

# Kindness at the Bar

Feedback from preliminary workshops

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## Background and aims

In Autumn 2021, Valerie Charbit, a barrister in Red Lion Chambers, and member of the Bar Council's working party for Wellbeing at the Bar (WATB), invited Professor Banerjee, Head of the School of Psychology at the University of Sussex, to speak on the topic of kindness at an event hosted and supported by the South Eastern Circuit, the Criminal Bar Association, and Middle Temple. The event took place in November 2021, and was attended by the Leaders of the Circuit and the Criminal Bar Association, the Senior Presider, and the Chair of WATB. Professor Banerjee, as founder of the Sussex Centre for Research on Kindness and architect of the recent BBC Kindness Test, was able to share insights on kindness in organisational contexts and stimulate a positive discussion about potential facilitators and barriers to kindness at the Bar.

The work on kindness was seen to connect with issues raised in a number of surveys and reports recently published by the Bar Council: Diversity at the Bar (2020), Bullying Discrimination, and Harassment at the Bar (2020), Trends in Retention and Demographics at the Bar 1990-2020 (2021), Barristers' Working Lives (2021), Covid-19 Survey of Pupils (2021), and Life at the Young Bar (2022).

Following the November 2021 event, the Bar Council's WATB working party group commissioned Professor Banerjee to undertake a small piece of consultancy. This involved a thematic analysis of preliminary workshops with barristers from different parts of the Bar to explore overarching themes of kindness. The aim of the work was to identify key themes relating to the nature of kindness at the Bar and the key factors that promoted or inhibited it. These two workshops were expected to serve as a foundation for further workshops with a larger number of barristers, with the aim of developing co-production activities that would result in agreed approaches and ways of working.

## Workshops

Two preliminary workshops were organised by Valerie Charbit and held online in Summer 2022 to explore kindness at the Bar. Each was attended by barristers from different parts of the Bar. More than 20 barristers volunteered to take part and varied in demographics such as age, gender, and ethnicity, as well as experience and seniority (both silks and juniors were included).

Using some of the findings from existing Bar Council reports and surveys as a springboard, key questions explored in the workshop concerned:

- What kindness looks like at the Bar and when and where it is experienced
- What impacts kindness has on others as well as on oneself
- If and how kindness at the Bar has changed over time
- Barriers to kindness at the Bar
- Early indications of strategies that could help promote kindness at the Bar

It was emphasised that the discussion would be free and open, with the meeting recorded for analysis. Assurance was provided that any reporting of people's contributions would be completely anonymous.

## Approach to thematic analysis

Thematic analysis was carried out on the transcripts of key issues, with the aim of exploring these in further workshops with a wider range of barristers.

The preliminary coding and thematic analysis was undertaken by a trained Masters graduate, Hugo Mercer, with further consolidation and development of themes and subthemes by Dr Gillian Sandstrom, Director of the Sussex Centre for Research on Kindness, and Professor Banerjee.

The thematic analysis followed key steps in line with best practice, including work by the analysts to familiarise themselves with the transcripts, preliminary coding of the overarching issues emerging from the transcripts, and an iterative process to arrive at the final set of themes and subthemes from the analysis. These are presented below, accompanied by brief commentary and illustrative extracts from the transcripts.

## Preliminary themes and subthemes

### *Rules of conduct*

The first overarching theme related to the place of kindness in the rules of conduct at the Bar. Turning to the first subtheme, **explicit rules of conduct**, there were a number of references to the explicit instructions received by barristers regarding behaviour at the Bar, which included informal but nonetheless concretely stated expectations about how to behave. These sometimes took the form of very direct statements of expectations which could be perceived as unkind:

*“Now your solicitor wants you to take on the personality of your clients, sometimes it appears, and be as unpleasant to the other side as they wish to be themselves. And I see that being encouraged.”*

However, it is important to stress that many described the influence of explicitly stated positive approaches that facilitated kindness. Indeed, there was some reference to the importance of regulatory changes as having specific effects on promoting more kindness in people’s interactions:

*“We had a big sea change in terms of the way the rules worked in 1999 at the civil bar and I think that brought about with it a change actually in judicial attitudes.”*

Yet, sitting alongside these explicitly stated expectations were a far more influential set of expectations, namely the unspoken, **implicit rules of conduct**.

Many barristers described how they learned how to behave by watching others, and picking up on the qualities of behaviour that are modelled by others in chambers and in and around the court:

*“I think the way in which I learned was initially to watch the way my supervisors interacted with each other and members of chambers and outside the chambers’ confines, and by watching that sort of behaviour ... you sort of learn naturally how to behave in in your career.”*

*“I don’t recall anyone ever saying to me, you need to be more or less aggressive ... I think it’s an osmosis process.”*

These were often highly emotionally-charged experiences, and clearly had significant impacts on the propensity to give kindness to others:

*“You inherit traits from your pupil supervisor and from those that you’re seeing in court, and if those people are aggressive macho bullies, then you think ... to win this case I need to do that.”*

*“One of the most terrifying things ... about going to court was the aggression and hostility I might face from my opponent, that they would say things about me to the judge which would undermine me.”*

Again, though, there was clear potential for the implicit rules of conduct to be ones that promote positive change, as there were a great many references to the experience of kindness in different settings at the Bar:

*“I think about culture change and seeing the way people do things, and realising that is how you can do things, you can do this job and be kind”*

## *Workplace contexts and conditions*

The second overarching theme concerned the impact of the workplace context and conditions on levels of kindness. One key point related to the **culture or climate in different workspaces**. Barristers frequently pointed out not just that particular individuals were more or less kind, but also that particular places and spaces varied in the degree of kindness experienced:

*“I’m on the XXX circuit ... and there’s a lot of camaraderie and everybody sort of knows each other, and I think that really helps with the kindness issues.”*

Indeed, it was notable that in some cases, the same people were felt to behave differently when in different settings:

*“I’ve seen a little bit of tribal attitude towards the bar where you look after your own within chambers, but once you’re outside of chambers different standards of behaviour apply.”*

A further crucial factor was the extent to which there were sufficient **workplace resources**, including spaces and staffing, to support kindness. One barrister explained:

*“When you're in a place of scarcity, we become less generous, or we become less outward looking, because our group of people that we have loyalty to become smaller and smaller because we're fighting for ourselves.”*

Many examples were supplied by barristers of inadequate resourcing, which appeared to squeeze out the capacity for kindness:

*“You're fighting to get that conference room that's open, you're fighting to get the new room that doesn't have a bucket with a leak from the ceiling.”*

*“An absolute shambles; there's no cafes, there's no facilities, there's no investment in anything, and so the whole thing is really not conducive to a kind of good work atmosphere.”*

One example focused on physical spaces as playing a critical role in the gendered experience of kindness:

*“As a woman practicing at criminal bar, other women are often kind. And, and to some extent that possibly was fostered by the fact that until recently we often had separate robing rooms for men and women, so there was historically a sort of refuge in the women's robing room where you might go and complain about how you've been treated by the men or ask for support.”*

Other challenges to kindness were noted in the context of **remote communication**, which had become far more common during the Covid-19 pandemic. It was noted that the thoughtfulness that people might exhibit with their colleagues in person was often lost in the context of electronic communication:

*“[Being kind] is less easy to do when people are more often working remotely because [when in person] there is a culture of leaving the door open and being able to just poke your head around the corner and ask people for five minutes of their time, and you can usually see whether it's a good time or a bad time.”*

*“You put things in an email, where you don't pick up the consequences, which you possibly wouldn't put if you were face to face.”*

## *Individual differences*

The final overarching theme – individual differences in how kind different people are – was often the starting point for barristers when considering kindness. We have chosen to address this theme last and present the issues briefly, in order to ensure that the important contextual factors discussed above are given the attention they deserve.

Nonetheless, the fact remains that many barristers pointed to **temperament and personality** as the key factors in determining experiences of kindness:

*“Kindness in my experience is personality specific, so there are people that are always kind and respectful of others, those who've got no time for contributions to chambers and no time for giving of their own time to others, and can be focused on themselves and ill-mannered.”*

Interestingly, as the conversation about individual differences in kindness developed over the course of the workshop, barristers recognised that a wide range of factors could be involved in whether particular individuals gave or received kindness.

One key factor was the importance of **individual stresses** as a contributor to a person's 'unkind' profile:

*"Sometimes they don't mean to be unkind. I just think that's just the natural reaction if people are really pushed and stretched with what they're doing day to day."*

Some also referred to the importance of kindness changing as they gained in status. **Seniority and authority** were seen as highly influential:

*"Personally, I feel that the criminal bar has got kinder and, but I would question whether that's because I've got more senior."*

*"Having the power now being more senior, it's much easier for me to be kind."*

In addition, a number of **demographic variables**, such as gender, were seen as critical influences for people's experience of kindness, even though not all agreed on the issues being raised:

*"Toxic masculinity, whereby particularly men feel like they have to behave in a certain way in order to obtain praise from their instructing solicitor"*

*"I don't agree it's about gender at all, two of the vilest judges I have ever come across were ... known for being atrocious bullies .. and, sadly, they were both women."*

Importantly, a number of barristers emphasised how increasing diversity at the Bar, particularly in relation to ethnicity, socioeconomic status, and upbringing, was a critical factor changing the culture at the Bar and increasing kindness:

*"What's the key difference maker? Well, it is to do with diversity and that's probably where the focus should be, how can you maximize the impact that that increased diversity has?"*

The final subtheme in this area concerned the importance of **personal relationships** as key resources that could promote the experience of kindness:

*"[Kindness] is based on relationships, I only go to someone for help, if I had a pre-existing relationship with them."*

This raises an interesting question about how those who are feeling isolated, and/or do not have sufficient opportunity to build relationships with others in their workplace, can be supported in order to enhance the likelihood of experiencing kindness.

## Summary and next steps

The thematic analysis of the workshops showed a great deal of considered reflection on the topic of kindness by barristers. Already, there is clear evidence of sophisticated and nuanced understanding of kindness at the Bar, identifying a multitude of factors that play a role in influencing levels of kindness, including a number of challenging barriers.

However, the work done so far is based only on the views expressed by 20 barristers, and further workshops to build upon the emerging insights will be necessary to consolidate and further develop the themes and subthemes. Engagement with a wider group of stakeholders, including those from associated professions, will be necessary to understand the wider context of kindness at the Bar. Most prominent among these is probably the experience and perspective of the judiciary, and judges' involvement in future activities would be beneficial for building a rounded picture of kindness at the Bar.

There is an accumulating body of social and organisational research focused on interventions and practices that can promote kindness and wellbeing. These include programmes that are designed to increase the frequency of acts of kindness, those that use techniques such as journaling to draw attention to existing experiences of kindness and gratitude, those that have been shown to increase people's sense of meaning and purpose, and those that build strengths and resilience when facing stress and challenge.

However, the discussion in our workshops made it clear that achieving culture change to promote kindness at the Bar cannot be reduced simply to creating a new policy, charter, or guidance document relating to barristers' behaviour. A critical issue is how the emerging insights regarding wellbeing and kindness can feed into a transformation of the Bar environment as a whole, including resources and support for barristers' professional development – in terms of both early career and senior leadership – and their workplaces.

As originally planned, further work with more barristers and a wider group of stakeholders will be needed in order to generate a clear direction for these future activities. These should include co-production sessions that are focused on identifying strategies to achieve meaningful change that promotes kindness across the Bar. Small additions could also be made to Bar Council surveys in order to gain representative quantitative data regarding experiences of kindness at the Bar. This would enable monitoring of changes over time, and a test of if and to what extent kindness is predictive of other outcomes such as overall job satisfaction, mental health, wellbeing, and retention.

This work was commissioned by the Bar Council, with support from:

[Personal Injuries Bar Association](#)  
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