



BAR COUNCIL NEWS UPDATE – MONDAY 10 MAY 2021

Immigration

[Financial Times](#) – The FT reports that the Bar Council, Law Society and UNHCR have criticised the UK’s plans to limit asylum rights. The **Bar Council** is quoted as saying the proposed limits on appeals risked creating “serious unfairness”.

Remote hearings

[The Times](#), [New Law Journal](#) - Remote hearings are undermining the administration of justice and should be phased out once the pandemic is curbed, the professional bodies representing the UK and Ireland’s most senior lawyers has claimed.

The Times reports that in an effort to tackle the backlog, online hearings have been introduced alongside remote jury centres, where members sit in cinemas that screen the proceedings live.

In a [statement issued](#) jointly with the Bar Council of England and Wales, The Bar of Northern Ireland and the Bar of Ireland, the faculty said that remote hearings “deliver a markedly inferior experience”.

“The management of witnesses, especially in cross-examination, is far less satisfactory when conducted remotely and we are concerned that it may have an adverse impact on the quality of the evidence given,” it said.

“We are concerned that remote hearings present very considerable challenges to effective advocacy in cases involving evidence or complex narrative submissions.”

Judicial review

[Law Gazette](#) - The Bar Council has criticised the government for failing to think through how its proposed judicial review reforms would work in practice in yet another damning response to the Ministry of Justice's controversial consultation.

The Bar Council said the Ministry of Justice's six-week *Judicial Review Reform* consultation was inadequate 'not only because of its shortness but also, and more importantly, because of a lack of analysis of how the proposals would actually work' in its newly published [consultation response](#).

The government proposes mandating the use of suspended quashing orders.

However, the Bar Council questioned what would happen to cases heard in the intervening period.

As well as criticising the time allowed for consultation, the Bar Council was 'very concerned' that the government was seeking to bring forward proposals that went beyond what the Independent Review of Administrative Law (IRAL) recommended.

Criminal legal aid review

The Times (print and [online](#)) – The Times reports that the Bar Council's response to the Criminal Legal Aid review shows striking disparities in earnings based on sex and ethnicity.

The Times reports that the figures showed that on average black female barristers earn £18,700 less a year than junior white men in the profession.

Chair of the Bar, Derek Sweeting QC, described the disparity in earnings as "concerning". He said that "there may be a number of factors causing this" and that the Bar Council is committed to implementing a "modernising the Bar programme to tackle these problems".

Sweeting added that "the data shows the earnings of most criminal barristers are too low to be sustainable and risk serious damage to the long-term future of the criminal justice system. The criminal Bar is ageing and losing practitioners; urgent action is required by government to address this problem."

Natasha Shotunde, Chair of the Black Barristers Network, describes the findings as "a classic example of racism and sexism within our profession, and specifically the intersectionality of both".

Domestic Abuse Bill

[New Law Journal](#) – NLJ reports that Lawyers have called for non-means tested legal aid to be made available to domestic abuse victims, as the Domestic Violence Bill passed its final parliamentary hurdle.

The Bill, approved by the House of Lords last week, defines domestic violence to include coercive or controlling behaviour and creates greater protection for victims.

Chair of the Bar, Derek Sweeting QC, said: “It is disappointing that the government has ignored our call to make non-means tested legal aid available in all domestic abuse cases... legal representation ought to be a given for these difficult and traumatic cases.”

LexisNexis legal sector report

[Law Gazette](#), [Legal Futures](#), [Legal Cheek](#), [New Law Journal](#), [Legal Support Network](#) - The legal market contracted by 4.3% last year - but many areas have bounce backed well, according to a study by information provider LexisNexis.

The gross legal product (GLP) index – a measure which tracks hundreds of metrics related to legal activity levels – revealed a year-on-year market decline of 4.3%. Between 2017 and 2019, the market grew by 2.7%.

However, LexisNexis reported stark discrepancies between the performance of different practice areas. While risk and compliance grew 22% in 2020, with double digit growth in every quarter, civil litigation saw the greatest decline, falling 35% over 2020. Property, immigration and crime also faced ‘critical decline’.

The study, **supported by the Bar Council**, found that the expected boom in restructuring and insolvency has yet to materialise, with demand down 18% at the end of 2020. However, it said there could be ‘significant expansion’ ahead as government support is withdrawn and so-called ‘zombie’ companies go under.

Legal Services Board

[Legal Futures](#) - The Bar Council and Council for Licensed Conveyancers (CLC) have warned of the dangers of using “one-sided” consumer reviews to assess the quality of lawyers.

They were responding to a [consultation on quality indicators](#) launched by the Legal Services Board (LSB) in February, which proposed adding consumer feedback to a single digital register for all lawyers and the creation of a “platform operating a standardised customer feedback system”, which would sit alongside commercial comparison sites.

The Bar Council said creation of a customer feedback platform was “not an appropriate role” for regulators and the cost would be borne by the profession and probably clients via increased fees.

The Bar Council said a research exercise carried out by the LSB on quality indicators with 69 members of its public panel “was based on materials about fictitious law firms” and was not applicable to the Bar.

“We would not want the Bar to be swept up in regulatory reforms underpinned by evidence relating to another profession, based on such a small sample size.”

Bullying

[Legal Cheek](#), [The Business Desk](#) - A barrister is leading a new, national initiative aimed at tackling abusive behaviour at the Bar.

All Rise is a project inviting the Bar to step up and actively create a better culture for all barristers. It aims to encourage barristers across all practice areas and levels of call to be ‘active bystanders’ – speaking out and standing against abusive, bullying and belittling behaviour.

The initiative is headed by Chris Gutteridge from Exchange Chambers in Manchester, Bo Kay Fung (Financial Conduct Authority), Lydia Pemberton (3 Paper Buildings) and Morayo Fagborun Bennett (Hardwicke), who met on the **Bar Council’s inaugural Leadership Programme**, a project aimed at changing the culture of the Bar through facilitating a network of ‘new leaders’.

Pupillage

[The Student Lawyer](#) – **Chair of the Bar, Derek Sweeting QC**, appears on the Student Lawyer podcast to discuss reforms to qualifying as a barrister.

BTAS Sanctions Guidance

The Times (print and [online](#)), **Law Society Gazette**, [Legal Futures](#) – The Bar Council has responded to plans announced by BTAS to reform sanctions guidance for the Bar, including those for sexual misconduct cases.

Chair of the Bar, Derek Sweeting QC, said: “It’s no secret that many at the Bar feel that the current sanctions do not reflect the seriousness of cases concerning sexual misconduct and the [Bar Council has raised concerns](#) with both the BSB and BTAS on this point.

“We hope that in assessing the sanctions guidance the impact on victims of harassment at the Bar is considered.

“Now is the time for the Bar to get its views heard on this matter and the wider sanctions review and respond to this consultation. BTAS is listening.”

Charter for Black Talent

New Law Journal – The media reports further on an initiative aimed at increasing the number of talented Black professionals in senior positions in the UK’s professional services sectors, which has been backed by the Bar Council of England and Wales.

The barrister profession’s representative body joins the City of London Corporation, the Inns of Court, Magic Circle law firms, Big Four accountancy giants, along with Brick Court Chambers, 4 Pump Court, 3 Verulam Buildings, Matrix Chambers, and the Commercial Bar Association in supporting the [Charter for Black Talent in Finance and the Professions](#).

BAR COUNCIL TWEETS





The Bar Council  @thebarcouncil · May 5



In collaboration with @TheBarofIreland, @FacultyScot and @TheBarofNI, we have issued a statement reaffirming the necessity of in-person hearings, while welcoming remote court hearings to deal with short, uncontroversial procedural business.

Read in full: barcouncil.org.uk/resource/four-...

1. We are supportive of the continuing use of technology in our courts.
2. We are supportive of remote hearings becoming the default position for short or uncontroversial procedural business. We recognise that the appropriate use of remote hearings will be vital in tackling accrued backlogs in each of our jurisdictions.
3. However, for any hearing that is potentially dispositive of all or part of a case, the default position should be "in-person" hearings. Remote hearings should be available as an option in such cases where all parties (including the court) agree that proceeding in that way would be appropriate.

