this cannot be completed on the journey home, the pupil or junior counsel will often end up working late to ensure the full note is compiled and sent that evening before preparation for the next day's case(s) commences.

Further reductions of the fee

34. Whilst the fees set out in the Protocol are exclusive of VAT, the pupil or junior junior will not in fact ultimately receive the £50. Further deductions result in a much lower net figure once the following have been considered:
- a. Income tax;
 - b. Chambers contributions (particularly in third six and early tenancy – a percentage cut sometimes up to 20%);
 - c. Accountants fees (self-employed barristers are sole traders with significant tax liability);
 - d. Payments towards student/BPTC debt and loans
 - e. Cost of living – typically higher in and around Greater London than in certain other parts of the country outside of the South-east.
35. It is clear that pupils and young juniors practising in the Magistrates' Courts in London undertake significant quantities of work for low fixed fees which do not adequately reflect the amount (and importance) of the actual work done. It is no surprise that this is causing a significant retention issue

at the junior end of the criminal bar with many leaving for better paid positions in-house or in other areas of law.

Magistrates' Court Fees – Outside London

36. Unlike in London and the South-east, legal aid Magistrates' Court work on circuit is primarily conducted by the solicitors in-house and junior counsel is very rarely instructed to attend Magistrates' Court hearings. Generally, throughout the parts of the Western and Northern Circuit, junior counsel who is instructed to appear in the Magistrates' Court for a legally aided case are paid around 40% of the litigators fee. As a result of this, solicitors choose to conduct their own Magistrates' Court work for money saving purposes.

37. The fees that Junior counsel on circuit, can expect to be paid for a Magistrates' Court appearance are as follows:

- a. £75 (+VAT) – First appearance, mention, PTR, short preliminary hearings and sentences
- b. £125 (+ VAT) – Half day trial and legal arguments
- c. £175 (+ VAT) – Full day trial

38. Whilst the fees for the attendance of Junior counsel in the Magistrates' Court on circuit are higher than those in London the rates reflect the increase in travel costs accrued across circuit courts, which cannot be claimed from the LAA. Despite the higher fees, junior counsel are very rarely seen in the Magistrates' Courts throughout the non-London circuits because the solicitors keep the work in-house to save costs; this then impacts the ability of the Junior bar to learn and cut their teeth in the Magistrates' Court.

Youth Court Fees

39. The Youth Court is a highly specialised Court often dealing with extremely vulnerable youths. As a result, specialist knowledge and skills are required of those who practise within the Youth Courts throughout England & Wales. Many pupils and junior counsel will find themselves in the Youth Court frequently, exercising their specialist skills and training to ensure that the vulnerable youths are dealt with appropriately and in a way in which they understand. Astonishingly, there is **no distinction** between Magistrates' Court fees and Youth Court fees (save for certificate for counsel

cases) when it comes to pupil barristers and Junior counsel attendance and as a result, the fees are wholly disproportionate to the level of work required and the nature of the work.

40. At a bare minimum a certificate for counsel in the Youth Court should be automatically granted for any indictable offence. Consideration should be had to a significant improvement in fees for summary only matters in the Youth Court. Dealing with youths, and youth witnesses, is a highly skilled and vitally important part of our Criminal Justice System. The impact of a conviction on a young person is arguably greater than that on an adult. The remuneration does not reflect the skill and specialism required for undertaking this important work.
41. The Young CBA assert that the Youth Court fees are wholly unsatisfactory and require urgent reform.

AGFS

42. The CBA YBC adopts the findings and recommendations made by the CBA Remuneration Committee in their interim response document.
43. For many junior practitioners the types of cases they are instructed in are placed into “warned lists.” This causes a number of issues. There is no guarantee that instructed counsel will be available to do the trial, however it is still expected that the case is fully prepared for trial. That includes the drafting of defence statements, the response to legal applications such as bad character or hearsay and liaising over jury bundles and other pre-trial issues. All this work is done unpaid. The scheme only recognises hearings as work where payment is due. The payment trigger in the scheme requires a trial or plea. Court listings do not, in the author’s experience, pay much if, any heed, to the availability of trial counsel when listing cases. This has deteriorated further following the pandemic. The effect is, criminal Barristers work for free preparing cases they do not end up doing. One recent leaver from the criminal Bar said:

“Since joining the [independent] bar I have been instructed in approximately 100 crown court criminal trials (the majority as prosecution counsel). Not one case has gone to trial on a date where I can attend. As a junior junior it is impossible to develop confidence in advocacy by preparing cases for trial that you will never present, I now haven't undertaken a jury trial since 2017 – and as a result I have no intention of ever doing one again. I have built up a separate stream of work which does not work with warned lists and I no longer wish to be instructed in trials, prepare

cases, draft advice etc. where I will never present the end case or be paid properly for doing so. It is financial suicide and a total waste of my professional time.”

44. The Young CBA have experience of the LAA “knocking back” legitimate claims for fees earned. This requires counsel to appeal, often on points which are clearly set out in the regulations. Claims have been knocked back on claims for payment of pleas to an indictable only charge as an “elected case” (which is not possible) and issues taken over the categorisation of cases when evidence has been submitted which clearly places a case in a certain category. The effect of this is to delay the payment of counsel and creates further work in order for counsel to be properly paid. If this is not in the scope of the review the Young CBA would welcome the IRCLA Panel to consider ensuring any changes to the fee scheme are better administrated by the LAA.

45. Cash flow is a difficult issue for all members at the criminal Bar. It is worse for the most junior who have not been able to build up any “fund” to cover delays in payments. One response set out that delays in payments caused significant financial issues, where they were unable to rely on family to assist. This is a damning indictment on the current system, and actively destroys the ability for diversity at the Bar. The response stated:

“...the pay structure was problematic for me. For example, being in a long trial and having to wait to the end of the trial for be paid (sometimes with significant delays). I was not in a position to have any financial assistance from family. When there were delays in being paid, I sometimes found myself in a position where I had reached my overdraft limit (for which I was charged by my bank) and could not even afford to board a bus. I would regularly have to dip into my tax account to cover my basic costs of rent and groceries.”

Proposals

46. The CBA YBC adopt the proposals set out in the CBA interim response, and make the following proposals:

- a. The Magistrates’ Court fees are far too low and the billing structure for these fees does not make an allowance for the instruction of counsel. As a result, the solicitors are burdened with paying counsel out of the litigators fee which is too low.

- b.** The Magistrates' Court fees should be billable directly by the clerks, as per the AGFS fees, to ensure that pupils and junior counsel do not have to rely on solicitors paying their fees. This will avoid non-payment of fees and ensure timely payments for work completed.
- c.** The Youth Court fees are too low and should not mirror the Magistrates' Court Fees. These cases often involve specialist skills and knowledge in cases with vulnerable defendants and the fees should reflect the seriousness and sensitivity of the work conducted, separately for Counsel and the solicitor.
- d.** Direct engagement with junior members of the profession on the issue of fees. The Young CBA is happy to assist in facilitating this.

The Young Criminal Bar Association Committee

28 May 2021

[Enc. Confidential Annex]

CONFIDENTIAL ANNEX OF RESPONSES FROM RECENT LEAVERS

Criminal Bar Association – Young Criminal Bar Committee

Criminal Bar Leavers Questionnaire for the Criminal Legal Aid Review

All responses will be treated in confidence by the co-chairs of the CBA Young Criminal Bar Committee. The responses will form a confidential annex to a written report which will be provided to the CLAR committee.

Question	Response
Name:	Alecsandra Manning-Rees
Age:	31
Gender:	F
Ethnicity:	White
Year of Call:	2018 (2016 Solicitor advocate)
Years in practice:	5
For leavers of the independent Bar:	
Have you left the independent Criminal Bar?:	In process
How many years did you practice before leaving:	
Reasons for leaving (200-400 words):	
For those moving away from a criminal practice at the Bar:	
Have you move your practice away from a majority (more than 50%) crime practice:	yes
What percentage of your practice is crime:	0 so far this year
Do you intend to practice more or less crime in the future:	less
Reasons for moving away from a majority crime practice (200-400 words):	I cross qualified to the bar in 2018. I trained as a criminal solicitor qualifying 2 years earlier with higher rights. In 2016 and 2017 I conducted solely criminal legal aid work, regularly conducting advocacy in the crown court and the magistrates' court including jury trials. After a period undertaking regulatory work I came to the bar with every intention of having a mixed practice of regulatory and crime. Since joining the bar I have been instructed in approximately 100 crown court criminal trials (the majority as prosecution counsel). Not one case has gone to trial on a date where I can attend. As a junior junior it is impossible to develop confidence in advocacy by preparing cases for trial that you will never present, I now haven't undertaken a jury

	<p>trial since 2017 – and as a result I have no intention of ever doing one again. I have built up a separate stream of work which does not work with warned lists and I no longer wish to be instructed in trials, prepare cases, draft advice etc. where I will never present the end case or be paid properly for doing so. It is financial suicide and a total waste of my professional time. I intend to start a family in the next 2-3 years, whilst there are some very successful role models at the Criminal bar, I do not yet see how my plans for part time working can possibly work in this environment. Until warned lists are abolished and proper remuneration for advice and preparation in criminal cases are addressed, I would find it impossible to pay my bills and have any form of work life balance that other areas of law can offer, it seems perfectly easily.</p>
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Criminal Bar Association – Young Criminal Bar Committee

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Question	Response
Name:	-
Age:	26
Gender:	Female
Ethnicity:	Asian Other
Year of Call:	2018
Years in practice:	1
For leavers of the independent Bar:	
Have you left the independent Criminal Bar?:	
How many years did you practice before leaving:	
Reasons for leaving (200-400 words):	
For those moving away from a criminal practice at the Bar:	
Have you move your practice away from a majority (more than 50%) crime practice:	Yes
What percentage of your practice is crime:	10-15%
Do you intend to practice more or less crime in the future:	About the same
Reasons for moving away from a majority crime practice (200-400 words):	<p>Having done a lot of magistrates' court work, the rates of pay for defence work are unsustainable. I am a recent tenant, and as soon as my guaranteed earnings stopped, I was struggling to pay rent/bills and had to rely on my partner to pay more.</p> <p>In addition, the treatment of juniors in the magistrates' courts was not something that I was willing to put up with. The day I told my clerks I</p>

	<p>was cutting back on criminal work was after a particularly unfortunate day in court. I was defending a client who was very violent and, due to his lifestyle, was particularly at risk of Covid. He was in the cells which are small and not very "Covid-secure". I knew that the court had a conference room with a glass divider, so asked if I could use it. I was refused this as the staff in the cells "had not seen me before" and told I must speak to him in his cell. I showed them my Bar Council ID, which I use to get into the building, but this was insufficient. Upon entering the cells, my client immediately became volatile, as my solicitor had warned me.</p> <p>I reported to Chambers that my health and safety were being put at risk through arbitrary decisions such as this, and I wasn't willing to support a system which treated juniors like this. This was after months of over-listing, unsanitary conditions during the pandemic, and refusal of CVP for administrative hearings. I am grateful to be at such an understanding Chambers who have let me move away from Crime, but realise that not all juniors have this option.</p> <p>Since then, I have continued to do Crown Court work, and take on the odd magistrates' trial if necessary, but practice predominantly in family.</p>
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Question	Response
Name:	Victoria Hill
Age:	32
Gender:	Female
Ethnicity:	White British
Year of Call:	2012
Years in practice:	6 years 9 months (post 12 month pupillage)
For leavers of the independent Bar:	
Have you left the independent Criminal Bar?:	Yes.
How many years did you practice before leaving:	6 years 6 months (post 12 month pupillage)
Reasons for leaving (200-400 words):	<p>As the daughter of a gas engineer and casino worker I was the first person in my family to go to University. A career at the criminal Bar seemed unachievable in the early days. My parents struggled financially and I took out a large professional loan to pay for the BPTC. I was fortunate enough to obtain pupillage and tenancy in a set of chambers in London but with my loan to repay I could not afford the living costs and had to return home to live with my parents. I moved to a chambers on the Western Circuit and practiced there for the next 5 years or so.</p> <p>Without meaning to sound arrogant I had an impressive practice for someone of my call. I was led in numerous serious and complex cases including two Murder trials and I had a busy practice. I had a good reputation. I was often complimented on my ability and it had been said that I was destined for the bench one day.</p> <p>I only practiced in general crime, predominantly defending on legal aid rates. To make a living one has to pile the cases high. That increases stress in an already difficult and demanding job. It leads one to work all hours of the night and every weekend to ensure that they provide the service that every defendant rightly deserves when facing the loss of their liberty and everything that comes with it. I personally found it near impossible to find any type of work/life balance.</p>

	<p>I left the Bar because I want to have children and get a mortgage. I didn't want to feel that I had to get back to work 3 weeks after giving birth because the rates of pay are so low that I would have little saved by way of maternity pay.</p> <p>I started to worry about retirement. I was earning the same and often more than my more senior colleagues. I had nothing by way of a pension. Realistically I had no hope of ever getting one.</p> <p>I absolutely loved my practice, I worked so hard to get it and keep it but working conditions have become worse and there was no hope in my mind of any significant improvement. Solicitors struggle to be able to afford to do what is required on cases and much more is being required of counsel. The same is true of other agencies within the CJS. Listing practices further challenge ones ability to have a successful practice and earn a decent living. EOH and FOH really do tell you everything that you need to know about how the independent Bar is thought of and treated.</p> <p>Leaving the independent Criminal Bar was the hardest decision that I have ever made. I am not the first and I certainly won't be the last unless there is an increase in criminal legal aid and an improvement in working conditions.</p>
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Question	Response
Name:	Alexandra Davey
Age:	37
Gender:	Female
Ethnicity:	White British
Year of Call:	2013
Years in practice:	6
For leavers of the independent Bar:	
Have you left the independent Criminal Bar?:	
How many years did you practice before leaving:	
Reasons for leaving (200-400 words):	
For those moving away from a criminal practice at the Bar:	
Have you move your practice away from a majority (more than 50%) crime practice:	Yes
What percentage of your practice is crime:	5-10%
Do you intend to practice more or less crime in the future:	Same
Reasons for moving away from a majority crime practice (200-400 words):	<p>I found the remuneration and working conditions of the publicly funded criminal bar to be incompatible with home and family life. The hours required and the last minute nature of the criminal bar are completely incompatible with home and family life without sufficient pay to facilitate the other regular responsibilities and commitments which are so regularly disrupted by the nature of the work.</p> <p>I do not consider that I could sustain my home and family life at the publicly funded criminal bar alone.</p>

	<p>The last-minute nature of instructions and case preparation, particularly with warned list cases, makes it impossible to make alternative arrangements for other responsibilities and commitments without paying a premium. The cost then vastly outweighs the income from the work.</p> <p>I have moved the bulk of my practice away from crime to family. For me, the lack of reasonable income from the publicly funded criminal bar, as fair remuneration for the work required, made it an unsustainable option for me.</p> <p>The same is not true of the publicly funded family bar. The publicly funded family bar manages to function with more reliable and realistic listings, no warned lists, and generally fair remuneration for the work required. There is usually more notice of hearings, and therefore much reduced likelihood of having to return cases, resulting in unpaid preparation and duplication of work. It shows that it can be done. Although significant out of court work is still required, often out of hours, there is also better understanding and application of well-being principles</p>
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Criminal Bar Association – Young Criminal Bar Committee

Criminal Bar Leavers Questionnaire for the Criminal Legal Aid Review

All responses will be treated in confidence by the co-chairs of the CBA Young Criminal Bar Committee. The responses will form a confidential annex to a written report which will be provided to the CLAR committee.

Question	Response
Name:	LEENA LAKHANI
Age:	32
Gender:	FEMALE
Ethnicity:	SOUTH ASIAN (INDIAN)
Year of Call:	2015
Years in practice:	3-4 years
For leavers of the independent Bar:	
Have you left the independent Criminal Bar?:	Yes
How many years did you practice before leaving:	2 years post pupillage
Reasons for leaving (200-400 words):	<p>1) Money – Whilst I was generally earning well, the pay structure was problematic for me. For example, being in a long trial and having to wait to the end of the trial for be paid (sometimes with significant delays). I was not in a position to have any financial assistance from family. When there were delays in being paid, I sometimes found myself in a position where I had reached my overdraft limit (for which I was charged by my bank) and could not even afford to board a bus. I would regularly have to dip into my tax account to cover my basic costs of rent, groceries etc...</p> <p>2) Lifestyle - I had care responsibilities towards my family (a very unwell mother). During pupillage and the subsequent 2 years of post-qualification practice, I did not spend much quality time with my mother given that I was either travelling to Courts in far-off cities and returning to London late at night (often with more work to do in the evening) or working through my weekends to keep on top of things. My mother deteriorated so much during that time and I felt that I had to prioritise my work; something that I started to resent. The lack of stability at the independent Bar did not allow for me to</p>

	<p>be able to plan with my care duties in mind. Further, my own personal physical and mental health suffered – I did not have time to eat well or exercise regularly. A few months before I decided to leave the Bar, my health was at a low point and I did not feel able to take time out because I needed to continue earning.</p> <p>3) Feeling under-valued – Examples include: Courts and some Judges refusing to be flexible with listing hearings for counsel’s availability in order to ensure that counsel can be remunerated for work that they have done prior to the hearing; solicitors expecting counsel to do everything in a case with minimal input from them.</p> <p>In short, I was very proud to have worked at the independent Bar and enjoyed the actual work. However, financial situation and the sacrifices on my personal health, and my relationships with my family, were too great. The lifestyle at the Bar became untenable. Ultimately, I do not regret my decision to leave.</p>
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Question	Response
Name:	Maia Cohen-Lask
Age:	31
Gender:	F
Ethnicity:	White
Year of Call:	2012
Years in practice:	7.5 from start of pupillage
For leavers of the independent Bar:	
Have you left the independent Criminal Bar?:	Yes
How many years did you practice before leaving:	18 month pupillage then 7 months tenancy
Reasons for leaving (200-400 words):	<p>The workload was unmanageable. Juniors get briefed last minute, often at 5pm the day before the court case. This is a function of late publishing of court lists, and the consequence of warned list trials. Preparation then continued until I was satisfied that I had done a thorough and competent job, which might be 8pm but was usually more like 11pm or later (bearing in mind the preparation could well be for a next day trial). I would always be at court for 9am (I lived in central London, but even so that would regularly be a 6am start as many court cases were outside London). 9am starts were necessary because cases were often underprepared (due to a lack of resourcing of CPS / defence solicitors), and so I would need to be court early to speak to other barristers or my client. I therefore averaged an 80 hour working week, and spent every Bank Holiday Monday of the two years doing a full day's work in chambers.</p> <p>The work of a junior criminal barrister is incredibly high stakes (preparing to cross-examine victims of domestic violence, preparing pleas in mitigation for vulnerable young people etc.) The court environment is fast paced where you are making quick decisions which affect people's liberty. The buck stops with you as an independent barrister. Having to make calm collected decisions in the context of a lack of sleep and total overwork was overwhelming. It had an extremely damaging effect on my mental health.</p> <p>What added insult to injury was the fact that there would be days when I was literally paying to work as the train ticket would cost</p>

	<p>more than my fee. Even taking expenses out of it I was being significantly less than minimum wage for the hours I was putting in. This experience was common amongst my peers – many who have stayed have only made it work by doing lengthy secondments where they get long breaks from the grind of court work.</p>
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Criminal Bar Association – Young Criminal Bar Committee

Criminal Bar Leavers Questionnaire for the Criminal Legal Aid Review

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Question	Response
Name:	Stephen Reynolds
Age:	40
Gender:	Male
Ethnicity:	White British
Year of Call:	2014
Years in practice:	6
For leavers of the independent Bar:	
Have you left the independent Criminal Bar?:	I am currently on an extended sabbatical (looking after my children), and although I haven't officially left Chambers, it is increasingly likely that I will.
How many years did you practice before leaving:	Six, including pupillage
Reasons for leaving (200-400 words):	<p>I came to the Bar relatively late (in my early 30s), after doing a doctorate in philosophy. We had a baby just before I started pupillage, and our second arrived when my pupillage ended. So it was a pretty manic period.</p> <p>I was called in 2014 and in 2019 I took a sabbatical to look after our kids and write a novel. Thanks to the pandemic and home-schooling, I'm still at home (the novel's <i>still</i> being written), and I've now suspended my practicing certificate. Although I haven't made a firm decision on the future, it's increasingly unlikely that I'll return to the Bar.</p> <p>If I don't go back, it will be because - in my view - the combination of (i) long hours and weekends lost to work, (ii) late and diminishing fees, and (iii) high levels of stress and anxiety, mean that it's simply not conducive to a decent quality of (family) life.</p> <p>I also don't want to spend every year of my career campaigning, protesting, and fighting just to get paid for the work I do. It's too demoralising and exhausting.</p>