



# Party Conference Briefing 2014



**The Bar Council**  
*Integrity. Excellence. Justice.*



# Contents

Key contacts	1
The Bar at a glance	2
Introduction	4
Fair access to justice for all	5
Legislation and parliamentary activity in the public interest	11
Innovation at the Bar	15
Value to the economy	17
The Bar's role in society	20
Regulating barristers	26
Further information	28





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# The Bar at a glance

## What is the Bar?

A strong and independent Bar exists to serve the public interest and plays a crucial role in the administration of justice. As specialist, independent advocates, barristers enable people to uphold their legal rights and obligations, often acting on behalf of the most vulnerable members of society. The Bar makes a vital contribution to the efficient operation of criminal, family and civil courts. It provides a pool from which a significant proportion of the judiciary is drawn, on whose independence the rule of law and our democratic way of life depend.

Approximately 12,600 barristers are self-employed and operate from chambers independently under the 'cab rank' rule. This requires barristers, when offered an appropriate fee, to accept instructions in any field in which they practise, regardless of their views of the client or the client's case. Even the most unpopular and anti-social are entitled to legal representation. These arrangements are regarded as fundamental elements of the rule of law in this country and account, in part at least, for the high regard in which the English and Welsh Bar is held in other countries.



Nearly 3,000 subscribing members of the Bar are currently employed by the Government and private organisations, including the Crown Prosecution Service, the Government Legal Service, corporate and financial institutions and local authorities.

## The Bar Council

The Bar Council is the governing body for all barristers in England and Wales. It represents and, through the Bar Standards Board (BSB), regulates about 15,500 barristers in self-employed and employed practice.

In its representative capacity, the Bar Council has been at the forefront of initiatives over many years to maintain access to justice, lead the modernisation of legal services, uphold the UK's constitutional arrangements and the rule of law, and promote access to the profession. The Bar continues to play its part in giving the public the service it deserves. It is constructively engaged in working with Government, Parliament and other stakeholders to make its contribution to a system of justice of which we can all be proud.

# Introduction

This briefing seeks to inform 2014 Party Conference delegates about the Bar's public interest priorities, how we address them, and the challenges and threats we face.

The Bar Council is committed to:

- Promoting fair access to justice for all
- Championing policy and legislative change for the efficient administration of justice
- Innovating to adapt the Bar's services better to meet the needs of our clients
- Strengthening the reputation of the UK legal system internationally
- The development of business opportunities for barristers at home and abroad
- Removing barriers to entry to the profession, and
- Serving the community through pro bono legal and other voluntary work.



## Fair access to justice for all

A barrister's job is to uphold the rights of citizens by speaking fearlessly on behalf of their clients, some of whom may be among the poorest and most vulnerable in society. The Bar is a profession that seeks to promote fair access to justice for all. Its existence is vital to the maintenance of the rule of law and the administration of justice.

## The current climate

For many people, access to justice is determined to a very large extent by the legal aid system. This has undergone enormous changes over the past year alone with the introduction of significant cuts in criminal, civil and family legal aid.

The Bar Council recognises that the coalition Government has had to make savings in public expenditure in this time of financial austerity and we recognise that the Ministry of Justice has not been immune from the difficult choices which have had to be made.

We cannot wind back the clock. The Bar is exploring new ways of working to ensure those in need of legal representation are able to access independent specialist advisory and advocacy services of the highest standard. We are reviewing the procedures and processes of our justice system and investigating the factors which drive expenditure in order to identify the scope for achieving greater efficiency.

In the coming parliamentary session, the Bar Council's work in the public interest will focus on:

- Investigating and explaining the effects of legal aid cuts and other restrictions on access to justice
- Persuading the Government to avoid further cuts and providing leadership on mitigating their impacts
- Undertaking research to examine the scope for efficiency savings, and
- Driving innovation in service delivery.

In return, the Bar Council asks the Government to:

- Undertake comprehensive monitoring of access to justice
- Ensure the justice system is provided with sufficient resources to provide access to justice for all, and
- Deliver a joined-up approach to policy making in the administration of justice.

If our system of justice is to continue to attract respect and admiration around the world, and to remain a vital national asset, the administration of justice must be safeguarded and properly supported.





## Funding criminal advocacy

By its 'Transforming Legal Aid' consultation, conducted between April 2013 and February 2014, the Government proposed a new wave of cuts to the Advocates Graduated Fee Scheme (AGFS), affecting crown court criminal defence work.

However, even without these proposed cuts:

- The average fee paid in a Crown Court case had fallen by 21% on average between 2007 and 2013, a 37% fall in real terms, and
- The total cost of the AGFS has fallen from £275m in 2010/11 to £220m in 2013/14 (despite the introduction into the scheme of those high-cost cases where the trial is expected to last between 40 and 60 days). A further 10% fall is expected as the impacts of earlier cuts make themselves felt.

In March this year the Government agreed to conduct a review of the AGFS "with an open mind"<sup>1</sup> and to defer the implementation of any AGFS fee changes until after the 2015 election.

<sup>1</sup> Agreement between Ministry of Justice, Bar Council and Criminal Bar Association', Ministry of Justice, <http://bit.ly/1s8N4T>



Meanwhile, following the Government's decision to cut legal aid rates in Very High Cost Cases (VHCCs) by 30%, barristers made it clear they were unwilling to accept instructions in these cases at the reduced rates. The Bar Council, together with the Criminal Bar Association and the Circuit Leaders, engaged in discussion with the Government to identify a mutually acceptable resolution to this impasse.

We are all now engaged in discussions with the Government on the long term future of criminal advocacy, including a review of the AGFS and an alternative to the VHCC scheme. Together with other initiatives in the Criminal Justice System in which we are involved, this activity could place the sustainability of the Bar as a profession of specialist advocates on a more secure basis.

The Bar Council responded to the Review of Independent Criminal Advocacy, which the Government commissioned Sir Bill Jeffrey to undertake, and has set up its own Criminal Justice Reform Group (CJRG) to take a lead on thinking about how the criminal justice system can be organised more effectively. Led by HH Geoffrey Rivlin QC, the CJRG is made up of representatives from the Circuits, the young Bar, the Criminal Bar Association (CBA) and the Family Law Bar Association (FLBA). Its objective is to consider and formulate proposals for the future of the criminal justice system and the role of barristers in that system, having regard to the interests of justice and the current state of public finances. The CJRG will be contributing to Sir Brian Leveson's review which is identifying ways to streamline and modernise the process of criminal justice and reduce the total length of criminal proceedings by, amongst other things, looking at digital and other new ways of working.



## LASPO one year on

Aside from cuts to the AGFS, the justice system has been coming to terms with the effects of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012.

Since the introduction of LASPO, fewer people have access to free legal representation than at any time since legal aid was introduced in 1949. Areas of law now almost entirely excluded from the scope of legal aid include child custody, divorce, employment, education, debt, housing, welfare law and immigration (except asylum cases).

Although it is too early to determine the longer-term impact of the Government's transforming legal aid agenda (of which LASPO forms a central part), Bar Council research suggests that much of what the Bar and others feared has come to pass.

Our recently published research indicates:

- A significant increase in litigants in person, especially in the family courts
- Increased delays in court and additional burdens on already-stretched court resources
- Increased and likely unsustainable pressure on frontline providers offering free legal support, advice or representation, and
- A growing reluctance of solicitors and barristers to take on complex, low-value litigation, thereby denying access to legal advice and representation to those who need it.

LASPO not only excludes those without financial means from accessing the justice system, it also affects the efficient administration of justice.

*“The courts are full now of litigants in person. Last week I was sitting in a horrendous case where there had been lots of domestic violence and the father could not get legal aid, he was a litigant in person. It would have meant cross-examining the woman who he had beaten seven bells out of over the last fifteen years.”<sup>2</sup>*

<sup>2</sup> Barrister 12, 'LASPO: One Year On' [www.barcouncil.org.uk/media-centre](http://www.barcouncil.org.uk/media-centre) p54

Our research findings provide valuable insights into how LASPO is working in practice. The Government must now:

- Carry out a full assessment of the impact of LASPO on access to justice, and
- Make the necessary policy and legislative changes to provide fair access to justice for all.

*“People turn up with all the papers they have ever had and they just present them in a pile to the judge. There might be a case in there but there might not. But it costs a lot of money and we do not have an inquisitorial system here. We cannot afford to pay for judges to go through that stuff as it costs a fortune.”<sup>3</sup>*



<sup>3</sup> Barrister 5, 'LASPO: One Year On' [www.barcouncil.org.uk/media-centre](http://www.barcouncil.org.uk/media-centre) p54

## Legal aid for judicial review

Judicial review is the legal process whereby the legality of government and public authority decision-making can be challenged. Apart from political processes, it is the most powerful constitutional mechanism for holding government to account for its actions. It is fundamental to the rule of law.

Earlier this year the Government changed the rules on judicial review so that:

- Lawyers will not be paid legal aid for work which they have already done if the court refuses permission for an application for judicial review, and
- Lawyers may not be paid for such work if the case is concluded before the stage at which the court decides whether or not to grant such permission.

The procedure for judicial review means the work is front-loaded, since a sizeable proportion of lawyers' work goes into the application for permission. Lawyers, working in the public interest, have no guarantee they will be paid. Many cases are in fact resolved in favour of the claimant before completing the permission stage, and even in these circumstances payment of lawyers' fees is at the discretion of the Legal Aid Agency. So even if a lawyer for a claimant wins the argument, and if the public authority under scrutiny concedes, he or she may still not get paid.

These changes will undermine the viability of this area of practice for many lawyers.

Cases which have led to notable changes in common law, statute, and public policy will no longer come to light, effectively immunising the Government from legal challenge.

## Impact on the Bar

The Government's legal aid reforms not only restrict access to justice, they also threaten permanently to damage the quality of our system of justice. Excellence and quality are the profession's watch words, but as more and more barristers are unable to afford to undertake publicly-funded work, the pool of experienced specialist advocates needed for highly complex cases, from which a significant proportion of the judiciary of the future is drawn, will be diminished.

These changes will also negatively impact the diversity of the Bar, and consequently of the judiciary. One of the principal concerns of the Bar is to ensure that high quality individuals from all social and ethnic backgrounds are attracted into and succeed at the Bar. As Black and Minority Ethnic practitioners and those from state schools are more likely to undertake publicly-funded work, cuts in legal aid run against concerted efforts by the Bar to ensure that the profession is representative of the society which it seeks to serve.



## Legislation and parliamentary activity in the public interest

The Bar Council has a long record of contributing to the development of public policy and legislation affecting the development of our legal system.

This work is reflected in:

- Responses to Government consultations
- Submissions and evidence to parliamentary select committees
- Briefings for parliamentarians on legislation and statutory instruments, and
- Meetings with ministers and departmental officials.

## Criminal Justice and Courts Bill

The Bar Council has briefed MPs and Peers on Part 4 of the Criminal Justice and Courts Bill which, in its current form, will place further obstacles in the way of those applying for judicial review.

The proposed changes set out in the Bill, scheduled for report stage in October in the Lords, would mean that:

- Applicants for judicial review would only be able to seek protective cost orders once permission was granted, exposing them to the possibility of paying an unlimited amount in respect of the opposing side's costs at a very early stage in proceedings.
- Charities and NGOs who, at their own expense, wish to contribute their expertise to the court, would be exposed to the risk of being penalised in costs. The value of contributions by 'interveners' as they are known, which is often acknowledged by the judiciary, would thereby be placed at risk if the Government's proposals were enacted.
- Individuals, charities or NGOs who supported an application for judicial review, with a view to enabling an individual, who could not otherwise afford to do so, to challenge an unlawful act by central or local government, would be at risk of having to pay the opposing side's costs.
- The courts would be deprived of the power to decide in test cases that the government had acted unlawfully, merely because that decision would be highly unlikely to affect the particular individual who acted as claimant in the test case.

The Government has promulgated its proposed changes to judicial review on the basis that judicial review has 'expanded massively'<sup>4</sup> in recent years. However, the Government has provided no reliable evidence to support this claim. Nor has it supported the suggestion that genuine abuses of process have been taking place, or that the existing powers of the courts to deal with any such abuses are inadequate.

If approved by Parliament in its current form, Part 4 of this Bill would make it harder for individuals and organisations to challenge the unlawful exercise of public power.

<sup>4</sup> 'Judicial Review: Proposals for further reform', Ministry of Justice, September 2013, <http://bit.ly/1uiABkp>



## All-Party Parliamentary Group for Legal and Constitutional Affairs

The Bar Council, together with the Law Society, services the All-Party Parliamentary Group (APPG) for Legal and Constitutional Affairs. The group, which is chaired by Lord Hunt of Wirral, holds regular meetings, which offer an informed and lively forum for parliamentarians and outside speakers to debate a broad spectrum of topics.

The Bar Council also takes an active interest in the APPG for Legal Aid, chaired by Karl Turner MP, and the APPG for Victims and Witnesses of Crime, chaired by Priti Patel MP and Robert Flello MP.

## EU law and policy development

Through the activities of its European Committee and its office located in the heart of the government quarter in Brussels, the Bar Council actively monitors and seeks to develop EU policy in the area of law and justice.

The EU continues to be a significant source of UK law and policy, and the Bar Council is an increasingly important voice as we seek to contribute to debates in the public interest.

Over the past year the Bar Council has been contributing to the Government's review of the balance of competences between the UK and the EU. This relates to control over a very wide range of policy issues including:

- Police and criminal justice
- Judgments in matrimonial and family matters, and
- Data protection and retention and the Aarhus Convention.

In addition, the Bar Council has worked to:

- Promote the Bar of England and Wales in Brussels
- Provide expert input to the European Commission on English law and common law perspectives
- Organise events providing insight into opportunities for the criminal Bar to extend its practice into new areas of EU criminal law, and
- Inform barristers of recent and planned EU criminal justice developments.



## Regulation of legal services

The Bar Council recognises and accepts the need for high quality professional regulation.

In the Bar Council's response to the Ministry of Justice's review of the regulation of legal services last year, we argued for a re-balancing of the regulation of the legal services sector to meet:

- The public interest in effective regulation
- The consumer interest in appropriate protection, and
- The need to remove unnecessary costs and burdens on the profession.

The Bar Council notes with interest the Lord Chancellor's recent comments that the new Chairman of the Legal Services Board should work towards creating the conditions in which the LSB is no longer necessary.

## Responding to consultations

Members of the Bar regularly contribute their time to Bar Council committees which respond to a number of Government consultations. Since the end of last year the Bar Council has responded to 23 consultation papers from 14 different Government departments, parliamentary committees and other organisations. The subjects of the inquiries and consultations have included:

- The impact of the Jackson reforms
- The Public Accounts Committee's Criminal Justice System Landscape Review
- The UK and EU balance of competencies reviews
- The Office of the Lord Chancellor
- Insurance contract law

The Bar Council also supports parliamentarians in their scrutiny of legislation, which has included the Criminal Justice and Courts Bill. We also support MPs' and Peers' work in initiating debates, such as Lord Woolf's debate in the Lords on the contribution of UK legal systems to the promotion of the rule of law.<sup>5</sup> Our members are also often called upon to give evidence to parliamentary committees, for instance in relation to the Commons Justice Committee's review of the effects of LASPO on civil justice.

<sup>5</sup> 'Legal Systems: Rule of Law', Lords debate, Hansard, <http://bit.ly/1qQtUv>



## Innovation at the Bar

The Bar Council is at the heart of modernisation and the development of new ways of working at the Bar.

### Public access

The Bar Council promotes direct access to barristers, a route which, since 2004, has allowed clients to approach barristers directly for advice and representation, rather than follow the traditional referral model of instruction through a solicitor. In some circumstances, this can be a far more cost-effective way of accessing legal help because self-employed barristers have lower overhead costs than law firms.

## New business models

Following the Legal Services Act 2007, barristers have been enabled to provide legal services using different business models, developing innovative ways of working with other lawyers. This has begun to widen the pool of choice from which consumers can access providers of legal services. The Bar Council is working to improve ways in which the Bar can make its services more widely available to the public in anticipation of the outcome of the Bar Standards Board's application to regulate entities being approved by the Legal Services Board.

## BARCO

BARCO has been established by the Bar Council as a third-party escrow account to manage the financial relationship between the Bar and its clients. Becoming fully operational in April 2013, BARCO protects consumers and is seen as a positive step forward in the provision of legal services. It demands clear agreements about fees and maintains its own records of the agreements entered into by all parties.

The service has proved to be an invaluable tool for many of its clients, allowing the Bar to acquire new business which it would otherwise be unable to secure. BARCO has also been supporting barristers with Conditional Fee Agreement instructions, helping to ensure that the client has a clear understanding of the fee structure.



# Value to the economy

The legal profession of England and Wales has a world-wide appeal based on its strong traditions of independence, excellent quality and professional ethics.

## Foreign investment

The legal services sector makes a substantial contribution to the UK economy as indicated by:

- The £20.4bn contribution to UK GDP in 2012, 1.5% of the total
- The contribution of £4bn in UK export value, and
- A trade surplus of £2.9bn in 2012.<sup>6</sup>

In addition:

- The UK market accounts for around 7% of the global market for legal services in terms of fee revenue
- The UK is by far the largest market in Europe for legal services and accounts for over a fifth of the total European market<sup>7</sup>
- UK firms contributed 17% of the largest 100 global firms' revenue,<sup>8</sup> and
- A 2010 study<sup>9</sup> conducted by Queen Mary College London among 136 senior corporate and external counsel found that London was by far the most preferred seat for international arbitration (30%).

The success of the law firms is mirrored by the Bar. International revenues have risen from £90m in 2004 to £232m in 2013. Nearly 11% of barristers (1,325 barristers out of approximately 12,600 in private practice) are now acting for clients based overseas.

Taking this evidence, it is probably true to say that the UK legal services sector is more successful at exporting its legal services than any other jurisdiction in the world and it is underpinned by the high regard in which our judiciary is held.

<sup>6</sup> TheCityUK, Legal Services, January 2014, <http://bit.ly/1pLDPXB>

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> 'International Arbitration Survey: Choices in International Arbitration' Queen Mary College, <http://bit.ly/1BpJ7jV>

*“The quality of our judicial system brings more international litigants to the UK every year.”*

Former UK Trade and Investment Minister, Lord Green, March 2013

## Rule of law

A key reason for the success of the UK’s international standing as a nation is the strength of the rule of law at home. The Bank of England has been reported as holding the view that the single most important factor contributing to London’s position as a leading financial services centre is the country’s judicial and legal system.<sup>10</sup> More recently, the former Attorney General observed that London “could not have become the global financial and commercial centre it is, were it not for the rule of law being held in such high regard.”<sup>11</sup>

## The Global Law Summit

The Bar Council is playing its role in promoting London as a centre for international dispute resolution, and is helping to spread the value of English law and the rule of law around the world.

A key part of this work is our role in the Global Law Summit which will be held in London on 23-25 February 2015, in the 800<sup>th</sup> anniversary year of Magna Carta. The Bar Council is a partner of the event along with the Law Society, the Corporation of London, the British Council, TheCityUK, UK Trade & Investment, the Judiciary and the Ministry of Justice. The summit aims to promote to a high profile domestic and international audience:

- The UK’s position as a global leader in legal services
- The rule of law as the foundation of our legal system
- London as the destination of choice for dispute resolution and as a legal gateway, and
- The excellence of the judiciary and its reputation for impartiality, integrity and fairness.

The four themes of the Summit are: driving economic growth through the rule of law; law at the heart of 21st century business; Magna Carta principles and modern world solutions; and law as the foundation of a strong and prosperous society. For more information, visit: [www.globallawsummit.org.uk](http://www.globallawsummit.org.uk)

<sup>10</sup> Lord Mayor, Mansion House speech 9 July 2003.

<sup>11</sup> Attorney General, Guildhall, October 2013, <http://bit.ly/1p38ZcJ>



## International work

Another mechanism for attracting long-term inward investment and promoting good practice internationally is the Bar Council's work in exporting the rule of law and the use of English legal principles abroad.

This continues a long tradition of the UK promoting human rights and the rule of law internationally, such as when Winston Churchill led the UK to become one of the first states to sign the European Convention on Human Rights on 4 November 1950.

The Bar Council works in many jurisdictions across the world on projects to train and support lawyers in the promotion of the rule of law:

- The Advocacy Training Council (ATC) has conducted and participated in advocacy training programmes in overseas jurisdictions including Hong Kong, India, Pakistan, South Africa, Australia, and Bermuda, as well as the International Criminal Court and the United Nations. These courses have shown remarkable results in raising confidence and standards of advocacy and assisting local Bars to establish their advocacy training faculties. All ATC trainers offer their time on a pro bono basis.
- The Bar Council's International Committee (IC) is now running four exchange programmes with young practitioners from China, Russia, Korea and Brazil. Through our longest-running programme with China, the IC has trained over 300 Chinese lawyers in English law and professional standards. Many of the course participants now occupy high-ranking positions from which our rule of law standards are filtering into Chinese legal culture, and
- The Bar Council's dedicated Rule of Law Group, which was set up in response to requests from developing jurisdictions and in close co-operation with other UK lawyers' groups such as the Slynn Foundation, provides consultancy and training abroad, such as on jury trials in Russia, corruption and bribery in Oman, and assistance with the development of a code of conduct in the United Arab Emirates.

In these ways the Bar of England and Wales has maintained and improved its high international reputation for professionalism, collegiality and integrity.

# The Bar's role in society

The Bar is operating in a time of unprecedented financial pressure, particularly in publicly-funded areas of practice. Yet, despite heavy workloads, many barristers continue to give their time to a variety of charitable causes.

Despite the enduring false stereotypes of 'fat cat' barristers, the reality is that many practitioners are better described as dedicated public servants. Working on the front line, they carry out vital and challenging work for diminishing levels of remuneration. Barristers provide a crucial public service and make an essential contribution to the efficient operation of the criminal, family and civil courts.

## Pro bono

A large proportion of the Bar routinely carries out unpaid pro bono work. This involves free legal work such as advice and representation to individuals and community groups who cannot afford it, where legal aid is not available.

The Bar Pro Bono Unit is a charity which matches thousands of barristers to those who need legal assistance. The Unit channels other requests (including non-legal ones) from voluntary services through its Bar in the Community service. The service provides barristers with an opportunity to lend their legal skills for the benefit of the community through work such as charity trusteeships.

The Free Representation Unit (FRU) provides legal advice, case preparation and advocacy in tribunal cases for those who cannot obtain legal support. The FRU trains law students and lawyers to provide legal advice and advocacy in employment and social security cases in the South East of England.

The Bar Council financially supports both the Bar Pro Bono Unit and the FRU. The pro bono work to which many barristers commit their time with great enthusiasm is a credit to the profession.

## Public legal education

The Bar Council understands that part of the Bar's civic responsibility is to help improve public understanding of the law and the court system to enhance legal literacy. It is important for everyone to understand their civil rights and responsibilities as participating members of a civilised society.

In view of the widely predicted rise in litigants-in-person, in the wake of recent legal aid cuts, there will be an increasing number of people who do not qualify for legal aid, and who cannot afford legal representation. The Bar Council published,



and continues to distribute, 'A Guide to Representing Yourself in Court'.<sup>12</sup> Self-representation is a daunting and sometimes mystifying experience, one which the guide seeks to alleviate.

In recognition that understanding legal processes is a key component of Citizenship education, the Bar Council has been working with the Citizenship Foundation to connect barristers with schools to involve them in the delivery of legal education. We have also been working together to develop a smartphone app for young people to further their understanding of the law and their rights and responsibilities.

## Citizenship education

A strong, law-focused citizenship curriculum is crucial to increasing public understanding of legal rights and duties. It also addresses one of the regulatory objectives set out by the Legal Services Act 2007.

The Bar Council argued for and welcomed the Government's decision to retain citizenship as part of the National Curriculum. While acknowledging that the 2014 Citizenship programmes of study place a greater emphasis on human rights, democratic institutions and processes, and the role of citizens and Parliament in holding those in power to account, we are nevertheless concerned that human rights do not appear explicitly at Key Stage 3, and the rule of law does not appear at either Key Stage 3 or 4. We would urge the Government to include, at Key Stage 4, the concept of judicial review, the role of the European Convention on Human Rights, the Human Rights Act, and key human rights cases. Education in these matters is vital to instilling a critical awareness of the rule of law in young people in a way which equips them better to understand and negotiate political, legal and economic institutions.

## Corporate Social Responsibility

Corporate Social Responsibility (CSR) is important to the Bar Council because it matters to us that we use our resources and influence for social good and that we conduct our work efficiently, sustainably and ethically. The Bar Council has introduced a range of positive environmental and cultural changes in its operations to promote CSR.

The Bar Council helps its members use their professional skills and talents to benefit their communities in a number of ways. Last year's biennial survey found 39% of barristers engage in pro bono work and 36% are involved in other charitable legal work.<sup>13</sup>

<sup>12</sup> 'A Guide to Representing Yourself in Court', Bar Council, <http://bit.ly/1la1jbV>

<sup>13</sup> 'Barristers Working Lives Survey 2013', Bar Council, <http://bit.ly/1rB3yU9>

In addition, the Bar Council:

- Supports the Bar National Mock Trials Competition, run by the Citizenship Foundation, which involves over 2,000 state school students across the UK each year, educating children about the justice system as part of our commitment to improving citizenship education
- Organises ‘Speak up for others’, a programme which sends 500 volunteer barristers from all practice areas into their local state schools to talk with young people about the possibility of training to become a barrister, as the profession is often seen as unattainable by students from less-well off backgrounds
- Provides administrative and advertising support to the London Legal Support Trust, a charity that supports the work of voluntary legal centres in social welfare law, in their biggest annual fundraising drive, the London Legal Walk, in which hundreds of members of the Bar participate, and
- Participates in the City of London’s ‘Heart of the City’ initiative, which works with the City and related companies to develop and share their CSR experiences.

This year the Bar Council has:

- Reduced the organisation’s floor space, paper waste, and carbon footprint
- Operated a range of transport policies, including the Ride to Work scheme, to encourage employees to look at more environmentally-friendly and healthy ways of commuting to work, and
- Promoted a range of human resources policies which seek to ensure a dignified workplace, promote equal opportunities, allow for flexible working and encourage training and development.

## The diverse Bar

The Bar Council is committed to creating a Bar ‘of all, for all’. We are continuously exploring ways in which chambers can encourage applications from candidates from non-traditional backgrounds. This includes encouraging fair recruitment processes and policies on flexible working.

## Equality and diversity

The Bar Council is committed to ensuring that the profession attracts and retains the brightest and best individuals from all parts of society, irrespective of their background. We are working to widen access, improve retention, and support the progression of all those with the ability and potential to be successful at the Bar. We operate a range of schemes and programmes to encourage an inclusive profession that values its own diversity.

A mentoring service has been developed to help all members of the profession advance their careers at the Bar, with an initial focus on those wishing to apply for silk and judicial appointments. Currently in its pilot year, the service has been carefully monitored throughout 2014.

The Bar Council actively promotes the collection and publication of data on all protected characteristics as well as socio-economic data, which is used to inform policy. Complying with the Specific Duties Regulations 2011 made under the Equality Act 2010, the Bar Council publishes equality data on the profession annually via the 'Bar Barometer' report.<sup>14</sup>

This year the Bar Council has:

- Reviewed all monitoring data on the profession to identify trends and determine equality and diversity priorities for the Bar
- Provided an equality and diversity support helpline for the profession, which receives up to 20 calls a month on issues such as harassment, victimisation and dealing with complaints, and advises on implementation of Bar Standards Board (BSB) rules on monitoring unassigned work and flexible working
- Held 'Introduction to Equality & Diversity' toolkit training sessions for members of the Bar
- Worked with the Judicial Appointments Commission on its 'Barriers to Application' research, and
- Launched an Equality and Diversity Officer (EDO) network to support more than 400 EDOs, Diversity Data Officers, practice managers and clerks in sharing good equality and diversity practice between chambers.

We have also held a series of focus groups to explore barriers to a career at the Bar for women, as well as developing, in partnership with the Inns, Circuits and Specialist Bar Associations, a 'Wellbeing at the Bar' programme to support chambers and barristers in managing stress and wellbeing. We continue to support members of the profession by challenging the accessibility of courts for disabled practitioners through the work of the Equality and Diversity Committee's Disability Sub-Group.

<sup>14</sup> 'The Bar Barometer', Bar Council, June 2014, <http://bit.ly/1wbGvG>



## The Bar Nursery

The Bar Nursery, which opened in April 2013, has continued to offer flexible childcare facilities near the Inns of Court and has special rates for all members of the Bar, chambers staff and Bar Council employees.

For the self-employed Bar, the financial costs of having a family can be particularly high, and as a result many barristers in publicly-funded practice with caring responsibilities are finding the combination of professional and family life difficult. We do not believe that women choosing a career at the Bar should have to feel discouraged from starting a family because of their work, which could result in talented practitioners leaving the self-employed Bar. Looking to the future, we hope to extend the scheme across England and Wales.

## Social mobility

The Bar Council works to ensure that talented individuals from less advantaged backgrounds are offered appropriate support and guidance to embark on a career at the Bar.

Our annual Bar Placement Week, run in conjunction with the Social Mobility Foundation, has for the past seven years seen high-achieving Year 12 students from low-income backgrounds shadow barristers, visit courts and take part in interactive workshops. Providing structured programmes like the Bar Placement Week is crucial for students who might not otherwise be able to access such opportunities. It also demonstrates that a career at the Bar is open to everyone, irrespective of background. This year, 75 students took part in Bar Placement Week in London. We held our second Bar Placement Week in Birmingham and launched the programme in Leeds and Manchester. We hope to develop similar initiatives elsewhere across England and Wales.

With respect to social mobility, the Bar Council has also:

- Commissioned and published an analysis of candidates obtaining pupillage through the Pupillage Gateway to improve understanding of the key success factors in navigating the pupillage process
- Run a joint research project with the BSB to improve understanding about the information needs of prospective participants in the Bar Professional Training Course in order to tailor the Bar Council's careers information
- Updated the Bar Council's 'Fair Recruitment Guide' to include guidance on the open and transparent provision of mini-pupillages and internships
- Ensured that data about the socio-economic background of practitioners, and those entering the profession, is properly captured and stored, and
- Created an e-mentoring service (part of the Bar Mentoring Service) for students who take part in the Bar Council's schools' initiatives (such as Bar Placement Week) so that they can easily access guidance on a career at the Bar. Students will be paired with junior barristers, who will help them navigate the path to becoming a barrister via a specialist online platform. This is being launched in the autumn 2014.



# Regulating barristers

As one of the Approved Regulators designated by the Legal Services Act 2007, the Bar Council has delegated its regulatory responsibilities to the independent Bar Standards Board (BSB).

The BSB's mission is to regulate the Bar so as to promote high standards of practice and safeguard clients and the public interest.

The Bar Standards Board has recently made a number of changes to the regulation of the Bar in order to allow greater flexibility for the profession, while still ensuring that necessary standards are met and maintained. Those developments include having:

- Implemented the new BSB Handbook, which replaced the former Code of Conduct in January 2014, providing the ethical structure for the Bar
- Allowed a wider range of barristers to provide services directly to their clients, and to undertake litigation, so that barristers can offer an end to end service if they wish to
- Introduced new approaches to enforcement and supervision, designed to target resources at chambers and entities that are more likely to breach the requirements of the Handbook, and
- Applied to become an approved regulator of entities (approval from the Legal Services Board is pending).







Further initiatives are planned to ensure that regulatory arrangements support innovation at the Bar:

- Enhancing the BSB's use of evidence and making sure that a risk-based approach is taken in relation to everything the BSB does
- Revising the system of education and training to ensure it:
  - Prepares trainees for competent practice at the outset of their career
  - Promotes innovation in teaching and learning
  - Offers flexibility in the pathways to qualification for the Bar or elsewhere
  - Minimises barriers to access to the profession, and
  - Ensures ongoing competence throughout a practitioner's career.

The BSB is also applying to become a licensing authority of Alternative Business Structures (which will allow barristers to join with others in different arrangements for the provision of legal services) with the approval of the Legal Services Board.





## Further Information

For further information on any aspect of the Bar Council's representational work, please contact:

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# *Integrity. Excellence. Justice.*

The Bar Council represents barristers in England and Wales. It promotes:

- The Bar's high quality specialist advocacy and advisory services
- Fair access to justice for all
- The highest standards of ethics, equality and diversity across the profession, and
- The development of business opportunities for barristers at home and abroad.

*The General Council of the Bar is the Approved Regulator of the Bar of England and Wales. It discharges its regulatory functions through the independent Bar Standards Board.*

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