



By email to: iclar@justice.gov.uk

2 July 2021

Dear Sir Christopher

Response to the call for evidence - Independent Review of Criminal Legal Aid Review of Legal Aid

I realise that you are now digesting the evidence submitted to your review, but I hope it is not too late to let you have a digest of relevant evidence compiled in recent weeks by the Bar Standards Board.

You will understand that, as the regulator, we have an interest in the current and future supply of barristers because of our responsibilities to promote both access to justice and competition in the provision of services. With those regulatory objectives in mind, we have taken a close interest in trends in recruitment to, and progression at, the Bar, particularly at the publicly-funded Bar. We have also used our quinquennial Regulatory Return to gather evidence from chambers on the impact of the health emergency on current and future plans to offer pupillage places.

The cumulative evidence from these and other sources is summarised in the attached note.

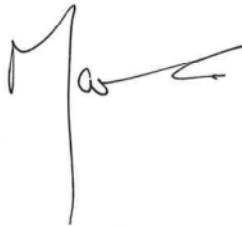
You will draw your own conclusions, but, as the regulator, I would highlight that:

- Generally, this is an ageing profession, but criminal barristers are, on average, older than the Bar as a whole: this comes about because recruitment to pupillage is well down on the levels of the 1990s, but retention has generally been strong in the period since. Retention cannot, however, go on for ever.
- The health emergency hit pupillage recruitment hard in the short-term – with 2020 numbers down 35% on 2019 – but is now bouncing back across most of the Bar. The exception, however, is the Criminal Bar where pupillage continues under pressure in part as a result of the health emergency, but, more fundamentally, because many chambers cannot afford to support pupils.

- These pressures on the Criminal Bar come through in the earnings statistics where the 2020 authorisation to practise exercise shows that 32.8% of barristers at the Criminal Bar earned less than £60,000 compared to 29.5% of all barristers; the equivalent figures for barristers within 15 years of Call are 44.1% and 29.5% respectively.
- These pressures on the Criminal Bar impact on diversity because barristers from ethnic minority backgrounds are over-represented among barristers relying on publicly-funded work and within smaller chambers. What is more, among barristers specialising in criminal work, barristers from minority ethnic backgrounds and women barristers earned less than their white counterparts.

If you or the members of your team would find it helpful to explore this evidence base and these findings in greater depth, I should, of course, be happy to set up a meeting.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mark Neale', with a stylized flourish at the end.

Mark Neale
Director General