



# Life at the Young Bar

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### **About CRAC**

The Careers Research & Advisory Centre (CRAC), registered as a charity in 1964, provides research, expertise and innovation services for all those who support career development, at all ages and across all sectors.

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## Foreword

The Bar Council's Young Barristers' Committee (YBC) leads work to represent and promote the interests of the young Bar (pupils and new practitioners within 7 years post-pupillage). To do so effectively, it is critical that we properly identify the key interests and concerns of the Young Bar and ensure they are reflected in wider Bar Council policy development and support.

The Young Bar is the future of the profession. It is essential that the experience of new practitioners and pupils is properly understood, and that young barristers' voices are heard and acted upon. This research sets out to listen to those voices. It considers the demographics of the Young Bar, and what this means in terms of access to justice and the profession in the coming years. It explores differences by practice area, and what this might suggest in terms of targeted action and support. It captures the experience and views of young barristers on life at the Bar, aspirations for their future, career development and their wellbeing, and what this means in terms of how we as a profession need to modernise the way we practise. And, given the timing of this research, it provides a useful insight into the impact of the COVID-19 pandemic on new practitioners and pupils, and what we can learn from this.

We know that the last few years have been hugely challenging for all practitioners – but particularly new practitioners, and for those working in crime even more so. It is not overstating the situation to say that the young criminal Bar is in crisis. But across the practice areas for every young barrister who makes it through the arduous pupillage process, we are acutely aware of the lost opportunities to observe, learn, build professional networks, and secure the support necessary to flourish at the Bar. We are also aware of the difficulties faced by many young barristers in working from home in potentially inadequate accommodation, or for those with very young families whilst working from home.

This report endorses the Young Barristers' Committee's recent strategy to support new practitioners to get their careers on track as quickly as possible. This includes our [Inside Guide to the life at the Bar](#). Our focus is now on fair and equitable distribution of work (not just unallocated work) and income monitoring; encouraging effective practice review and mentoring; promoting healthy working practices (breaks/workload management); raising awareness and supporting the reporting of unacceptable behaviours (tackling bullying and harassment). This report also endorses ongoing work by the Young Bar, with colleagues across Bar Council, to challenge extended operating hours, improve listing practices, encourage more effective communication with the courts and judiciary, as well as the use of technology/online hearings where appropriate.

Inevitably, there are limits to what the Young Barristers' Committee and Bar Council can do. Improving the experience of young barristers lies in the hands of many across the profession including chambers, employers, the Inns, the relevant specialist bar associations and/or circuits, the regulator (BSB) and individual practitioners. Responsibility also lies outside the profession - with judges and court staff in their treatment of junior counsel, and with solicitors and major clients.

We encourage all to read the findings and recommendations in this report and to consider what action can and should be taken. We look forward to working with all stakeholders, both within and outside the profession, to ensure we provide the best possible opportunity for new barristers to survive and thrive.

M.P.



Michael Polak, Chair Young Barristers' Committee 2022

## 1. Executive summary

In this report we attempt to present a snapshot of life at the Young Bar in 2021. Our findings are drawn from three sources of information: responses to the spring 2021 Barristers' Working Lives (BWL) survey from young barristers, data about the profile young barristers held by the Bar Council, and six focus groups held with young barristers in 2020 and 2021. Our findings are summarised below, by broad theme:

### The evolving profile of the Young Bar

- The demographic profile of the Young Bar indicates that this section of the profession is fairly evenly balanced in terms of gender. The majority are white but there is some evidence to suggest the Young Bar is slightly more mixed ethnically than the whole Bar. Sadly young barristers of ethnic minority background, especially Black background, were under-represented in the BWL survey, which limits some of the insights available about this group from the survey. Based on the survey, a somewhat higher proportion of the Young Bar than of the overall population have a disability.
- Only just over half the Young Bar are from a state school background, suggesting there is a distance to travel yet to satisfy aspirations for a more balanced range of socio-economic backgrounds. It is also noteworthy that a third of those described as the Young Bar are over 35 years old and a significant proportion mature entrants to the profession.
- More of the Young Bar report a disability than of the Bar as a whole, and more appear to be prepared to declare a condition in their anonymous response to the BWL survey than in more formal records.
- Some significant differences were apparent in terms of the demographic profile of different areas of practice. Men proportionally outnumber women in commercial law by about two to one, whereas the converse is the case for family law. In criminal law, the proportion of young female barristers is particularly high, compared with the whole Bar. Young barristers of ethnic minority background are slightly over-represented in civil law (compared with their proportion overall) but somewhat under-represented in commercial practice and certain groups also in family law.
- Self-employed young barristers' gross incomes vary considerably with area of practice. Commercial law was on average the most highly paid area, and criminal law the lowest with the most common income band just £30-60k per year. Area of practice appears to drive income more than gender, but there is also some evidence for earnings differences with ethnic background (across the whole Bar, because sample sizes are too small to analyse this for the Young Bar specifically).
- Amongst the Young Bar, a roughly similar proportion to the Bar as a whole (almost 60%) do some publicly-funded work. For over a third of the young barristers, it generated over half their income, although this clearly varies strongly by area of practice. Young barristers tend to do slightly more pro bono work than those at subsequent career stages, on average.

## **Impacts of the COVID-19 pandemic on practice**

- The financial repercussions of the pandemic have been more significant for many of those in the Young Bar than across the whole Bar. Nearly half of Young Bar survey respondents reported a negative impact on their overall financial situation, and nearly a third that they had experienced financial hardship as a result. This varied considerably by practice area, with those in criminal law appearing to experience this the most. There has, however, been significant upturn in earnings for many who had suffered, since then, as work has increased again and barristers now struggle to cope as courts attempt to clear the backlog.
- Some positive impacts of the pandemic were observed, such as the ability to work remotely, although the extent to which this was possible or is being sustained varies by area of practice and even individual court. Some of the significant decreases in income were partly offset by reductions to barristers' costs – due to no longer having to travel to court. For some, those cost reductions have been sustained where remote working has remained an option. Other impacts from remote working are covered below.
- The limitations to work in courts in 2020 and 2021 had a significant and largely negative impact on individuals' practice. Some courts progressed quicker than others in terms of adopting video and other technologies to facilitate effective remote operation. Those in civil, commercial and family law appeared to have more positive experiences of remote working than those in criminal law.
- More young barristers suffered negative impacts of the pandemic than barristers in general, proportionally, in relation to several other key aspects of their working life. The majority experienced a negative impact on their relationships with work colleagues and their overall wellbeing. Views on the impact on work-life balance were very mixed: nearly half reported a negative impact on their work-life balance but a very significant proportion (almost 40%) felt it had improved due to remote working and not needing to travel to court.
- In many cases, opportunities for informal learning and building networks were not available to young barristers as they were not in chambers, particularly those who had been pupils during the lockdowns.
- The pandemic has had a considerable impact on working hours too. 26% of young barristers are now working 40 hours or fewer in a week (less than before the pandemic), but 48% were now working over 51 hours weekly (more than prior to the pandemic). This polarisation was to some extent due to individuals' area of practice; the highest hours tended to be worked by those in criminal and family law, and generally workloads for young barristers have not returned to the relative stability of pre-pandemic practice.

## **Working practices and work allocation**

- Greater access to flexible working patterns and the opportunity for at least some remote working were amongst the most common aspirations of young barristers, although only a small proportion of those at the Young Bar have access to flexible working policies, and this was considerably the lowest amongst self-employed barristers.
- There was strong resistance to the concept of Extended Operating Hours within courts from both survey respondents and focus group participants. It was felt that even with the increased hours that many now worked, there was already insufficient capacity or time to

handle current caseloads effectively and therefore adding more to caseloads was not feasible without a greater pool of barristers.

- In terms of work allocation, young barristers were less likely than the Bar as a whole to feel that work was allocated fairly. Only half of young barristers felt work in their area was allocated fairly, while perceptions varied hugely for different groups: women were less likely than men to think allocation was fair, and there was some evidence to suggest the same was the case for those from ethnic minority groups.
- Perceptions of fairness in work allocation also varied by practice area: those working in family law were more likely to feel that work was allocated fairly than those in crime, civil or commercial. Focus group participants related that it was difficult for juniors especially to be assertive enough to refuse work, given the potential power dynamics with their clerks and chambers (i.e. they worried that refusing work now could affect their future income and potential progression).
- Fewer young barristers than overall reported that their workload was manageable, or felt that they had significant control over the content and pace of their work. Differences also emerged between groups, with under 40% of women feeling that they had a manageable workload. This was linked with differences by practice area – only around one third of those working in criminal law felt that their workload was manageable and women comprise the majority of barristers in this area.

### **Wellbeing, bullying/harassment and discrimination**

- A wellbeing score tool embedded within the BWL survey reveals that young barristers have lower scores for psychological wellbeing and overall wellbeing than the general population of barristers, suggesting that their wellbeing is weaker. It was also noteworthy that wellbeing scores for all criminal barristers were markedly lower than for other areas of practice.
- Lower perceptions of wellbeing appeared to be associated with perceived lack of agency in relation to individuals' workloads, but were also linked to the culture within the profession of a reluctance to turn away potential work, which does not lend itself to a healthy work/life balance
- One third of those at the Young Bar had experienced bullying or harassment either in person or online in the last two years, with women nearly three times more likely to have experienced it than men. There were also differences in relation to areas of practice – bullying/harassment was most common in criminal law and least common in commercial.
- There was a substantial difference in experiences of discrimination with ethnicity, as well as with sex. Three times as many individuals of ethnic minority background reported experiencing discrimination as young white barristers, and a similar difference existed between women and men.
- Amongst all barristers, the two most common sources of bullying/harassment or discrimination were other barristers and the judiciary. For young barristers, a greater proportion of bullying/harassment came from other barristers than from the judiciary. This occurred to similar extents across many practice areas but appeared to be most pronounced for young women.

- Related to their more common experiences, more young barristers than others had reported an incident of bullying or harassment at some point in their career. This was much higher amongst young women (34%) than young men (10%).
- Half of young women barristers in the BWL survey had either witnessed or personally experienced bullying or harassment at the Bar, at some point, but only 23% of their male counterparts. Of those who had, 70% of the women had disclosed it to another barrister to seek resolution, or for guidance, but 30% had not. 60% of the relatively fewer men witnessing or experiencing it had not reported it.
- Most reporting of these incidents was to another barrister, although this did lead to a satisfactory conclusion for about 60% of these cases. Around one third of cases were reported to their chambers or employer, although this had only led to a satisfactory conclusion in about half of the cases.

### **Progression and development**

- Only half of young barristers in the survey reported that they had a formal practice review with a senior colleague or management once a year or more. The practice is more widespread and regular amongst those who are employed rather than self-employed.
- 54% of self-employed young barristers in the survey wanted their chambers to improve opportunities for training and development. This was higher amongst women (58%) than men (47%), but also particularly high amongst new practitioners (72%). Over one quarter of self-employed respondents harboured concerns about remaining at the Bar because of a lack of support from their chambers.
- 42% of the Young Bar respondents reported that they currently had a barrister mentor, which was much higher than across the whole Bar. Having a mentor was most common amongst new practitioners. Half of those who have had a mentor reported it to be very valuable and a further third quite valuable. Women and those from ethnic minority backgrounds valued it the most highly. Of those who have not had a mentor, 57% of young barristers would like one, higher still amongst women and those from ethnic minority backgrounds. These results should be seen in the context that the pandemic has reduced opportunities for informal learning during practice, despite the continued thirst for developmental opportunities that characterises the Young Bar.

### **Aspirations for changes to life at the Bar**

- The changes to working life most desired by young barristers are for more remote working and more flexible working. 13% of young barristers said they would like the opportunity to work part-time, higher than the 3% that currently do so.
- Roughly 1 in 6 of young barristers claim they would like to leave the Bar. The issues that concern them most are the working hours (extent and unpredictability) and the potential mental health consequences of these hours and consequent lack of work-life balance.
- These results are reflected in suggestions for the Bar Council to provide more healthcare and/or counselling services. Focus group participants hoped the Bar Council could encourage chambers to support improved practices around fair workload allocation and management, as well as support for young barristers to help in this and enhance their

work-life balance, through mentoring and other developmental options. They also felt that professional bodies should ensure that young barristers can take annual leave.

- The most popular ideas about how chambers could improve young barristers' future practice and working life were for chambers to provide more opportunities for personal or professional training and development, and also to facilitate more, and more effective, remote working.
- Respondents also wanted courts to adopt and implement better communications and information platforms to facilitate effective remote operations. Having a higher proportion of remote court operations, which were well supported by technology, could be some of the steps enabling a healthier work/life balance and higher-quality legal practice.

## **Recommendations**

### Professional behaviours

- There needs to be a conversation across the profession about acceptable adversarial behaviours and what constitutes bullying or harassment, and the Young Bar should have a central role in this.
- Discrimination against women and under-represented groups in the Young Bar appears to be deep-rooted and needs to be stopped. There need to be more effective channels or mechanisms to report discrimination at local level and to monitor it at higher level, as well as highlighting of successes where it has been reported and resolved.

### Working culture

- The Young Bar is increasingly diverse: it is approaching gender parity overall and has a gradually improving ethnic balance, although these gains are driven by certain areas of practice. Those in the parts of the Bar that are less diverse need to accept, embrace and promote increased diversity and support further widening, including in relation to school backgrounds and disability.
- The thirst of young barristers to learn and develop needs to be embraced by bodies across the profession, which should offer more:
  - Mentoring and facilitating development of collegiality and networking
  - Career-related development opportunities and training (especially for new practitioners)
  - Underpinning of development through formal practice and career reviews.

### Working practices (internal i.e. within control of the Bar)

- Work allocation needs to be fairer and workloads need to be more manageable in order to avoid burn-out and the loss of young barristers from the profession – these need culture shifts and currently threaten to undo some of the gains in diversity:
  - Workloads and whether leave is being taken need to be monitored, across all groups in the Young Bar
  - There needs to be leadership on work-life and wellbeing: highlighting senior role models with healthy work patterns and encouraging chambers whose working culture enables tenants to achieve a good balance

- Specific training and development is needed to help new practitioners and the Young Bar more widely to work with others to achieve the level of work and the work/life balance that they seek.
- The profession needs to upskill in its use of ICT platforms (and their usage) that support effective 21<sup>st</sup> century working, including supporting better remote practice in court and to enhance the learning and culture within chambers and workplaces. Showcasing effective tools and practice would be a good starting point.

#### Working Practices (External – i.e. outside the direct control of the Bar)

- The Bar Council should work with external stakeholders to ensure reasonable demands on young barristers (in terms of working hours and expectations):
  - The Bar Council should amplify the Young Bar's voice in relation to extended court operating hours, which it overwhelmingly opposes, unless/until there is a marked increase in barrister capacity
  - Listings, the timing of trials and public law fee schemes need to factor in preparation and other working time for barristers – more broadly, court user committees or meetings should be encouraged in order to enhance court effectiveness for all parties
  - The profession needs to explore and defend the gains in work-life balance and professional effectiveness resulting from the increase in remote court operations and remote working during the pandemic.

## **2. Introduction**

### **2.1. Background**

The Young Barristers' Committee (YBC) is one of the main representative Committees of the Bar Council and represents the interests of 'young' barristers (including 'new practitioners'), defined as in the first seven years of practice, comprising 3762 individuals at the time of this report. The YBC aims to ensure that the voice of the Young Bar is heard in matters relevant to junior barristers. The YBC also seeks to support and promote junior barristers as they develop their practice, recognising that the future of this challenging profession depends on the development of its younger members.

A range of issues impact upon young barristers' experiences of the Bar. These include training, pupillage, fees and public funding, work allocation and practice management. As for any aspiring members of a demanding profession, issues around training and support, work-life balance, wellbeing, career aspiration and career development are also highly relevant to this group, as well as matters of equality, diversity and inclusion. A 2015 study commissioned by the Bar Council to provide insight into the experiences of self-employed women barristers highlighted that younger members of that group perceived particular challenges in sustaining their careers in the long term alongside family commitments.<sup>1</sup>

In 2019 the Bar Council commissioned CRAC to develop a better understanding of the experiences of young barristers, including those from different backgrounds and in different areas of practice. Through a programme of research, the project's aims were to: (i) identify the issues in their professional and working lives that young barristers deem particularly important; (ii) to begin to highlight potential solutions in order to inform YBC and Bar Council support for new practitioners; and (iii) to identify areas for further, more detailed research.

Ensuring that the profession retains a wide range of talent is an ongoing imperative, so the project's findings should be valuable in identifying and prioritising specific areas in which support from the Bar Council, via the YBC, should be focused.

### **2.2. The 2021 Barristers' Working Lives Survey**

The fourth Barristers' Working Lives (BWL) Survey was undertaken by the Institute for Employment Studies (IES) on behalf of the Bar Council in April and May 2021. Since initiation in 2011, these surveys have periodically sought the views of barristers in England and Wales to identify the changing nature of the profession. In 2021, the survey focused on:

- Personal characteristics of barristers and information about employment;
- Fees and earnings including from public-funded work and time spent on pro bono work;
- Current workloads, work distribution and working hours;
- Understanding the impacts of the COVID-19 pandemic on practice and working lives;
- Perceptions of current wellbeing and working culture;
- Experiences of bullying, harassment and discrimination.

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<sup>1</sup> *Snapshot: The Experience of self-employed women at the Bar.* The Bar Council, 2015

The survey was exclusively conducted online, drawing 3,479 useable responses from the c.16,900 individuals to whom an invitation to participate was sent directly and/or targeted through a promotional campaign by the Bar Council. This response rate of just over 20% was broadly similar to that achieved in the last such survey in 2017.

Much of the content of the questionnaire used was designed to provide some continuity with previous BWL survey results, although additional questions developed by the University of Portsmouth were introduced concerning wellbeing. There was also naturally some focus on effects of the pandemic, given the timing of the survey (which had originally been intended for deployment in spring 2020, but was delayed on account of the pandemic). The questionnaire was developed with inputs from the Bar Council, IES, the University of Portsmouth and CRAC.

Of the 3479 responses in total, 548 were from the Young Bar. In this report we provide results from analysis of those responses specifically, including some comparisons with overall BWL results. They offer a reasonably representative view of the employment and practice of barristers in this group, along with their experiences and perceptions.

On the basis of a population of roughly 3,700 young barristers in England and Wales, and an achieved sample of 548 responses, for a 95% confidence level the calculated confidence interval is under 4% (depending on the specific result). Essentially, this is the size of the 'error bar' for a particular result (e.g. +/- 4%).

### **2.3. Focus groups with young barristers**

This project commenced in January 2020 and two focus groups, one in Manchester and one in London, were held with young barristers at that time. These investigated perceptions of working culture, work allocation and support, and career development and helped to inform development of the BWL questionnaire. With the onset of the pandemic, and the postponement of the BWL survey, the project was delayed but resumed in spring 2021. Following the 2021 BWL survey, a further series of focus groups was held in August 2021, all online. The themes for this second round of groups were extended to include the impact of the pandemic on practice and working life, and aspirations for future changes to working life.

In total 46 young barristers participated in the focus groups, 17 men and 29 women, and between them represented a wide range of areas of practice. 28 worked in London and the South East while most of the remaining 18 were based in the Midlands, North West or North East. While the majority were self-employed (i.e. tenants), in almost every group there was at least one employed barrister and in most groups a participant undertaking a pupillage.

While the groups do not provide representative findings, they did provide much deeper and more nuanced insights on many of the issues questioned than available from the survey results, and are the source the extracts from verbatim quotations in this report.

### **3. About the Young Bar**

#### **3.1. Demographics**

##### *3.1.1. Personal characteristics*

The profile of the Young Bar respondents to the BWL survey, in terms of personal characteristics, is summarised in Table 3.1, compared with the profiles based on Bar Council records ('CRM') records for the Young Bar and the Whole Bar. Although 14% of these respondents were 'new practitioners' (up to two years since call), the majority of these most-recently called respondents were called in 2019 (i.e. there were very few respondents called in 2020 or 2021). Otherwise, however, the respondent sample was broadly evenly distributed in terms of year of call, from 2014 onwards.

The profile of the Young Bar is most reliably described using the Bar Council records, while comparison with the profile of BWL respondents gives an indication of how representative the respondent group was (or whether some groups were under- or over-represented).

In relation to sex, for example, these comparisons show that the Young Bar is nearly evenly split between women and men (almost 48% women), which is more balanced than the Bar as a whole where men are in the majority. On the other hand, in the Young Bar BWL survey, women were over-represented, comprising nearly 58% of respondents. However, within those who were new practitioners (0-2 years call, of which the sample was relatively small), men slightly outnumbered women in the survey.

The proportion of the Young Bar with a minority ethnic background (just over 19% of those of known ethnicity) is higher than for the Whole Bar based on CRM records, but the survey response sample under-represents this, with only just over 12% of respondents from an ethnic minority background. However, the proportion was higher amongst the newest practitioners, at over 21% (mostly from mixed or multiple ethnic groups), acknowledging that this sample was quite small. It is perhaps unfortunate given the focus of this study on matters such as inclusion that Asian and Black respondents were significantly under-represented, in particular Black respondents of whom there were only 6 in the sample.

In contrast, the extent of reporting of disability was higher in responses to the BWL survey than in the Bar Council's CRM records. Just under 1 in 8 of Young Bar respondents reported that they were disabled, which was slightly higher than for the overall BWL respondent sample, and nearly double the extent seen in CRM record data. We have noted in other research that reporting of disability is higher in 'independent' surveys than to employers or related bodies, which we infer to be because some individuals do not wish 'formally' to disclose a condition or disability. The higher level amongst young barristers than overall also reflects a trend seen in the young working population at large, where successively higher proportions of those entering the workforce reporting a disability, with the rise being seen especially in relation to mental health conditions and learning disorders.

While the age profile of young barristers was, predictably, distinctive and much younger overall from that of the Whole Bar, all barristers, with 77% of the Young Bar respondents aged 34 or under, this appeared partly to be due to over-representation in the survey. Based on CRM records, 34% of the Young Bar are older than this (including a small proportion over 55 years) which presumably reflects a substantial of mature entrants to the profession. This aspect of the profile is worthy of note (i.e. that not all the Young Bar are at the youngest end of the age

spectrum). This possibly begs the question of the name 'Young Bar', when over a third of practitioners at this career stage are not what might be referred to as 'young'.

Characteristics	Young Bar CRM N	Young Bar CRM %	Young Bar BWL N	Young Bar BWL %	Whole Bar CRM %
<b>Sex</b>					
Female	1800	47.8%	290	57.9%	38.6%
Male	1963	52.2%	211	42.1%	61.4%
<i>N (of known sex)</i>	<b>3763</b>	<b>3763</b>	<b>501</b>	<b>501</b>	<b>16873</b>
<b>Broad ethnic group</b>					
Asian	361	9.8%	18	3.6%	7.7%
Black	136	3.7%	6	1.2%	3.3%
Mixed/multiple	164	4.5%	26	5.2%	3.4%
Other	43	1.2%	12	2.4%	1.3%
White	2970	80.8%	440	87.6%	84.4%
<i>N (known ethnicity)</i>	<b>3674</b>	<b>3674</b>	<b>502</b>	<b>502</b>	<b>15862</b>
<b>Disability</b>					
Yes	189	6.4%	56	11.6%	6.8%
No	2774	93.6%	427	88.4%	93.2%
<i>N (chose to respond)</i>	<b>2963</b>	<b>2963</b>	<b>483</b>	<b>483</b>	<b>10046</b>
<b>Age</b>					
<i>Up to 34 years</i>	2389	65.6%	288	77.3%	18.8%
<i>35-44</i>	789	21.7%	64	12.7%	29.3%
<i>45-54</i>	302	8.3%	36	7.2%	29.1%
<i>55 or over</i>	160	4.4%	14	2.8%	22.9%
<i>N (of known age)</i>	<b>3640</b>	<b>3640</b>	<b>502</b>	<b>502</b>	<b>14875</b>

Table 3.1 Profile of the Young Bar in 2021, based on Bar Council records and respondents to 2021 BWL survey. Totals vary as respondents could elect not to provide this information.

In terms of caring responsibilities, just over 13% of the Young Bar act as primary carer for one or more children based on CRM data (or 11% based on BWL responses). These proportions are (as expected) much lower than the 33% seen across the BWL overall response sample. 8% of the Young Bar reported in the survey that they had responsibility for care of an adult, which is lower than for the whole Bar (15%) but not insignificant.

The proportion of young barrister respondents who had attended a state school appeared to be no higher than for the whole Bar, at around 57% in the survey (and 59% according to CRM records). If this is considered as a proxy for socio-economic background, its consistency between the Young Bar and whole Bar suggests that little progress is being made in terms of broadening the profile in terms of socio-economic background. However, this simple proxy may be inadequate. In the BWL survey responses, for example, the proportion of young barristers reporting that they had attended an independent or fee-paying school was 29% (which was lower than the 36% overall across the Bar) but within that proportion 8% had

obtained a bursary to attend such a school, which could reflect that they came from a low socio-economic background. Another potential proxy could be based on level of parental education. 60% of young barrister BWL respondents reported that at least one of their parents had a higher education qualification, which was higher than the comparable figure of 53% for the whole Bar. However, rather than that higher proportion indicating that more of the Young Bar are from privileged backgrounds, it could simply reflect the overall rise over time in the proportion of people going to university.

Time-series analysis of a number of these issues of social background, across a succession of years of CRM data and BWL surveys where they provide additional insight, could be beneficial to assess the extent to which the profession is diversifying, rather than interpreting the 2021 data in isolation.

### *3.1.2. Diversity intersections*

The BWL response sample for the Young Bar is of modest size which means the number of respondents in some groups, notably those of ethnic minority background, is too small for reliable multivariate analysis. However, with that caveat, there is some evidence for the following trends, which are potential examples of ways in which certain diversity characteristics intersect, which may need to be taken into account when considering apparent differences in the results to some questions from different groups.

- A somewhat higher proportion of women were of an ethnic minority background, than of men (and most of the very few Black respondents were women);
- Slightly more of the women reported that they were the carer for a child, than of the men (but this difference was less distinct than in the overall sample);
- There was some evidence to suggest that a lower proportion of the men had attended a UK state school and higher proportion an independent school, compared with their women counterparts, but (as stated) the data on school backgrounds is not simple;
- Based on the small response sample of young barristers of ethnic minority background, a lower proportion of them had attended a UK state school than white respondents, while a significantly higher proportion had attended a school outside the UK. These results are probably not a reliable indicators of any intersection between ethnicity and socio-economic background, not least because they beg the question of the nationality of the respondent – i.e. are some of those of ethnic minority background are not UK nationals? It would be wise in future to collect both nationality and ethnicity data, so that the ethnicity of those of UK nationality can be isolated and analysed robustly. In other sectors, we have noted that an apparent shift to a more ethnically diverse workforce has been achieved through immigration rather than greater ethnic diversity of the UK nationals entering the workforce (the HE workforce in science is an example of this);
- The results suggest little or no difference between the reporting of disability between men and women, which is unusual because our experience of other sectors is that disability tends to be more frequently reported by women. It could be interesting to introduce a more nuanced question about disability in future BWL surveys, which refers to mental health and learning conditions rather than solely 'impairment', as this may reveal more insights into personal perceptions of whether people feel disabled at work.

### 3.2. Employment profile

Almost 9 out of 10 young barristers responding to the BWL survey were wholly self-employed (89%), the vast majority of these working with a Chambers (Table 3.2). Only 9% reported that they worked wholly on an employed basis. However, we note that responses to BWL surveys have, consistently, under-represented those in the 'Employed Bar' – recent Bar Council records suggest that 16% of young barristers (and almost 18% of all barristers) work solely on an employed basis, higher proportions than the 9% of the Young Bar and 11% of the whole Bar responding to the 2021 BWL survey, confirming that this under-representation of employer barristers has again arisen.

While there was no significant difference between these results for male and female young barristers, there was some evidence that a higher proportion of those of ethnic minority background were employed (nearly 15%, compared with 10% for white background) rather than self-employed. However, given the relatively small number of respondents of ethnic minority background, this difference is not statistically robust.

Employment basis of practice	Young Bar CRM N	Young Bar CRM %	Young Bar BWL N	Young Bar BWL %	Whole Bar BWL %
Self-employed (in Chambers)	2923	79.5%	478	87.2%	84.2%
Self-employed (sole practitioner)			6	1.1%	3.2%
Employed	589	16.0%	50	9.1%	10.8%
Both (employed and self-employed)	169	4.6%	14	2.6%	1.8%
<i>N</i>	<b>3681</b>	<b>3681</b>	<b>547</b>	<b>547</b>	<b>3479</b>

Table 3.2 Young Bar: employment basis

The main 2021 BWL survey report presents some results for the region in which respondents were mostly active, although with the caveat that around a quarter of respondents worked across multiple regions. At a high level, this indicates that the profession is highly focused on London and the South East, with around half of all respondents indicating that they mostly worked there (and a further quarter across multiple regions). Bar Council registration data suggests that the profile is more concentrated still, with 64% in London alone. Amongst young barristers, a similar or even more focused pattern exists within the BWL responses (with 57% in London or the South East), although somewhat fewer working across multiple regions.

Analysis of Bar Council data on region with ethnicity shows that barristers of ethnic minority background are over-represented in the West Midlands and slightly in London and the East of England, but there are fewer than average in the North generally and the South West. Over 70% of all ethnic minority barristers are in London, and over three quarters of Black barristers. Despite the under-representation of young ethnic minority barristers in the BWL survey, half of young barristers of ethnic minority background who did respond were practising in London (compared with 43% of all young barristers and 37% of all barristers). We stress that these results for ethnic minority young barristers are indicative and may not be statistically robust.

Of the young barristers who were employed, 42% worked for a firm of solicitors, which is higher than seen across the entire employed BWL response sample (25%). Slightly higher than

overall proportions also worked for the Government Legal Service or Crown Prosecution Service; interestingly, these were mostly women (although the numbers were so small that these results are only indicative). There were too few respondents to analyse these results with ethnic background with any reliability.

### 3.3. Areas of practice

The profile of main areas of practice (where respondents spend at least 70% of their working time) of young barristers closely resemble those of the Bar at large, based on BWL results (Table 3.3). The Table also shows that within the Young Bar, the profile by area of practice of BWL respondents quite closely mimics the profile recorded by the Bar Council itself, in its CRM records. This suggests that the BWL survey slightly under-represented criminal barristers and slightly over-represented those working in civil and family law areas.

Grouped area of practice	Young Bar CRM N	Young Bar CRM %	Young Bar BWL N	Young Bar BWL %	Whole Bar BWL %
Criminal	979	28.5%	145	26.5%	26.6%
Civil	701	20.4%	119	21.8%	22.4%
Personal injury/professional negligence	367	10.7%	57	10.4%	12.1%
Commercial	594	17.3%	97	17.7%	16.5%
Family	687	20.0%	119	21.8%	20.2%
Other	107	3.1%	10	1.8%	2.2%
N	3435	3435	547	547	3478

Table 3.3 Young Bar: grouped area of practice (CRM results exclude those without specified area of practice)

While there was little difference between these results between the Young Bar and barristers as a whole, there were keen differences between different key groups of the Young Bar. Figure 3.1 demonstrates the different profiles in terms of broad practice area with gender, for the Young Bar and the full 2021 BWL sample. This illustrates, for example, around twice the proportion of men work in the commercial law (compared with women), and the converse for family law (i.e. in which the proportion of women is higher than men), with much less marked differences for civil or the smaller areas. There is also the suggestion that in criminal law the proportion of young female barristers is particularly high, and conversely the proportion of young male barristers low, compared with comparable proportions at all career stages.

As the BWL survey under-represents ethnic minority respondents, Figure 3.2 shows the ethnicity profile by broad area of practice using Bar Council CRM data. Overall, 20% of those in the Young Bar of known ethnicity are of minority background, of whom half are of an Asian background and just under 4% a Black background. Figure 3.2 shows that young barristers of ethnic minority background are somewhat over-represented (compared with the 20% figure overall) only in civil law. However, when different ethnic groups are considered, Asian, Black and other groups are all slightly over-represented in civil law, whereas in PI/PN both Asian and Black groups are under-represented, and those of Black background under-represented in commercial law.

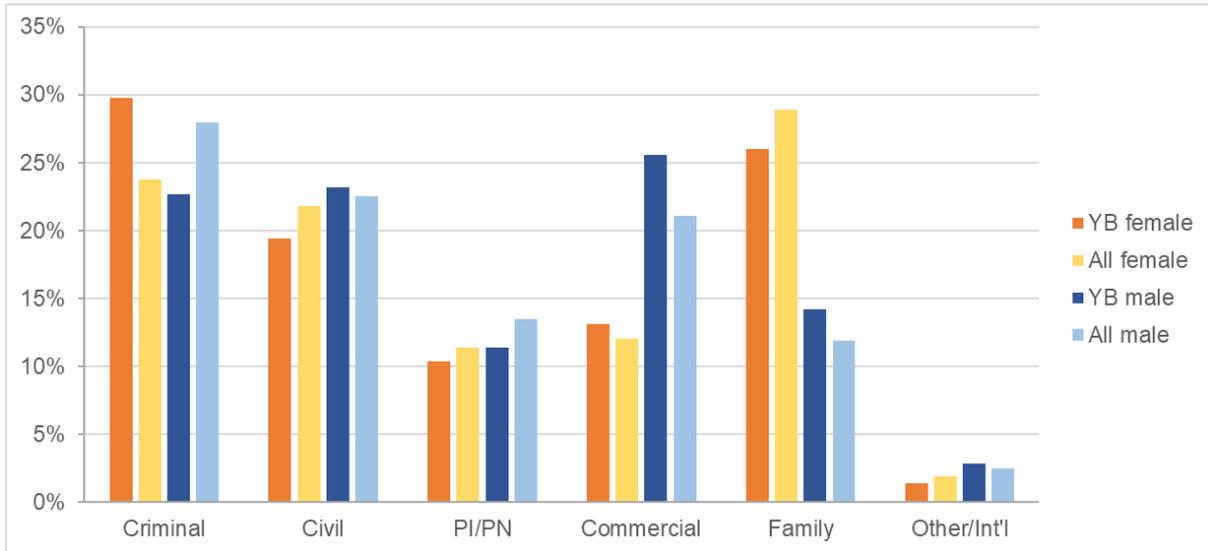


Figure 3.1 Broad main area of practice, with gender (for Young Bar and all BWL survey respondents)

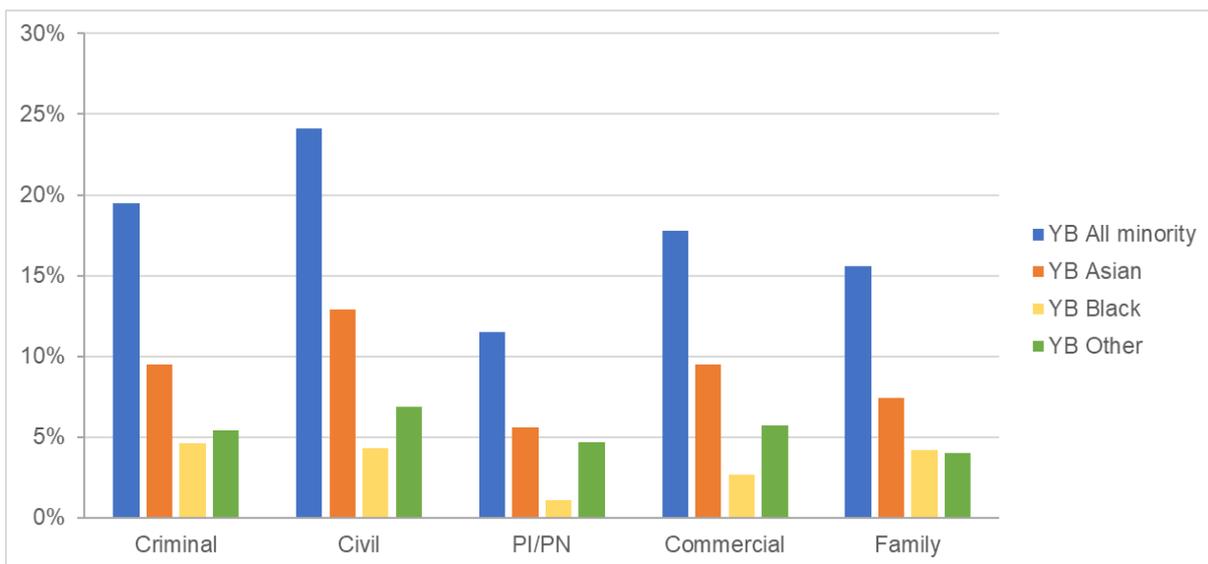


Figure 3.2 Broad main area of practice, with ethnic minority background (Young Bar, based on CRM data)

### 3.4. Mode of work and income

BWL respondents were asked to provide details, as per their declaration at their Practice Certificate fee renewal (authorisation to practise) in 2021 of their income bands. These figures represent gross income. For self-employed barristers, this means total fee income before paying expenses, chambers rent, tax/national insurance, pension contributions etc. Typically barristers will need to deduct 20-40% of this income in expenses before paying tax, national insurance or making provision for pension, sickness, parental leave etc. For employed barristers, on the other hand, the figure is their gross salary before tax, national insurance etc.

Across the Bar as a whole, only around 10% of barristers reported in the BWL that they work on a part-time basis, and this was even lower amongst the Young Bar (at under 3%, i.e. more of the Young Bar work full-time). Given that these levels are so low, an initial analysis of earnings was undertaken for all respondents rather than purely those reporting work on a full-time basis (i.e. the effect of those working part-time was quite small), although separating out those who were employed from self-employed.

On that broad basis, as Figure 3.3 shows, the Young Bar unsurprisingly earn less than barristers on average. For those who were employed, the most common gross income band for young barristers was £30-60k (only 30% earning more than this, which correlates quite well with Bar Council CRM data), while across the whole employed Bar the most common band was higher at £60-90k (with 61% earning more than £60k and 28% more than £90k).

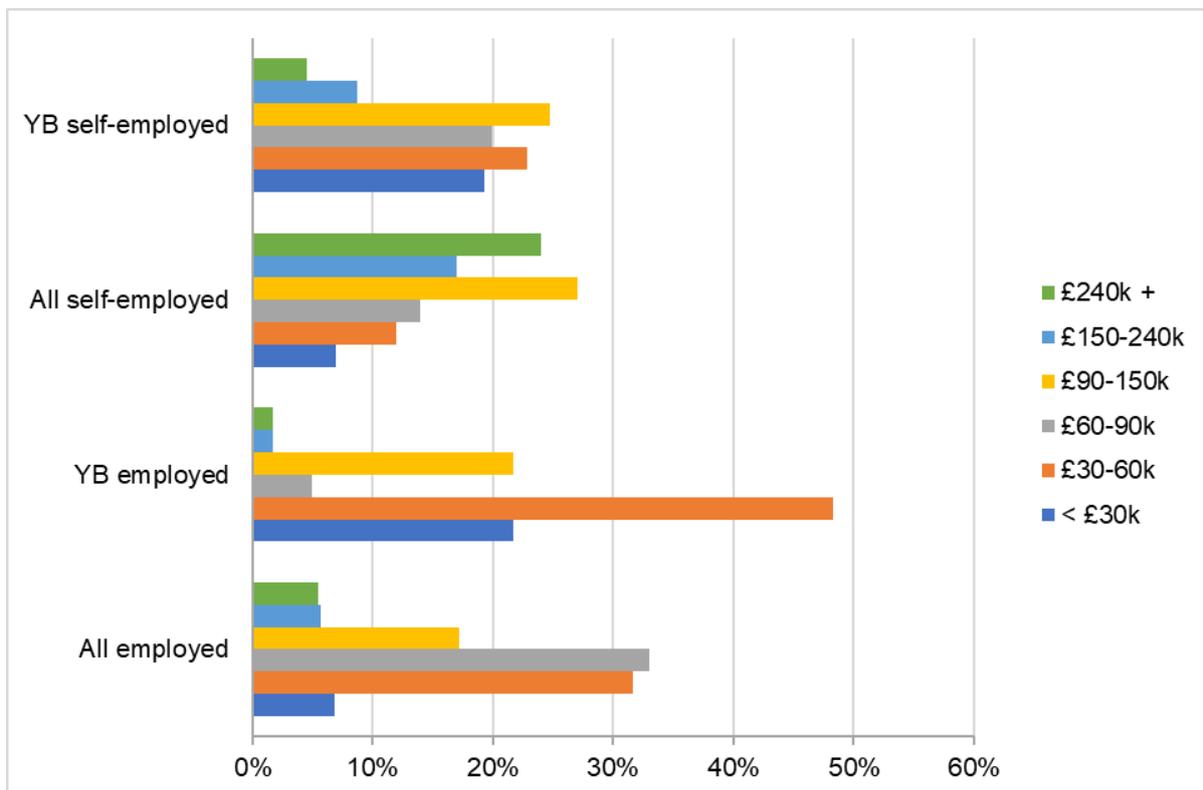


Figure 3.3 Annual gross income (as income bands) in the last year reported by all BWL respondents, with broad employment type

Earnings amongst self-employed young barristers were more widely distributed, presumably also reflecting a range of intensities of work as well as areas of practice. The most common gross income band was £90-150k (which is also seen in CRM records, and the case for all self-employed barristers responding to the BWL). This suggests that BWL responses are reasonably reflective of young barristers' earnings. Within the BWL responses, only 38% of self-employed young barristers earned over £90k (and 13% above £150k), whereas these proportions were 68% over £90k and 41% over £150k across all stages of the Bar. Further analysis of the BWL data suggests that gross earnings are marginally highest for those in middle practice, rather than in senior practice.

Perhaps more interesting is what emerged from detailed analysis and comparisons of the earnings of various sub-groups within the Young Bar. This was undertaken for self-employed barristers (who comprised the majority) working on a full-time basis, in order to remove any effects from differential employment types or modes. The analysis showed significant differences in the earnings profile with broad area of practice, Figure 3.4, for the Young Bar. As noted above, amongst the Young Bar as a whole, the most common income band was £90-150k, which was also the case for those practising mainly in civil and family law. In contrast, commercial law practice was on average higher paid (with the most common income band being over £150k) whereas in contrast it was in criminal law that earnings were lowest, with the most common band being much lower at just £30-60k. Only around 10% of this latter group reported that they earned more than £90k in the last recording period. This is a greater extent of difference in terms of earnings than suggested in the analysis presented for the Bar as a whole in the main 2021 BWL survey report, albeit the pattern across areas of practice is similar.

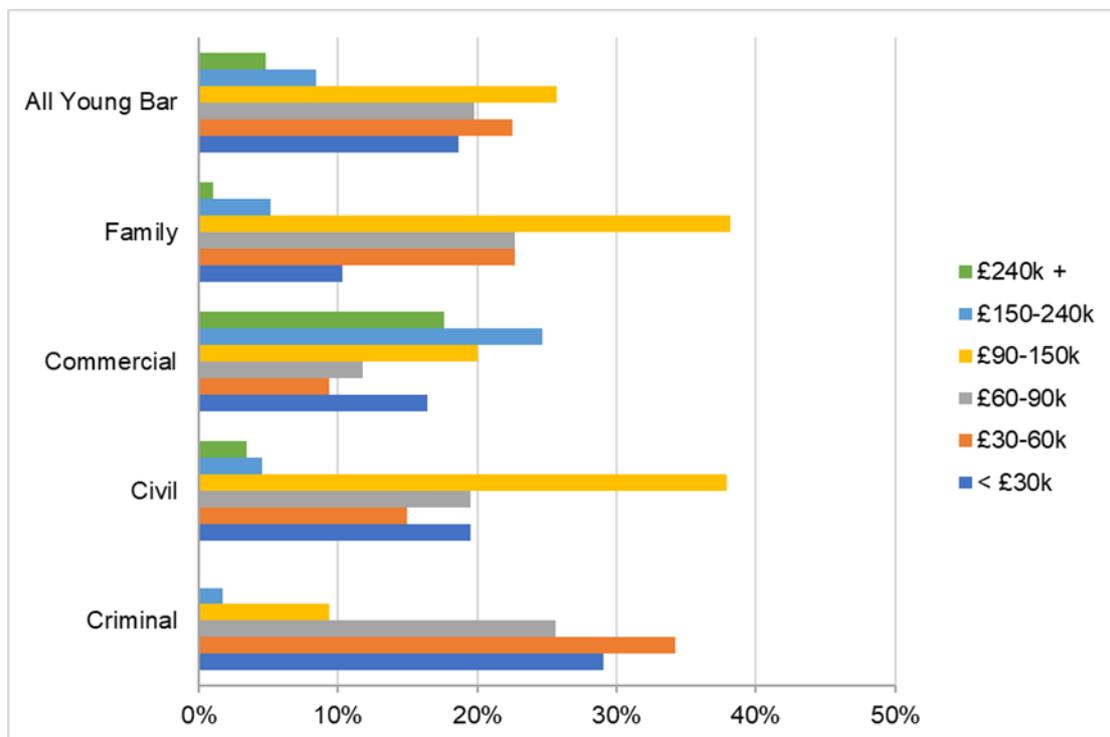


Figure 3.4 Annual gross earnings (as income bands) in the last year reported by full-time, self-employed Young Bar BWL respondents, with broad area of practice

Full analysis of either BWL or CRM data by area of practice and ethnicity within the Young Bar is not feasible as the sizes of certain groups become too small. Due to the large differences in earnings profiles for criminal and commercial law, for example, apparent differences in the earnings of white and ethnic minority barristers could relate to the under-representation of ethnic minority barristers in commercial law. Figure 3.5, based on CRM data for the whole Bar, shows that there are some apparent differences in earnings with very broad ethnic group for key broad areas of practice. In commercial law especially, the proportion of ethnic minority barristers earning in the top income range is lower than that of white barristers. For criminal and family law, lower proportions of ethnic minority barristers are seen in the upper earnings

ranges and great in the lower income ranges, compared with their white counterparts. While this suggests there is some ethnicity pay gap, as a recent report suggests,<sup>2</sup> this could partly be due to the comparatively lower proportion of ethnic minority barristers at more senior career stages (where they would earn more). Within the BWL data, analysis of income bands for women young barristers compared with men did not show significant differences once the effects of the broad area of practice were controlled for.

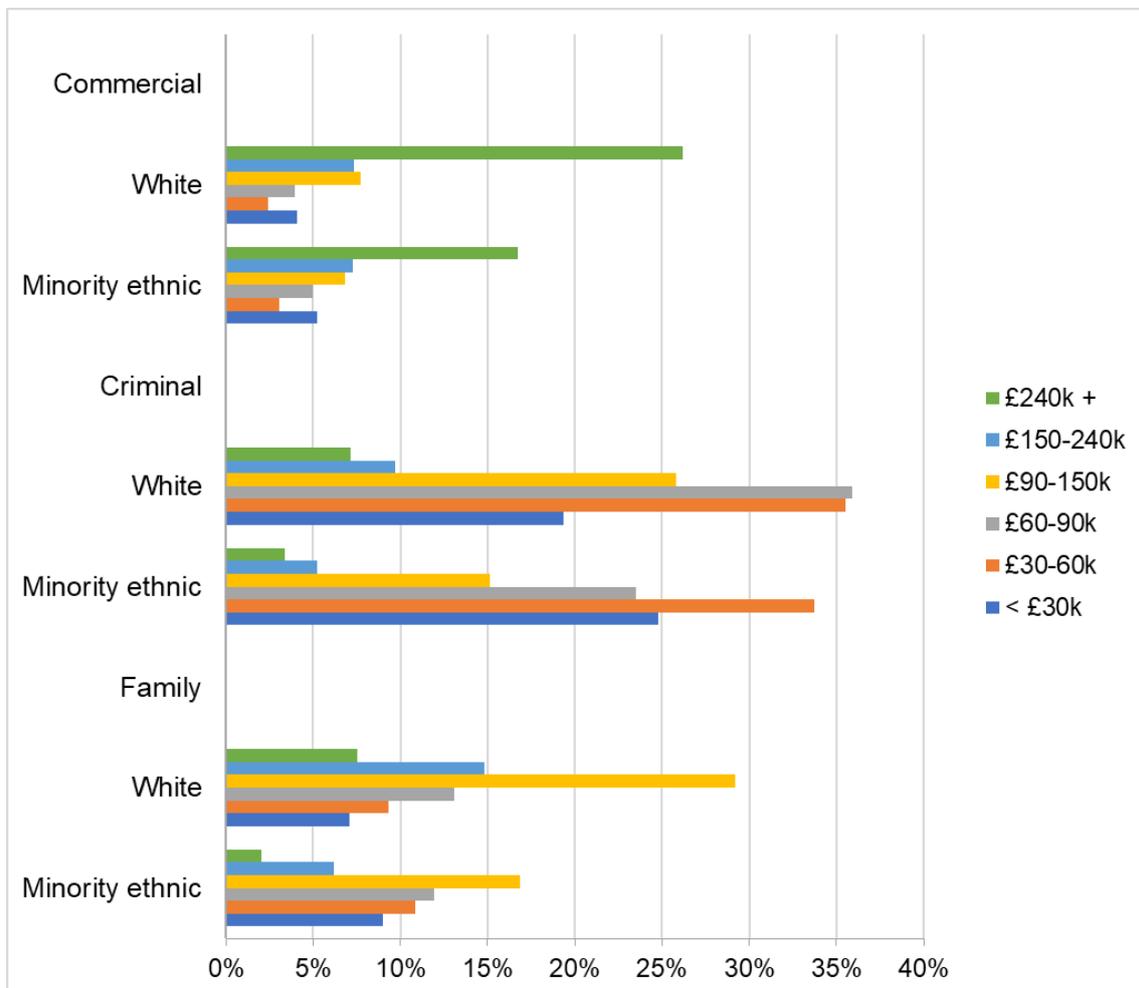


Figure 3.5 Annual gross earnings (as income bands) in the last year reported by barristers by broad ethnicity group, for selected broad areas of practice (from CRM data)

### 3.5. Public-funded and pro bono work

Across the BWL response sample, 55% of respondents reported that they did at least some public-funded work and for 28% it represented more than half of their income. Amongst the Young Bar, a roughly similar proportion (almost 60%) did some public-funded work and for over a third (35%) it was responsible for over half of their income. The average was 34%, for both groups.

<sup>2</sup> *Race at the Bar: A Snapshot Report*, Bar Council, November 2021

Amongst the Young Bar, public-funded work varied as a proportion of earnings, ranging from an average 70% of earnings for those working in criminal law and 51% in family law down to 2% for those in commercial law (Figure 3.6). These proportions by broad area were very similar to those calculated across the entire BWL response sample, other than for civil law where it was lower.

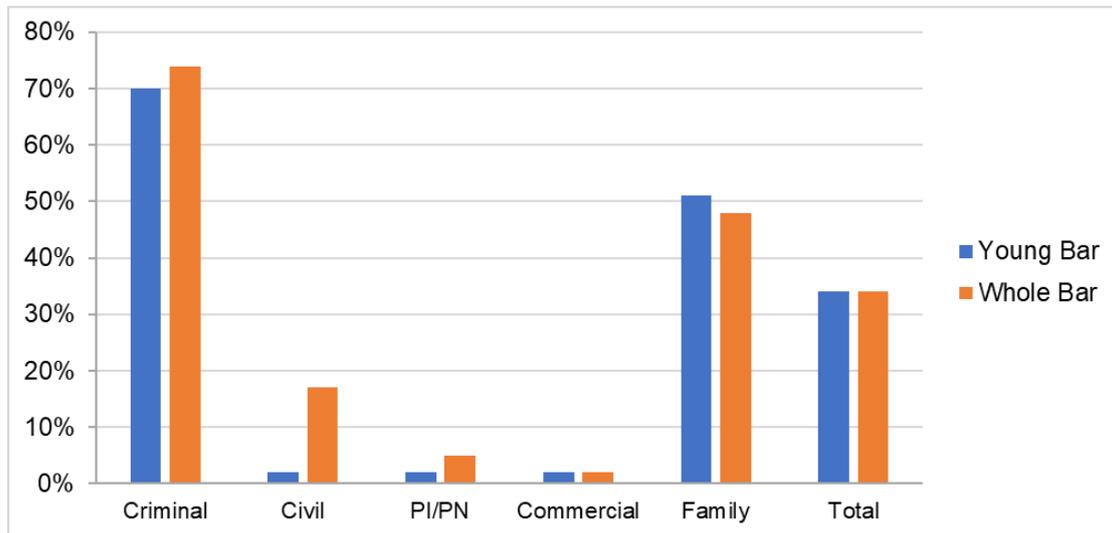


Figure 3.6 Proportion of BWL respondents' income from public-funded work, with area of practice

Overall, there appears to be a clear and strong inverse correlation between the proportion of public-funded work undertaken and average earnings, hence criminal law being the lowest paid on average and commercial the highest.

The amount of pro bono work undertaken in the last year was broadly similar by those in the Young Bar and barristers overall (Figure 3.7) although with some evidence to suggest that young barristers on average undertook slightly more – half of them undertaking at least some within the last year (whereas this was 43% of all barristers).

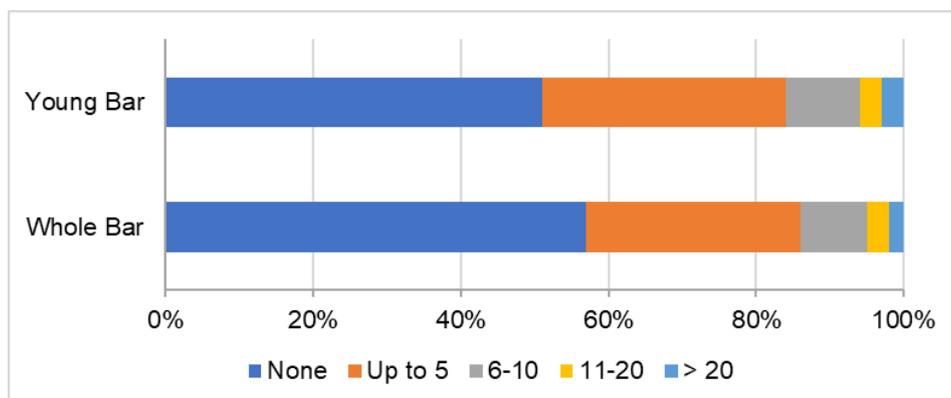


Figure 3.7 Number of days of pro bono work in the last year reported by BWL respondents

## 4. Impacts of the pandemic on practice and work

In this report we deliberately focus on some of the effects of the COVID-19 pandemic. The BWL survey was originally scheduled for 2020 but delayed to 2021 due to the pandemic, giving the opportunity to ask overtly how barristers had been affected. This provided information with which to report the temporary effects of the pandemic for the Bar. However, the pandemic also acted as a ‘perturbation’ to the legal system and we suspect has catalysed a number of changes which will turn out to be sustained rather than temporary, including in relation to mode and location of working and also communication methods. In that respect, some of the issues in this chapter are closely linked to other themes in this report, not least certain aspirations to changes in working practices.

### 4.1. Impact on income and extent of work

In response to a BWL survey question asking respondents to take all effects into consideration and identify the extent to which the pandemic impacted on their practice and work overall, views were quite split. For the Young and total BWL respondent population alike, 30% reported a positive impact (a significant impact for 8% and a small impact for 22% amongst the Young Bar). On the other hand, for almost 65% of the Young Bar it was negative (either small 39% or significant 25%). From the focus groups it was clear that this range reflects that individuals experienced both positive effects and negative, with the balance of those varying for different sub-groups, indicating that analysing ‘overall’ views is of limited value:

*“I confess I have enjoyed the change to remote working”*

*“My experience has broadly been quite positive”*

*“For [barristers working in] crime, it has been a disaster”*

We therefore focus on a range of key pandemic effects. Because the majority of barristers are self-employed, very few respondents suffered redundancy or furlough. Amongst those working on an employed basis, just one respondent was made redundant and six were furloughed (although this was 9% of employed young barrister respondents).

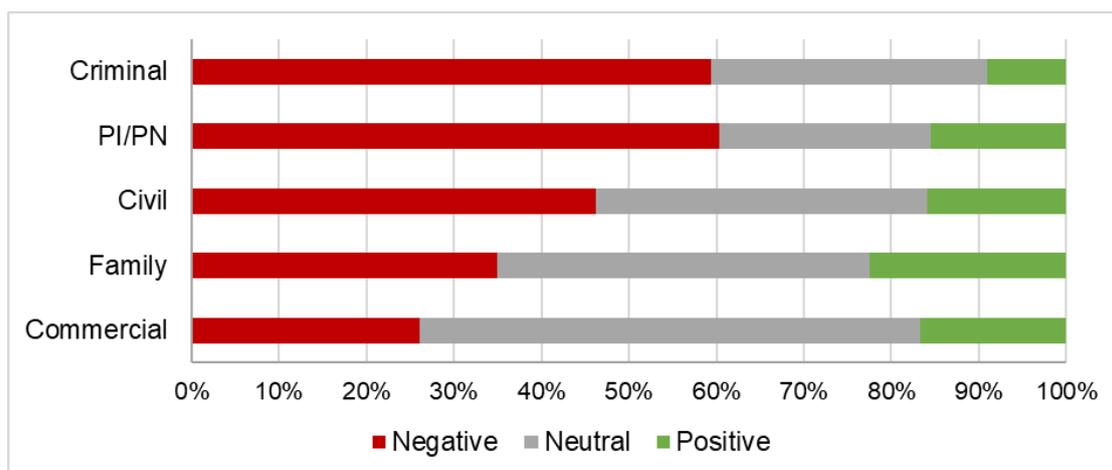


Figure 4.1 Overall financial impact of the pandemic for Young Bar BWL respondents, with area of practice

45% of Young Bar respondents reported a negative impact on their overall financial situation (48% of all BWL respondents) but 15% a positive impact (again, similar to all BWL). This varied quite strongly with area of practice (Figure 4.1), with nearly 60% of those working in crime or personal injury/negligence reporting it negative down to 26% in commercial law.

Focus group participants reflected exactly this sort of range of experience, some reporting significant falls in income while others had significant reductions to their costs (as they no longer travelled around the country to courts) and little effect on their income:

*“I lost £12,000 in work over the last few months. It has been a huge loss for those at junior stages in the Bar”*

*“There was a devastating drop in work. I used to do 2-3 large trials per year, long and profitable. Court capacity is way down – no trials means no work or money. My inability to earn was the biggest issue. It hits the juniors more because the seniors take what work there is”*

*“Some of the juniors had a 60% drop in income, so were suffering financially; especially work on personal injury/criminal negligence. Cases were just postponed because they weren’t seen as important enough to take up what was very limited court capacity”*

*“I have saved thousands on train tickets”*

*“The civil Bar has had a good history of dealing with cases by phone, but I still had to travel all over the country previously for cases, but this all changed overnight. It became 100% remote. And yet I saw no drop in income”*

Perhaps most worrying is the finding that 29% of Young Bar respondents reported they had experienced financial hardship (similar to the overall BWL figure). This too varied strongly with practice area, being nearly half of those working in criminal law (45%) but also high for those in personal injury/professional negligence, while very much lower (around 1 in 10) for those in commercial law.

Understandably, these effects were all much more acute for those who were self-employed, than those who were employed. More positively, most of the participants in the focus groups (which took place in summer 2021) who reported substantial drops in income during the pandemic now suggested that their financial situations had since then recovered partly or fully, as activity had rebounded after the initial phases of the pandemic.

## **4.2. Impacts on practice**

Survey results suggested that the negative financial impacts were largely due to volume of work, as results to a question specifically about effects on respondents’ volume of work strongly correlated with those on financial impact. The closure of courts and workplaces and consequent shift to degrees of remote working had led to a variety of impacts on working practices. Effects relating to work which was conducted remotely from the respondent’s chambers or employer office are largely covered in the next section. However, changes to the operation of court work also had significant impacts for many. 60% of Young Bar respondents (and a similar proportion overall) suggested that pandemic-induced changes to the way they worked with courts had a negative impact on them, although 24% perceived those changes as having an overall positive impact.

Those impacts were reported to vary with area of practice (Figure 4.2), with those in the criminal Bar and personal injury/negligence reporting that the impact on their court work had been most negative. However, more than half in all areas reported this to be a negative impact of the pandemic. It was also noteworthy that the scale of differences between these areas appeared to be somewhat smaller in magnitude than the differences in the BWL sample as a whole, for which a higher proportion of the criminal Bar (over 75%) reported a negative impact and slightly lower (c.45%) for commercial or family law.

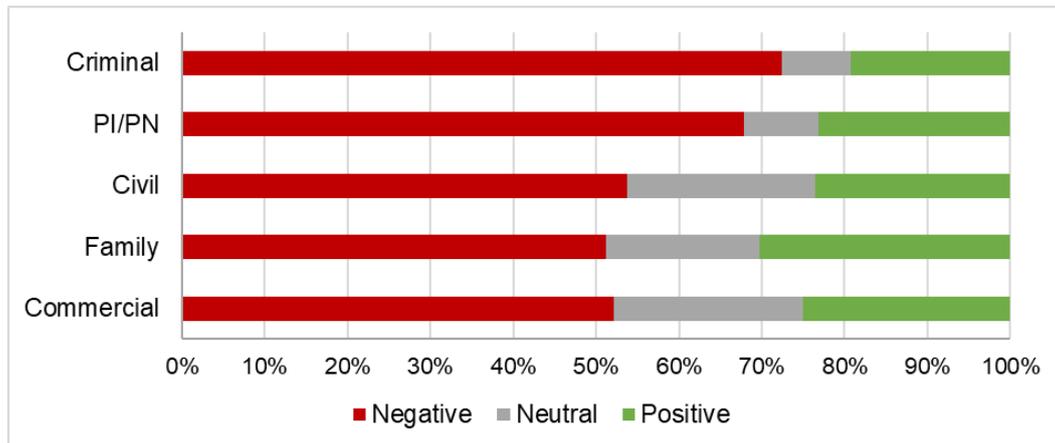


Figure 4.2 Nature of the impact of the pandemic-induced changes to court work for BWL Young Bar respondents, with area of practice

The BWL survey asked a range of specific questions in relation to work in court that respondents had undertaken specifically in the three months prior to the survey (effectively since January 2021). This revealed that 92% of Young Bar respondents had attended court during this time, amongst whom 25% had done so only in person, 25% only remotely and 46% both remotely and in person. The manner in which they attended court varied with key areas of practice (Figure 4.3), potentially reflecting the extent to which courts in differing practice areas have adopted changes to working (or not). Amongst young criminal barristers, over 40% had attended only in person and 54% both in person and remotely, but only 2% had only attended remotely. At the other end of the spectrum, in commercial law, around half of the barristers had only attended remote court sessions and only 6% only on an in-person basis (although 15% had not attended court at all in this period). Compared with results for the BWL response sample, this data seems to suggest that somewhat more of the Young Bar are having to attend court and, especially, have done so in person than overall; for example, 51% of young criminal barristers have attended only in person compared with 40% of all criminal barristers?.

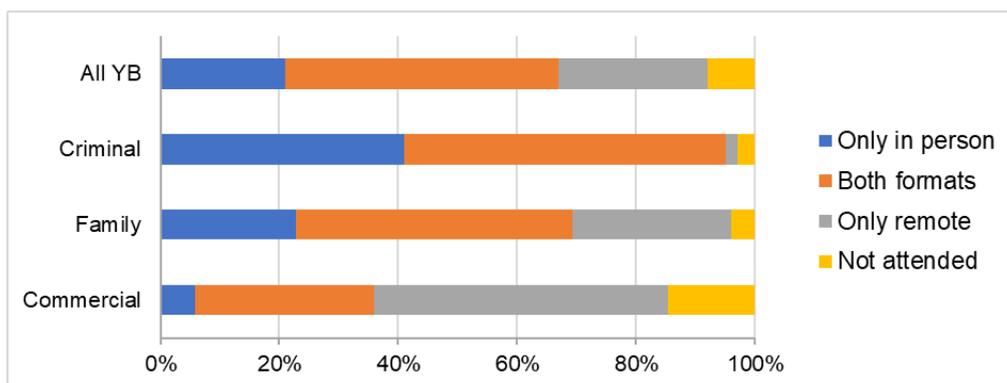


Figure 4.3 Format of court attendance within last three months by BWL Young Bar respondents, with broad area of practice

The main BWL survey report contains analysis of the extent to which respondents had had problems in their court work and the proportions suffering problems of different types. This revealed common problems such as technical issues with video platforms, the lack of capacity for remote working at all, lack of preparation time due to scheduling, and even worries about the physical environment's safety/cleanliness and inadequate social distancing. Analysis of individual responses suggests that young barristers suffered the same issues, although with more of them attending court in person than average, the issues particular to physical court operation (such as lack of distancing) were more common amongst them than overall. As many as 40% of them complained about the lack of capability for remote court working, which is likely to reflect that fewer of them have been able to work remotely.

However, these responses were specific to the first few months of 2021 and the focus groups indicated both that court procedures were changing substantially with time, as well as very variable in relation to location and area of practice. For example, certain courts had pursued remote working early in the pandemic, had improved their capability to work remotely as they progressed through the pandemic and were maintaining a good proportion of work remotely even with emergence from the pandemic. Others had progressed less in this respect, while the format of each case or hearing ultimately depended on the judge. Experiences related during the focus groups, on the other hand, could to some extent take account of these changes with time and other factors.

One key aspect was that many participants related experiences of their current practice, up to July 2021, which included a quite different extent of work from during the pandemic, as by this time courts were attempting to reduce the backlog of cases that had built up during the pandemic. For those in criminal work, in particular, this meant they had had a trajectory of a sharp downturn in work in 2020 as the courts were impacted, then some upturn as remote working began and now a sharp upturn and much more work pressure than pre-pandemic as the courts strive to reduce the backlog of cases.

In relation to court operations, focus group participants noted that some courts had progressed far further than others in terms of their willingness to adopt and adapt to video and other technologies which enabled remote working, while others had less advanced systems and platforms in place. Some judges individually demanded in-person proceedings, with which they were comfortable, while some others accepted that they were benefits for others in remotely run cases and were themselves relatively enthusiastic in that format themselves. It

was also clear that platforms were improving, so some participants had the benefit of document management systems to handle and access online documents, while others struggled with enormous PDF files containing their bundles. There was a clear difference across areas of practice. A participant reported that in his area of commercial law, remote cases had been commonplace before the pandemic, and another that telephone work was common within civil law, so the extent of change in those areas during the pandemic was quite limited. Equally, some felt that while some aspects of family law were quite well suited to online operation, certain aspects of criminal cases benefited more from face-to-face engagement to understand issues such as body language. Hybrid cases could be particularly difficult, such as how to talk in confidence to a remote party while being in court. Some related experiences were reported? where alternative methods were being trialled, such as bringing people into a room at a solicitor premises so that they could interact remotely with a court but with more reliability than through a mobile phone in a busy home. Overall, it seemed, the situation was shifting quite fast at the time of the research and we suspect it may continue to do so, albeit at a slower pace, for some time.

### 4.3. Impacts on working life and wellbeing

Young barristers were, overall, impacted somewhat more negatively by the pandemic than barristers in general, in relation to several key aspects of their working life. Summarised in Figure 4.3, it can be seen that over three quarters saw a negative impact on their relationships with work colleagues, nearly two thirds a negative impact on their overall wellbeing, and around half a negative impact on their work-life balance. That said, they were very split on the latter, with almost 40% saying that work-life balance had improved (and 45% of all respondents thought this was the case). While none of these results is dramatically different from that for the overall BWL response sample, and some of the differences are not statistically significant, as? a consistent trend of small difference can be seen.

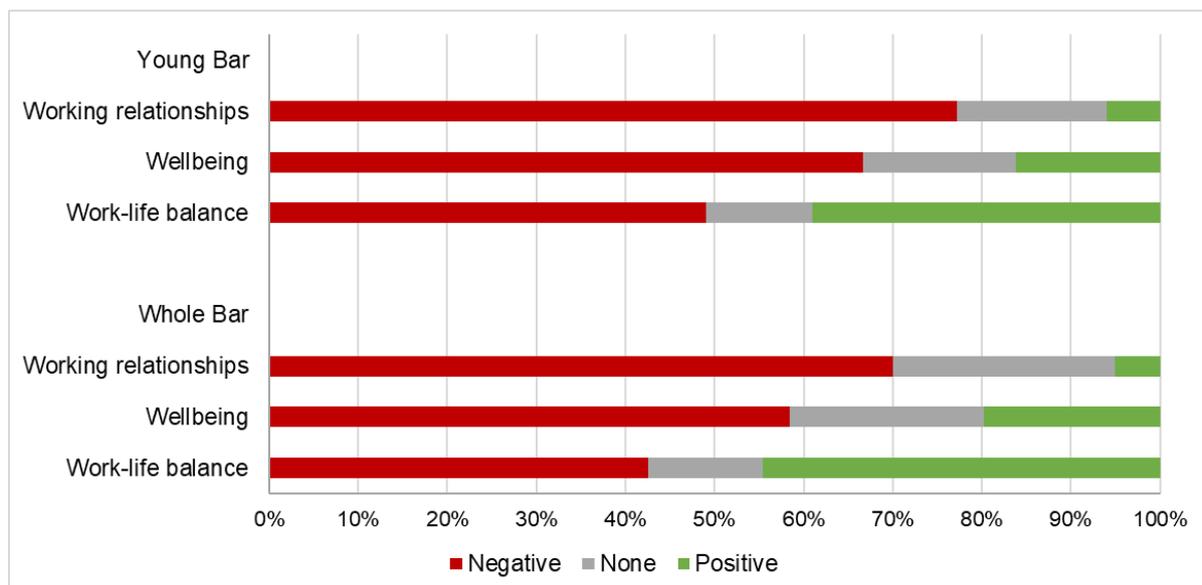


Figure 4.3 Impact of the pandemic on aspects of working life for BWL survey respondents

In contrast to the results on financial impact, these views did not differ greatly with area of practice. There was some suggestion that the experiences of women in the Young Bar were very slightly more negative than for men, although not to the extent of statistical significance.

While the effects seemed to be similar for new practitioners and others, focus group participants who had been pupils during the pandemic had particularly missed the opportunity to build networks within the profession through informal conversations at work or social interactions after work, as they had not been in chambers. While the opportunity for remote working offered savings of time in terms of not travelling to courts (especially) or commuting, which increased the hours in a day over which they had for their private lives, participants also commented on the consequent lack of ability to de-stress by talking to colleagues, to talk things through informally and generally to learn professionally:

*“I qualified during the pandemic. My pupillage was good but I really missed the networking – I just haven’t built up social contacts informally, only where I work. I need to widen this in future. I feel isolated from the wider profession”*

*“[Crime’s] digital cases system means you don’t have to go into chambers, so a nomadic profession has got even worse”*

*“It is a massive piece of learning that the junior bar are missing out on, not forming those relationships with more senior barristers but also not hearing other pupil’s questions has a massive impact on opportunities for learning and development”*

*“The reason that chambers exist is for the camaraderie and collaborative aspect of the work- it feels more formal to have to email or arrange a call online, especially if you don’t know them very well”.*

We also had the impression from the focus groups that although these issues varied to some extent with area of practice, as noted in the previous section, other important factors could influence individuals’ experiences. For areas like family or crime, the operating procedures of key courts entirely determined whether the participants could attend remotely or not (which had impacts upon working hours and especially the predictability of work). However, it also seemed that certain chambers were managing to support their barristers better than others both through the pandemic and afterwards with hybrid working. This seemed in some cases purely to be where a chambers had a particularly strong and supportive culture, that they had continued to foster during remote working, and/or because the chambers had used a particular technology solution which was very workable and helpful. We return to this issue in the chapter on aspirations for future changes to the profession.

On the positive side, the issue that participants overwhelmingly raised was that remote working had led to improvements in their work-life balance. The absence of commuting time (particularly for those in London) and especially not having to travel around the country to attend court, even for a short mention, made their working hours substantially shorter. This enabled them to work a more reasonable day and to dedicate some more time to their own life, wellbeing and/or family. It was very clear that many of the participants would be reluctant to lose this ‘gain’ from the pandemic.

Interestingly, a number of participants from under-represented groups commented that the shift to remote working had delivered other gains for them. One commented that working away from chambers had benefits as they suffered less regular discrimination in relation to their race. Quite separately, a disabled participant said that remote working was “a leveller” in that

their access was much easier to various aspects of professional practice – both physically in terms of court appearance but also as it essentially masked their disability.

A number of other issues which relate to the pandemic are covered in the next chapter on wellbeing and working life, as it becomes increasingly difficult to isolate effects and influences on work due to or prompted by responses to COVID-19 from other changes that are underway within work at the Bar.

## 5. Working life and wellbeing

### 5.1. Work patterns

The vast majority of Young Bar respondents to the BWL survey reported that they worked on a full-time (97%) rather than part-time (3%) basis, irrespective of whether they were of employed or self-employed status. Part-time working was significantly less common than in the total BWL response sample, where it was reported by around 10%. The following analysis of hours worked includes the few who reported part-time working (for comparability with the results in the main BWL report).

Pre-pandemic, young barristers most commonly (65%) reported working between 40 and 60 hours per week. Only 20% worked what might be termed 'conventional' full-time, professional hours (up to 40 hours per week) while 45% worked 51 or more hours which is above the European Working Time Directive limit of 48 hours per week. This profile was very similar to that obtained for the full BWL sample (shown in the lower part of Figure 5.1); the lower proportion working below 30 hours may reflect the lower proportion working part-time.

Bearing in mind the survey took place in April/May 2021, when asked to report on their most recent working week, somewhat different profiles emerged (shown in the upper part of Figure 5.1). The results for young barristers suggest that both a higher proportion were working fewer hours (now 26% working 40 hours or fewer) and a slightly higher proportion very high hours (now 48% over 51 hours, including 25% over 60 hours per week). A similar shift to the pattern is seen in the reported hours for all barristers, although less pronounced at the upper end.

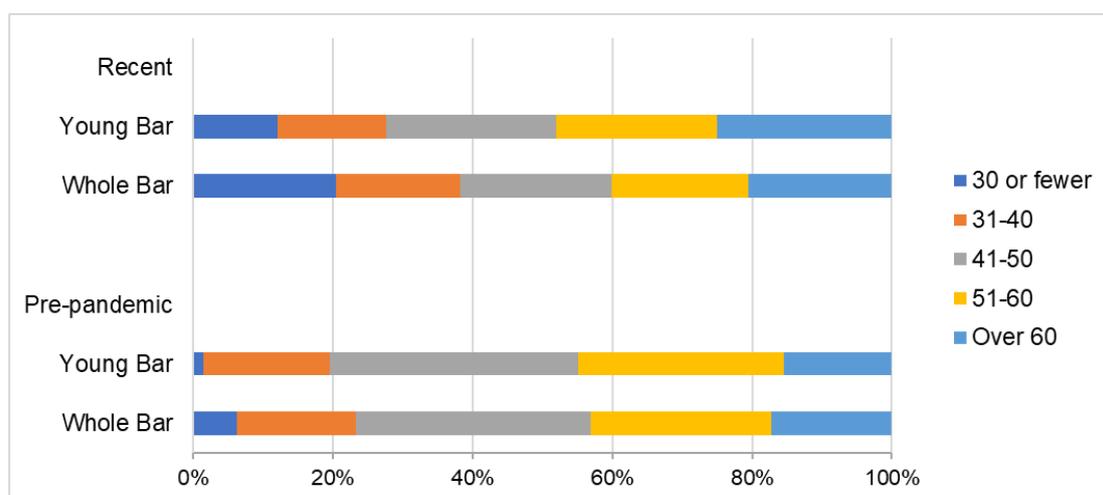


Figure 5.1 BWL survey respondents' hours worked per week pre-pandemic and in their most recent week

The apparent 'shift' to even higher working hours by some seems to reflect the experiences of several focus group participants who had in recent months been working very high hours in response to courts' efforts to clear backlogs of cases. Analysis by area of practice confirmed that the highest hours tended to be worked by those in criminal and family law, and that the shift to working profile was particularly marked for them (Figure 5.2). However, those in other areas were not immune to this and in the focus groups there were reports that the intense working hours were having an impact on sustainability:

*“My workload has gone up exponentially; there’s lots of burn out within the team. We’re working lots of 14 hour days. The firm has done really well with record profits, so we have done well financially.”* Commercial law, employed, female.

*“My female contemporaries are genuinely considering leaving, I have two female colleagues who have left in the last 6 weeks, one has left the bar altogether because the work-life balance is untenable and they want to have a family, it’s a lot harder than it used to be.”* Crime, self-employed, female.

Figure 5.2, for young barristers, shows that in spring 2021 as many as 31% of those in family law were working over 60 hours per week (including 13% over 70 hours per week). At the other end of the scale, the proportions working fewer than 30 hours in these areas also rose markedly compared with pre-pandemic, suggesting that workloads for young barristers have not returned to the relative stability of pre-pandemic practice.

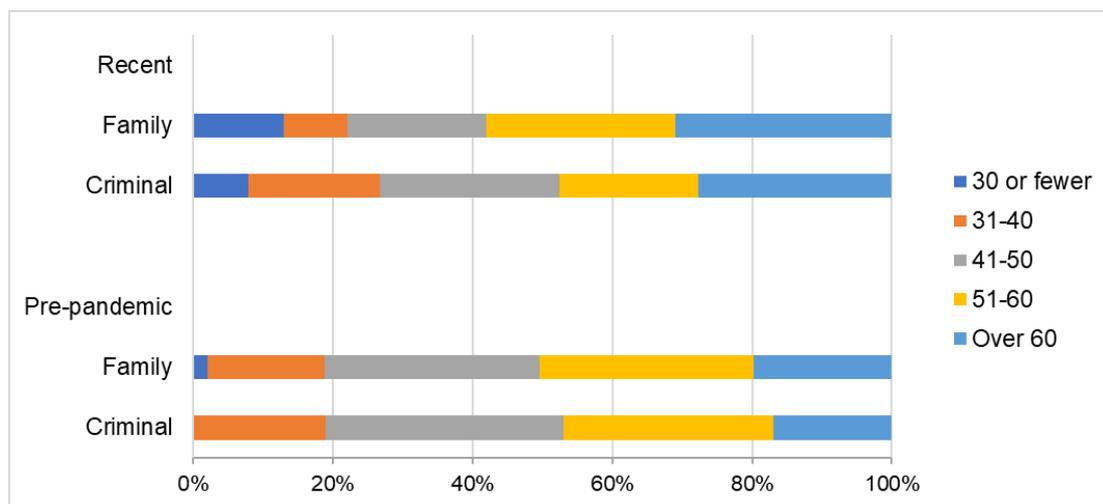


Figure 5.2 Young Bar survey respondents’ hours worked per week pre-pandemic and in their most recent week (in April/May 2021), for those working in criminal or family law

This recent intensity of working was also reflected in responses to a question about ‘typical’ working patterns. After controlling for those who deliberately worked part-time, 87% of young barristers indicated that they worked extended weekday hours (i.e. beyond ‘office hours on all working days) and 61% that they regularly also worked on one or both weekend days. These were slightly higher proportions than for barristers as a whole, of whom (on a comparable basis) 78% worked extended weekday hours and 54% weekends). Analysis of results by area of practice suggested that for young barristers these proportions were higher still for those working in areas such as crime and family law.

In this context it is not surprising that focus group participants were vociferous in their negative response to the concept of introducing Extended Operating Hours in courts. They believed there was insufficient capacity or time to handle current caseloads, even with the extreme hours that many were working, so adding to the load was simply not feasible. Only 7% of young barristers in the BWL survey supported the concept of Extended Operating Hours.

As context to this analysis, only 11% of young barrister BWL respondents reported that they had a flexible working arrangement with their chambers or employer. It is worth noting that

this was 30% amongst those who worked on an employed basis, and only 9% of those self-employed. These were substantially lower proportions than for the Bar as a whole, within which half of all employed barristers had a flexible working arrangement and 14% of those self-employed in chambers.

As will be mentioned in the chapter on potential changes to future working life, greater access to flexible working patterns (and remote working) were amongst the most common aspirations of young barristers. While these were particularly prominent in the 2021 focus groups as participants had seen the possibility of remote working, a comment from a 2020 group indicated that there concerns about a lack of flexibility in 'traditional' practice:

*"There's actually very little flexibility, notional working from home but it seems to be that if you're a barrister your work dictates where you've got to be - your practice may be such that you have to be in the County Court on a regular basis, in which case you've got to be there... so I think we are quite limited, [compared to] if I look at peers working in other industries, their opportunities to move"* (Male, London)

The survey also sought information about 'additional hours' for which respondents were not paid. While there is some scope for interpretation of this question, we interpret it as indicating working hours which were either additional to those contracted (for those who are employed) or not billed (for the self-employed). Overall in the BWL response sample, 89% reported that they worked some additional hours on this basis and 93% of young barristers. Overall, one third (33%) worked more than 11 hours per week on average unpaid, whereas this was substantially higher at 45% of young barrister respondents. For clarity, this was not pro bono work, the extent of which was reported in chapter 3.

## **5.2. Work allocation**

Allocation of work was one of the issues which raised the most animated discussion in the 2021 focus groups. In the BWL survey, 53% of young barristers reported that they felt work in their area was allocated fairly, while 20% thought it was not fairly allocated and 26% did not know. These were slightly less positive views than for the whole Bar overall (59% fairly allocated, 16% not fairly). While the proportion of new practitioners believing it to be fair was lower still (45% fairly allocated), a much larger proportion of them did not know (37%), rather than a much higher proportion thinking it was unfair (18%).

However, across the Young Bar, views did vary within certain key groups. Women were less likely to think allocation was fair (48% fair allocation, 22% unfair, 29% unsure) than men (62% fair, 15% unfair, 23% unsure). Although the numbers were relatively small, young barristers of ethnic minority background were also less certain about fairness than their white counterparts, their results being very similar to those for women. In parallel with results for the whole BWL response sample, by area of practice, the highest proportions experiencing fair allocation were in family law with nearly two thirds thinking allocation to be fair, whereas this proportion was only around half in criminal, civil and commercial law.

In the focus groups, perceptions around work allocation seemed to be something of a litmus test in relation to how participants felt about the overall working culture. Many of these young barristers felt that they were simply allocated far too much work which meant that they had to work exceptional hours to prepare and deliver it, and this was exacerbated in many cases by them being given far too little preparation time (i.e. they received bundles from solicitors the evening before a case or cases were scheduled to be heard). This meant working late into the

evening routinely, and deeply through weekends in many instances. While some of the more experienced juniors had found ways to ameliorate the situation, many of the less-experienced participants had not, seemingly because:

- They were fearful of the consequences of ‘saying no’ (to taking on a case), as that could potentially impact adversely on future work allocation and hence their earnings, and perhaps their subsequent progression; and/or
- They did not have sufficiently strong relationships with clerks and others in chambers to be able to assert their needs for preparation time or personal time (including annual leave); and/or
- They simply believed this was the prevailing culture, promulgated by the legal system including both the courts over-scheduling cases and senior barristers who had themselves endured this type of overwork when they were younger (and in some instances continued to do so); or
- There was just no alternative – in certain areas of practice, such as family law, there was endemic urgency and the limited public funding meant that resourcing was stretched.

Within the groups, many participants offered tips and methods they used to improve this situation, which were welcomed by those who were newly qualified and struggling more than usual with these issues due to being remote from chambers, for example not having had the chance to forge good informal relationships with clerks. A comment from a January 2020 group gave an insight into working practice in a London chambers pre-pandemic, although in the context that many other participants did not enjoy this sort of collegiate approach even pre-pandemic:

*“All of the most junior barristers in my chambers sit together on the same floor, and we talk to each other about who’s on different cases, the clerks are often quite open about who they put forward for what or who has been asked for”*

In the 2021 groups it was also clear that in some areas of practice the situation was currently at fever pitch due to over-scheduling as the courts tried to eat into the backlog of cases (and in some commercial areas simply a rise in work which had been quiet in the pandemic). Variations in the extent of support from clerks and management in chambers to help them were very evident.

*“We’re the bottom of the chain and we are dependent on when our clients want things done, you can say no to work and that may help you get some of your work-life balance back...but then where does that leave you...you could take on less work and not work to capacity but then you’d be less well remunerated, less successful” (Female, London).*

*“Work allocation needs to be fairer. We don’t get the benefits of preparation time which you would expect as being a self-employed professional – you should be able to make more decisions about your own workload and diary management. Getting a call from your clerk means you will have to say yes to whatever they ask.”*

*“I think that work allocation is highly dependent on chambers culture – I know others who get much less support [than me]. I could go elsewhere and it could be much worse.”*

*“You’re seen as insulting the clerks if you try and do your diary management too early in your career”*

*“Possibly it relates back to funding, people cram diaries full to try and make more money in less time, if it were all paid properly and it was reformed maybe things would improve for everyone, the main factor is surely that government cuts have meant that the work is so poorly paid”*

These discussions centred upon the sheer extent of work taken on, and its consequence in terms of increased working hours, as well as the lack of preparation time available when so much of the briefing material and bundles were provided by solicitors at the last minute. The more senior juniors had tended to find ways to manage their diaries better, and remote working in response to the pandemic had mostly helped (by reducing travel time) although there was now some ‘rebound’ as clerks sought to cram more into diaries as they knew travelling was not required. Some reported that they had achieved better work-life balance once they had worked for a few years, and/or through more a more supportive culture in chambers.

However, there was also emphasis on whether young barristers felt able to take annual leave. In the 2020 groups several participants expressed the feeling that at the Bar there is a pervasive *“idea that your holidays are not sacrosanct and you’ll be expected to work still”* (Male, London). Experiences such as being asked if they were sure they wanted to take holiday, or whether they would have access to Wi-Fi when abroad, were reported as common. Some participants talked about going camping deliberately to places with no signal to be sure they could not be contacted.

This issue appeared to have been heightened by the pandemic, with many people not being physically away during annual leave (and clerks/chambers being aware of this). In the same way that some group participants accommodated extreme hours of working, a significant number accepted that their potential annual leave was at risk if chambers workload meant they were needed as a resource. Thus, some participants had simply foregone any substantial annual leave for long periods, and worryingly some of these accepted that this was a given and would continue into the future. Some went as far as suggesting that the profession should monitor chambers in relation to whether young barristers were taking their annual leave, such was the lack of control they perceived over this aspect of working life. That said, there were contrasting experiences where chambers were highly supportive and individuals reported that they took the annual leave that they sought and generally were content with the balance of their working life. A number of the suggestions made by participants are picked up in the chapter on potential improvements to working life and practice.

Within the next section, on wellbeing analysis, amongst the measures reported are workload management and how it impacts on barristers’ wider lives. However, on the basis of responses to two specific questions within that section of the BWL questionnaire, it was notable that fewer young barristers (42%) than overall (51%) reported that their workload was manageable, and fewer (36%) than overall (42%) that they had significant control over the content and pace of their work. When the results for manageable workload were analysed for some key groups, some substantive variations emerged (Figure 5.3). Over half of the men felt that had a manageable workload, whereas this was under 40% of women, while over 40% of the women did not, while this was only 23% of the men. In terms of practice area, those in criminal law were by some way worse off than those in other areas – with only around one third feeling that workload was manageable (and nearly half that it really was not), which was essentially the inverse of the situation for family or commercial law.

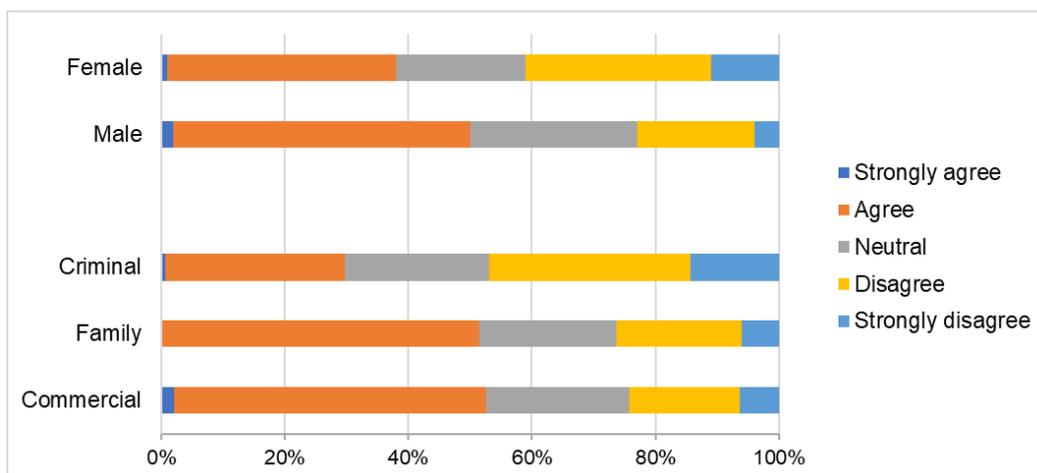


Figure 5.3 Extent of agreement that workload is manageable, for key groups of Young Bar BWL survey respondents

Although the sample sizes became rather small, there was some evidence to suggest that over half (57%, i.e. the majority) of women working in the criminal bar felt that they did not have a manageable workload, which was twice the proportion of men working in this area, and only one quarter manageable. This also demonstrated that these differences in perceptions were driven by both the sex of the respondent and their area of practice, factors which reinforced the position for women working in criminal law.

### 5.3. Wellbeing analysis

The University of Portsmouth’s Barrister Wellbeing scale was deployed as part of the 2021 BWL survey and full results have been provided in a separate report. Table 5.1 summarises the mean scores for the four scales and an overall derived ‘Barrister wellbeing’ score, for young barristers and all respondents to the survey. In the context of the previous section, it is noteworthy that the mean score for workload management was lower than for all respondents considered together. Young barristers also had lower scores for psychological wellbeing and for overall wellbeing. Very broadly, this suggests that the wellbeing of young barristers is somewhat weaker than for barristers overall, reinforcing many of the observations made from the focus groups. We also note that mean scores for all criminal barristers are markedly lower than for other areas of practice, so it seems likely that the wellbeing of young barristers working in this area will also be lower than shown in Table 5.1. It is also noted that the scales showing the largest differences between criminal and other areas were the workload management and psychological wellbeing scales.

Mean score	Psychological wellbeing	Perfectionism	Workload management	Supportive work environment	Overall barrister wellbeing
<b>Young Bar</b>	3.21	4.00	2.91	3.59	2.98
<b>Whole Bar</b>	3.35	3.73	3.07	3.67	3.13

Table 5.1 Barrister wellbeing scale mean scores for BWL survey respondents

Many of the issues discussed in the groups relating to wellbeing were grounded in perceptions of work-life balance, as well as driven by their experiences of work allocation (highlighted in the last section) and perceived lack of control over their workload, but also the last-minute culture of case preparation. In many cases participants felt they lacked any agency to improve this situation:

*“There are wellbeing officers in chambers, but not in courts.”*

*“I just don’t eat [lunch] when I do trials”.*

*“The wellbeing issue comes with the nature of the work, stuff comes in last minute and that’s unavoidable, chambers do their utmost not to dump stuff on people without sufficient notice but that’s the nature of the job... we can’t expect that to change when urgent cases come in that need to be heard”*

However, others reflected that the lack of attention to wellbeing was down to the broader culture within the profession, which they potentially should have power to change themselves, if they had the confidence and tools to do so.

*“We all love the job, it is more than a job, that’s why we keep doing it. It is a self-absorbed profession – we have to think about the current client and our income/career [so we have to win]. Lots of wellbeing initiatives will fail in that context. You can’t force people into wellbeing”*

*“We have this sadomasochistic approach to work at the Bar, it wouldn’t happen in other professions”*

*“The issue seems to be lack of respect for Young Bar time. There are some cases where it is just urgent, no question. But there are others where it is not vital. There’s a slightly martyred self-sacrificing culture in Senior Bar. You have to take responsibility to protect your wellbeing but some juniors do not have confidence to do that.”*

*“The senior end is starting to understand the need for work-life balance more, rather than the previous ‘one does not have a choice’ culture. The bar is how it is because we allow it to be how it is”.*

*“It’s always going to be us at the young bar who have to instigate this change”*

More on the extent to which workplaces were deemed to be supportive can be found in the next chapter on development and progression. However, it should be noted that group participants, in both 2020 and post-pandemic in 2021, almost universally felt that the overriding culture in the profession was collegiate and informally supportive, despite many of the criticisms made.

#### **5.4. Experiences of bullying/harassment and discrimination**

In the 2021 BWL survey the questions on bullying, harassment and discrimination were revised to provide more specific information than in previous surveys. Responses were given in relation to experiences within the last two years. Figure 5.4 summarises the results for the Young Bar and total BWL response sample, showing that 34% of the former had experienced bullying or harassment either in person or online in the last two years, which was somewhat higher than the equivalent proportion (25%) of all respondents. Of those 34%, 26% had

experienced this in person at work and a further 8% only online. Another 7% had observed such behaviour but not suffered it themselves, which was similar for all respondents.

Experiences of discrimination were slightly less widespread, with 18% of the Young Bar reporting discrimination either in person or online, higher than the comparable proportion of all respondents (15%). Most of this had occurred in person (15%) but for some only online (3%). Another 11% of Young Bar respondents had observed such discrimination but not experienced it themselves, which was higher than the equivalent proportion amongst all BWL respondents (6%).

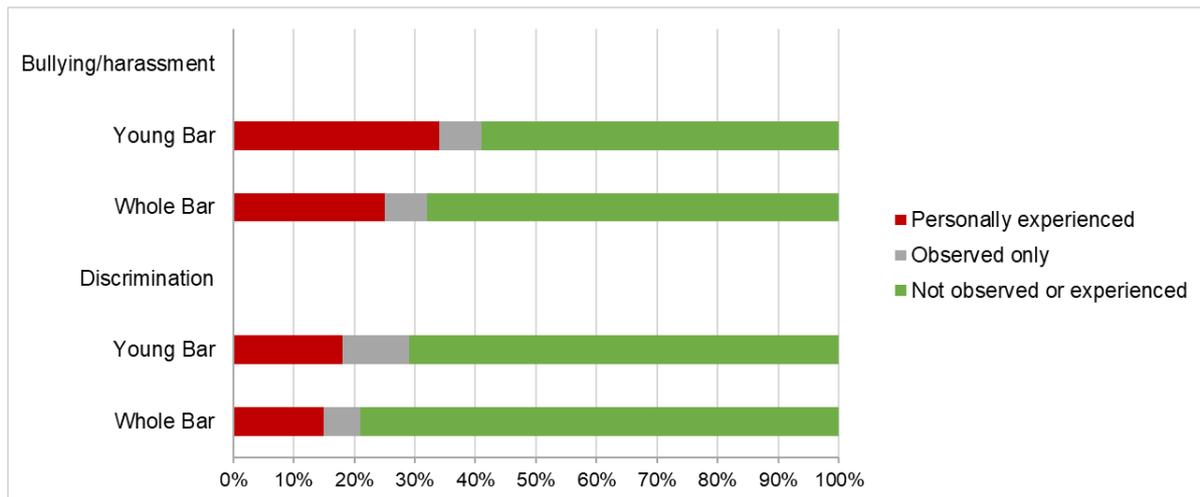


Figure 5.4 Experiences of bullying/harassment and discrimination at work within the last two years, amongst BWL survey respondents

Subsidiary questions within the survey did not distinguish between bullying/harassment and discrimination behaviours, so the results in the main BWL report are given on the basis of both these types of experiences, and the multivariate analysis within it was conducted for bullying/harassment or discrimination. However, we think there is some merit in analysing some of these data separately, i.e. for bullying/harassment and for discrimination, for the Young Bar at least.

First, in relation to personal experiences of bullying and harassment, Figure 5.5 demonstrates that a much higher proportion of women than men had experienced this (46% of women, nearly three times the proportion amongst men), but there was almost no difference with ethnic background. However, there were differences in relation to areas of practice – with bullying or harassment most common in criminal law (by over 40% of respondents) and least common in commercial law.

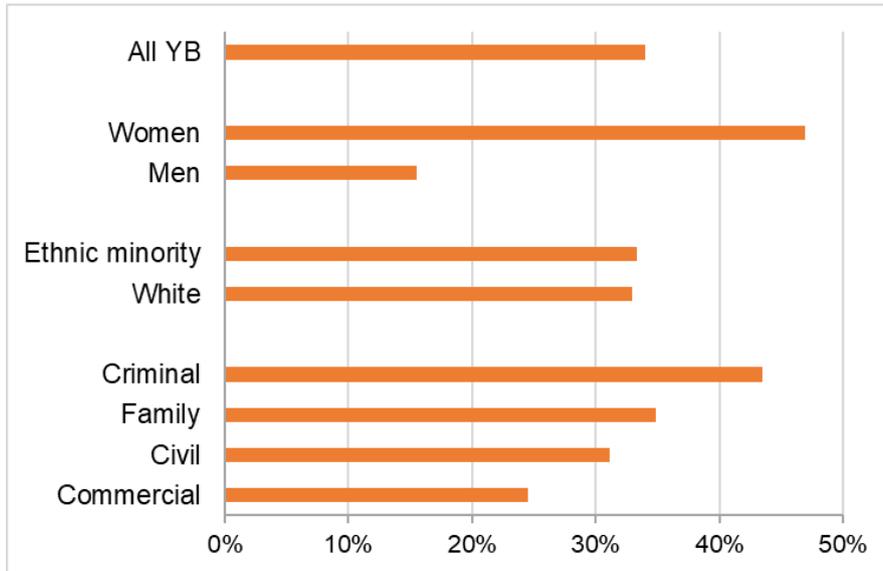


Figure 5.5 Personal experiences of bullying or harassment within the last two years, amongst Young Bar BWL survey respondents

In some contrast, there was a substantial difference in the personal experiences of discrimination with ethnicity, as well as with sex (Figure 5.6), with three times as many respondents of ethnic minority background reporting they had experienced discrimination as young white barristers, and a proportionally similar difference between women and men. This suggests that analysis of BWL survey data in relation to ethnicity could be clearer if bullying/harassment and discrimination were treated separately. There was also some evidence to suggest that LGBTQ respondents also experienced slightly more discrimination than overall, although only by a small difference, although the sample size does not allow for robust analysis.

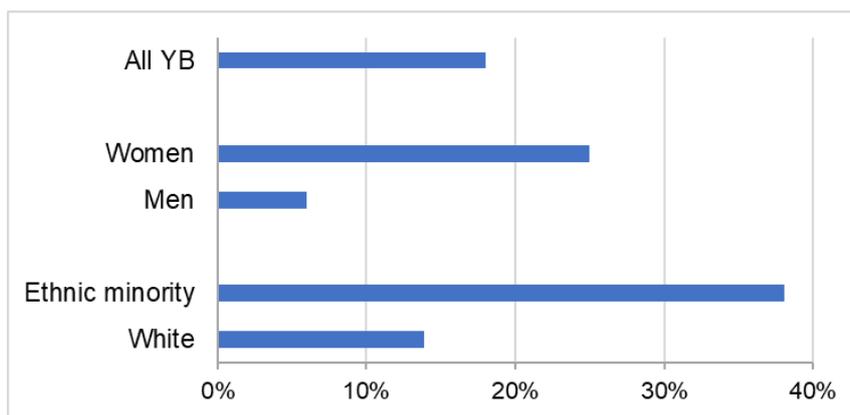


Figure 5.6 Personal experiences of discrimination within the last two years, amongst Young Bar BWL survey respondents

Multivariate analysis of results to these questions was not possible amongst young barrister respondents, due to the restricted total number of responses. Insights into experiences of, for example, women of colour, cannot be isolated for young barristers, and it is necessary to

extrapolate from the results above together with multivariate analysis using the entire BWL response sample.

The questions in the BWL survey which probed the nature of bullying/harassment or discrimination and its source did not separate these two types of experience, so the following results are for either of these issues. However, with that caveat, Figure 5.7 is instructive in illustrating that experiences of bullying/harassment or discrimination amongst young barristers were more common, compared with for all barristers, in relation to certain characteristics or behaviours. A very high proportion of all the bullying/harassment or discrimination reported by those in the Young Bar was in relation to gender (49%), although this was the highest focus at 43% amongst experiences across the full BWL sample too. Remembering that these results are proportions of instances perceived by respondents, sexual harassment was also a more common focus amongst the Young Bar than overall. The difference in relation to age as a focus is not straightforward as we infer that for young barristers any bullying or discrimination was on account of their youth, whereas for barristers as a whole there could be bullying or discrimination on the basis of either young age or old age. The percentages plotted in Figure 5.7 are proportions from respondents who cited experiences of bullying/harassment or discrimination, and more than one focus could be identified – hence the percentages summing to more than 100%.

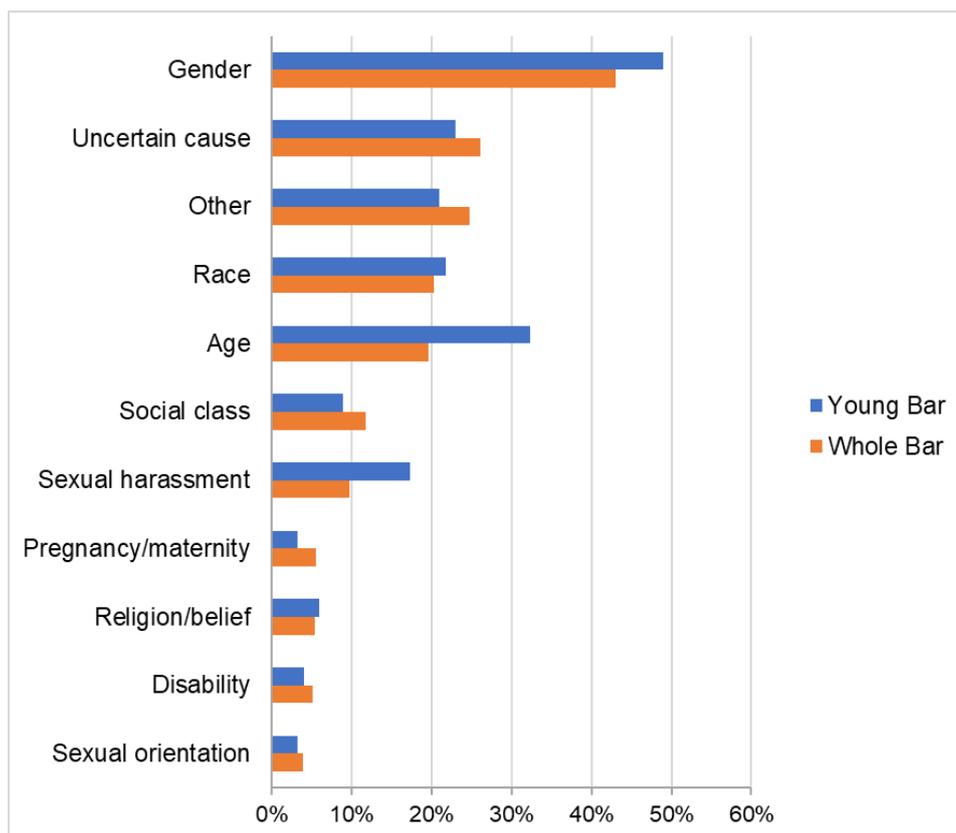


Figure 5.7 Focus of BWL survey respondents’ experiences of bullying/harassment or discrimination

An interesting analysis is presented in the main BWL survey about who was responsible for bullying/harassment or discrimination. This identified the two most common sources of these experiences to be other barristers (48% of instances) and the judiciary (45% of instances).

Similarly, amongst Young Bar respondents, other barristers were the most common source of bullying/harassment or discrimination (63% of instances) followed by the judiciary (43%), Figure 5.8. When these results were analysed in detail for barristers within different sub-groups, some differences did emerge. However, it should be stressed that as these are percentages of cited experiences, the sample sizes for the groups in the Young Bar become too small for robust analysis, so these results should be regarded as only indicative. Apparent differences between some of the groups within the Young Bar could be due to sampling effects, as much as real. However, on that experimental basis, this seems to show that:

- For young barristers, a greater proportion of the bullying/harassment or discrimination experienced is by other barristers (than of all that suffered across the Bar);
- This appears to be more pronounced for young women than men;
- For young barristers, it occurs to similar extents across all main areas of practice;
- Bullying/harassment or discrimination by the judiciary is endemic across all stages of Bar practice but constitutes a higher proportion of the bullying/harassment or discrimination suffered by those working in criminal and family law, than other areas of practice.

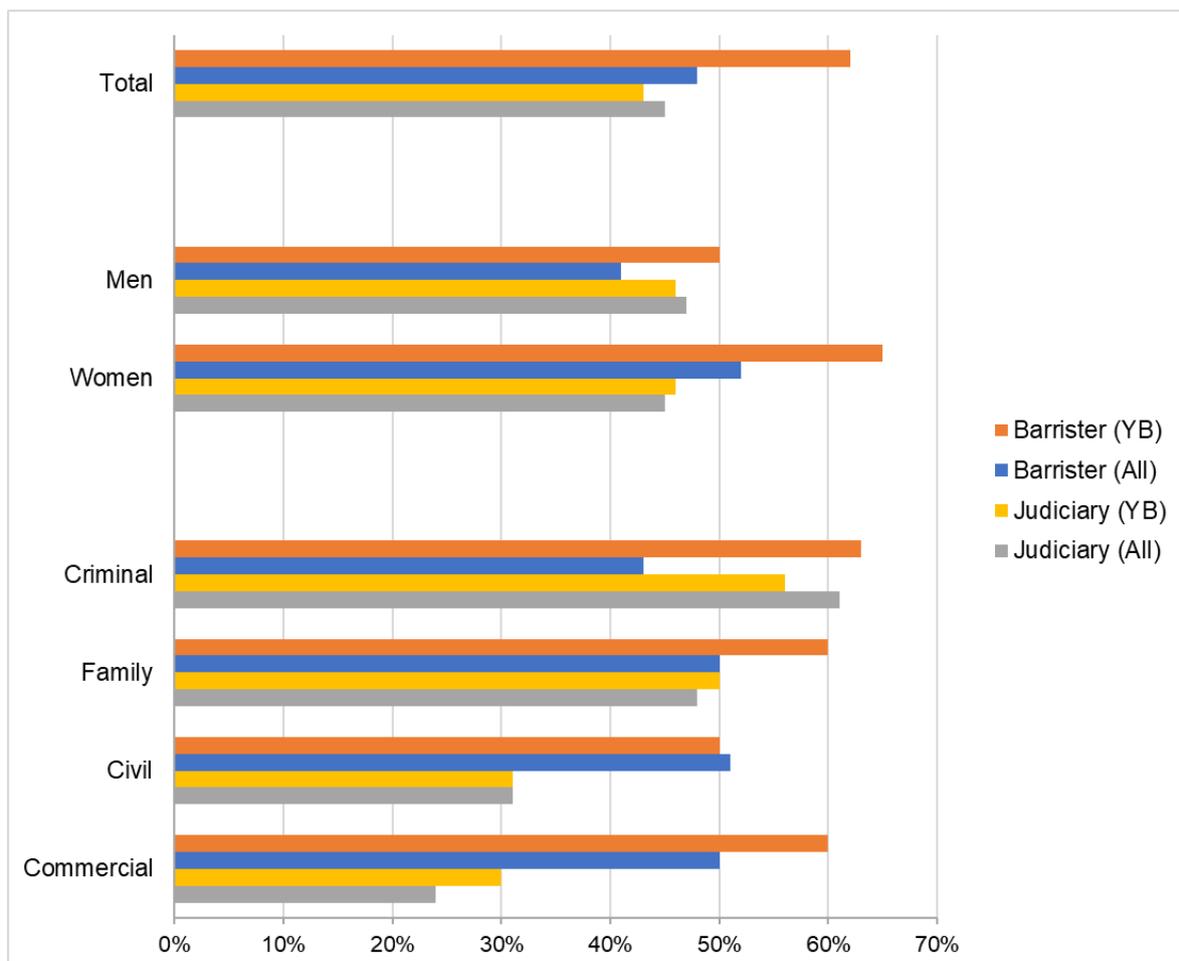


Figure 5.8 Source of BWL respondents' experiences of bullying/harassment or discrimination

Unfortunately, the small sample size means that BWL results for young barristers of ethnic minority background on these questions are not reliable. We also suggest that analysis of this nature might become clearer if it were possible to distinguish instances of bullying/harassment from those of discrimination.

These results were backed up by insights from the focus groups, where female participants indicated that some extent of bullying or similar behaviour by other barristers was routine. Views were more varied on whether some of the behaviours reported were actually bullying or harassment or just an aggressive tactic by (typically) older male barristers when confronting younger female barristers, deployed to undermine an opponent and win a case, and also whether it was possible to change these behaviours or they were endemic in the culture of the profession and only the passage of time might improve things.

*“Some judges are known to be sexist. But the biggest problem is other barristers. They tend to be aggressive in order to wrong-foot you as their opponent, so they regularly belittle you saying you can’t win. This is just part of the adversarial culture. It helps to talk to colleagues but they generally just say you’ll become steelier with time.”*

*“I agree that there is judicial ‘bullying’ but question whether it is too strong a word – culturally there’s acceptance that there is some form of ‘harassment’ within the adversarial system. I always comes up against older men, who routinely put me down, saying my case is useless – it is an unnecessarily adversarial culture”*

What emerged was a consistent picture where many older male (white) barristers would seek to belittle relatively inexperienced, young female barristers whom they came up against in court. In order to wrong-foot their opponent, and increase their chance of winning their case for their client, they would forcibly tell the female barrister that her case was weak, that this particular judge would not like it, that they were certain to win so there was no point in the women pushing her case. The extent to which this was seen as bullying was subjective, albeit all of the women had at least initially found it unpleasant, demeaning and upsetting, although they had mostly learned to live with it and consider it part of the ‘game’. Arguably, some of this behaviour could be considered as ‘professional’ bullying rather than personal as (we infer) that the prime purpose in many cases is potential professional gain, rather than for personal power or to damage the recipient personally.

It was also clear from the focus groups that there was discrimination, particularly in court. Several participants indicated that some judges were well-known on the circuit for being sexist and/or racist, and that as a young barrister their chambers or other colleagues would try to warn them to expect such an attitude in that particular court. There was the over-riding assumption that judges were in the main old white males. There were also some experiences of discrimination within their own workplaces, either passive or, in a few cases, overt:

*“[A judge said to me] ‘Could the dark woman speak?’ At that time I cried every evening, I thought about leaving the Bar. I did use the reporting tool but didn’t feel I could raise it directly with the judge because it might hurt my client’s case”*

*“It is very male in the criminal Bar, it still feels like a boys’ club, dominated by white privileged men, often kept in the family. It’s the same situation in chambers. It means that with issues like menopause and how that might affect your practice you wouldn’t be easy*

*to go to the clerks about this because of who they are. It all needs to be more open and transparent”*

*“As a black woman I’m relieved not to have to go into the office – my wellbeing is better because I’m avoiding the discrimination” [working from home since the pandemic]*

Just over two thirds of young barristers were aware that their workplace or chambers had a policy relating to bullying or harassment but 29% were unaware (higher than the 17% overall who indicated the latter).

28% of young barristers indicated that they had reported an incident of bullying or harassment at some stage which was also slightly higher than the overall proportion of 23%. This was much higher amongst young women (34%) than men (10%). In two thirds of cases this was only to another barrister, although this appeared to have led to a satisfactory conclusion for about 60% of these cases. Around one third of cases had been reported to their chambers or employer, which in turn led to a satisfactory conclusion about half of the time. Very few young barristers had used the Bar Council’s ‘Talk to Spot’ online tool for confidential and anonymous reporting of inappropriate behaviour, including discrimination or bullying / harassment. The number of responses about Talk to Spot was too low to judge the effectiveness of that service.

Considering their experiences of harassment specifically, half of the young barristers responding to the survey who were women (51%) had witnessed or experienced harassment at the Bar, but only 23% of their male counterparts. Of those who had, 70% of the women had disclosed this to another barrister to seek resolution or for guidance and 30% had not disclosed the incident (and 60% of the relatively fewer men). Any such reporting was very rarely driven by their professional duty to report serious misconduct, they indicated.

One female barrister in a group raised a very distinct issue with a digital case system, as her personal mobile number had to be included and then became public. As a result, she had subsequently suffered some (not work-related) harassment calls at odd hours. The shift to the digital case system had removed the protection afforded to her by working in chambers, in terms of privacy. This is clearly an oversight of new system design and implementation and needs to be rectified.

## 6. Progression and development

A small number of the questions in the BWL survey and the first phase of our focus groups addressed a number of aspects of progression and career development. In this section we identify some of the key themes emerging, trying largely to isolate these from effects of the pandemic.

### 6.1. Support and learning

Evidence from the first phase of focus groups suggested a variety of styles of induction when pupils started in chambers, ranging from formal inductions that were planned, useful and comprehensive to those which had been very informal and essentially cursory. There was a sense that this has been changing with time, with more recent pupils and new barristers receiving better, more structured inductions. It was felt that the transition to tenancy was a stage when many practical concerns arose – which new appointees might not have anticipated – and this was potentially the most important time at which to have a more formal induction and ready access to guidance.

As was the case for many of the topics considered within this research, the ease with which new or aspiring barristers navigated these first steps depended on the local context, as a result of the pervading informal and (intended) collegiate working culture of the Bar. This presumably favours those with pre-existing networks and/or a high level of self-confidence who are willing to approach others for help rather than rely on more formal developmental support:

*“There aren’t that many opportunities for feedback formally...I feel a bit despondent sometimes about that, like what can I do to improve myself, how can I make those improvements”* (Female, London).

*“So much of the Bar functions on informality and if you’ve got a few friends or colleagues who are happy to talk about that then great, but if you don’t have that then you’re in the dark”* (Female, London)

Those who had been pupils during the pandemic presented very mixed views on its effect on their development. All believed that the opportunities for informal learning from colleagues, to develop a supportive network and to benefit from the social side of chambers had been reduced due to remote working, but some individuals had clearly benefited from very supportive supervisors, as reported in a separate earlier survey of pupils.<sup>3</sup> There was also some agreement that positive potential was inherent in some remote-working technologies. Where there had been a pre-existing supportive culture, and if colleagues at all levels of seniority bought into use of a good communications platform, remote working could be a leveller. It could enable pupils or juniors to be *“more brave”* and ask questions informally of a wider range of colleagues than they might approach in person. Some technology platforms usefully indicated who was busy and who was available to answer a question, which was preferable in considering whom to approach compared with an email or an enquiry in person. They could also offer the chance to put some questions ‘to the hive’ rather than to an individual.

*“I did not feel scared asking questions, I didn’t need such courage. I feel closer to them [seniors] now”* (Female, London)

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<sup>3</sup> COVID-19 Survey of Pupils, The Bar Council, March 2021

Only 50% of young barristers in the survey reported that they had a formal practice review with a senior colleague or management once a year or more, with 29% suggesting that they had one less frequently and 21% never. These figures were broadly similar to those for the Bar as a whole (and only very slightly better for new practitioners). Young barristers who were employed rather than self-employed tended to have more regular reviews, with two thirds indicating that this took place at least annually.

More generally, 54% of self-employed young barristers in the survey would like their chambers to improve opportunities for personal and professional training and development. This was higher amongst women (58%) than men (47%), but also particularly high amongst new practitioners (72%). Just over one quarter of self-employed respondents harboured concerns about remaining at the Bar because of a lack of support from their chambers (although this was not specifically tied to issues of development or progression). This was higher still for new practitioners (40%), perhaps indicating that although the profession feels that there is an overall collegiate and supportive culture, the benefit of this is not being felt by many new entrants, which may well be a time when they most need that support.

## 6.2. Mentoring

The BWL survey asked some questions specifically about mentoring. 42% of the Young Bar respondents reported that they had a barrister mentor, which was much higher than across the entire BWL response sample (14%). This appeared to be somewhat higher (at just over half) for new practitioners (up to two years since call). It was also more common amongst young barristers who were self-employed (43%) than employed (29%).

Those who reported that they had a mentor were asked about how valuable this was. Half (51%) reported it to be very valuable and a further 34% quite valuable, suggesting that in only 1 in 6 cases was such a relationship of little or no value. Women tended to value it slightly more strongly than men (56% reporting it very valuable, compared with 44% of men, Figure 6.1), as appeared also to be the case for those of ethnic minority background (of whom 63% felt it very valuable), albeit the sample of the latter was small.

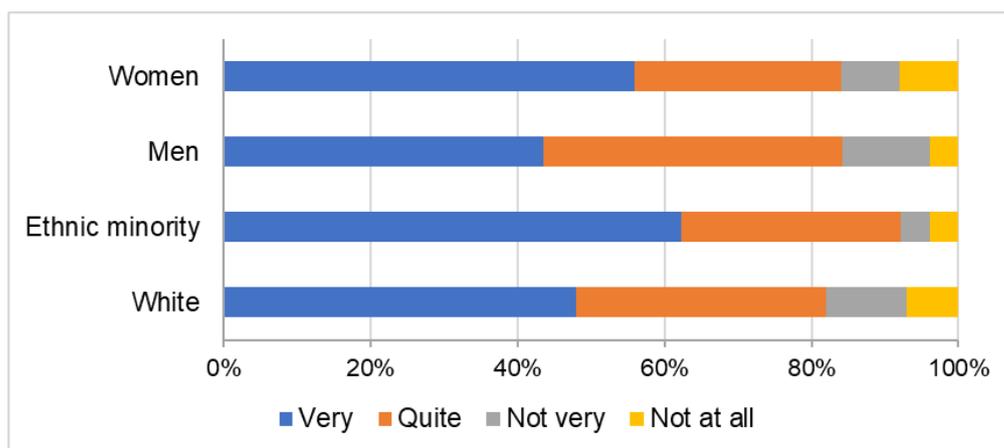


Figure 6.1 Young Bar BWL survey respondents' perceptions of extent of value of mentoring by another barrister, with key characteristics

Of those who did not have a mentor, 57% of young barristers in the survey indicated that they would like to have one. This was only marginally higher amongst new practitioners than those 3-7 years call. Again, the proportion who would like a mentor was higher amongst women (66%) than men (43%), and higher still (71%) amongst those of an ethnic minority background. In a separate question, as many as 33% of young barristers responding to the survey were concerned about remaining at the Bar because of the lack of this specific potential support (and 40% of new practitioners). Given the evidence on perceived value, this seems to be quite compelling evidence that more widespread mentoring would be beneficial, especially for under-represented groups such as those of ethnic minority background.

In turn, 34% of Young Bar respondents claimed that they acted as a mentor for other lawyers, which is only a little lower than the proportion overall across the Bar (45%). At face value, it seems a high proportion, but could reflect young barristers' perceptions of how valuable the process can be for new and recent entrants. As a proportion it also does not entirely square with evidence from the focus groups, where formal mentoring was rarely mentioned (although we did not explicitly ask whether participants were mentors or mentees).

### **6.3. Bar Council services**

Just over 22% of young barristers in the survey reported that they had attended a conference or seminar offered by the Bar Council, such as the Annual Bar or Young Bar Conference/s. This was twice as high amongst women (28%) as men (14%), which seems to reflect trends we have seen across many professional sectors where women, on average, are more receptive to offers of training or professional development support than men.

A very slightly higher proportion, 26%, said that they had attended more specific training on issues such as public access, EDI and fair recruitment, offered by the Bar Council. Almost one third had made use of the practice and ethics hub and resources.

Perhaps unsurprisingly, the proportion of young barristers who had used the Pupillage Gateway was much higher at 61%, while around one third had made use of the Pupillage Fair and related careers information.

## 7. Modernising the bar

### 7.1. Work location, workload management and work-life balance

In a BWL survey question, respondents were invited to look at their practice and/or working patterns and consider what they would like to change in the future. The two options most commonly selected were more remote working (by 48% of young barrister respondents, but similar for all respondents) and more flexible working (43%, well above the 23% amongst all BWL respondents). The ability to continue some extent of remote working beyond the pandemic emerged as the most popular aspiration for change to working practice.

However, this is not fully distinguishable from the desire for more flexible working, which came through very strongly from the groups and survey alike. 13% of young barrister respondents said they would like the opportunity to work part-time. Interestingly, of the roughly 1 in 8 respondents who selected 'other' (rather than a pre-selected option for change), the most common issues they then raised were better work-life balance and either less work or a better managed workload.

Roughly 1 in 6 of the young barrister respondents suggested that they would like to leave the Bar, and these respondents were offered a range of issues to select that could be concerning them about remaining at the Bar. The three top issues were working hours, unpredictability of working hours and the potential mental health consequences of remaining at the Bar.

A separate question asked those who worked in chambers the possible ways that chambers' support could be improved upon in order better to help the day-to-day management and overall development of the respondent's practice. Interestingly, the second-most popular issue respondents identified related to mixed (partially remote) working, as they sought opportunities for flexible working and also for hot-desking when they were in chambers.

All these results point strongly towards concerns about workload, work allocation and work-life balance and possible negative health consequences, in response to which respondents were seeing remote and more flexible working as positive changes, perhaps highlighted by experiences during the COVID-19 pandemic. Invited to suggest additional services that the Bar Council could provide, the most popular topic (by 1 in 6 respondents) was healthcare or counselling services, which we infer also to be related to these concerns.

This focus of aspirations came as no surprise given the high level of attention these issues received in the focus groups, evidence of which has been cited in several of the previous sections. Specific suggestions were made by group participants, including a desire for senior role models to demonstrate that a positive work-life balance could be achieved:

*"There really there needs to be a lead from the top. We need very senior people to demonstrate that they have work-life balance. Juniors can't assess what is reasonable or unreasonable, so they're vulnerable"*

*"There needs to be more focus on how to manage a successful career without damaging your relationships and your personal life. Seniors need to guide us on how to do this."*

Some others felt that there were potential actions the professional bodies could take to encourage changes to working practices within chambers, although in the earlier chapter we highlighted that barristers also felt they had a responsibility themselves to demand change:

*“The BSB requires pupils to take a certain number of days leave during pupillage. But there aren’t any rules for tenants. Could a ‘reasonable expectation’ of leave be agreed by chambers for those in early years of practice? It is the most vulnerable time, when the juniors are least likely to say no to work. If anything the BSB does the opposite for the Young Bar”*

*“The Bar Council needs to encourage a culture where 20+ days of annual leave are taken; it should be in the diaries of juniors and the clerks need to be aware of it. The very process of this research is good/reassuring”*

*“Why isn’t the BSB guidance updated, to include leave for juniors? Could it be in the code of conduct? Why couldn’t a designated clerk check that annual leave is being taken? Clerks could look at juniors’ commitments in diaries and check what is being taken and whether the juniors are happy about it. Or even could this be part of the Bar Council audit of chambers, so that annual leave expectations are part of the audit. Could there be a ‘wellbeing promoter badge’ for chambers?”*

*“Chambers are meant to have monitoring software to consider work allocation. It makes sure work allocation is fair across race and gender – could it be used to assess fairness for juniors?”*

## **7.2. Mentoring and professional development**

In chapter 6 it was noted that 41% of young barristers responding to the BWL survey had a mentor and that 5 out of 6 of these relationships were found valuable (half of them very valuable). Of those who did not have a mentor, only 20% were against the idea. These views were reinforced within suggestions about how practice and working patterns could improve; several respondents felt that a mentor could help them develop their practice but also support them with how to improve their work allocation and enhance their work-life balance. This all supports the view that there is strong demand for mentoring to be more widespread amongst the Young Bar.

The survey responses also provided some quantitative evidence that young barristers want enhanced development opportunities too, in addition to mentoring. The most popular response to ideas about how chambers could improve young barristers’ practice and working life was for chambers to provide more opportunities for personal or professional training and development. More than 50 individual respondents identified this as a potential improvement. This was reflected in the pre-pandemic focus groups, where there was a feeling that there was a lack of formal opportunities for development, including some desire that seniors should more routinely and formally feed back to juniors on their performance so that they could improve it. The 2021 focus groups were heavily focused on pandemic-related impacts and issues of work allocation and work-life balance, and much of the developmental support they suggested related to ways in which these aspects of working life and practice could be improved.

## **7.3. Addressing bullying/harassment and discrimination**

We have attempted to cover in some detail in chapter 5 the extent and nature of perceptions of bullying or harassment and also discrimination, recognising that some nuance is required to consider bullying behaviours fully in the context of a highly adversarial culture in court work in particular. That there is discrimination on the part of some key individuals, against women and several under-represented groups, is also clear. There was ample evidence within all the

focus groups that those young barristers would prefer a professional system and environment in which both these types of behaviour did not exist, and that they should not have to become “steelier” and just accept such behaviour. In the survey, addressing these and other diversity issues was the third most common area of potential action that respondents would like to see the Bar Council undertake. That said, focus group participants fully understood that culture change would be necessary to over-turn what were perceived as very deeply embedded attitudes and behaviours, and that they as the most recent entrants would need to be amongst the active drivers for change themselves.

#### **7.4. Better technological support for practice**

This issue was almost certainly heightened by the shift made by many barristers to some aspects of remote working as a result of the pandemic, and as an issue it is made more pressing by their aspirations to retain far more remote working within practice. There seem to be two broad areas in which there is significant scope for enhanced ‘technology’ (by which we mean digital information and communications technology) to improve both legal practice and working lives.

One was around court itself. Focus group participants gave vivid insights into widely ranging operations of different courts, in terms of whether they adopted remote trials at all, the technology platforms that were in use and the proficiency of different parties using them. Some courts appeared to be far more adept in their use of these platforms. There was also evidence of progression by some courts, i.e. they had adopted enhanced or better systems or platforms than originally implemented at the start of the pandemic (while remote hearings had been common pre-pandemic in certain areas of practice). Specific recommendations about particular technologies or platforms are beyond the scope of this study, but we would certainly endorse the views of some participants who felt they should have more say within the ongoing development of court operations:

*“Some courts have user meetings which should give you a say in how they are run, but it is a judge who orders the format of every trial. [Several of my courts] will return to face-to-face working because that is what suits the judge and is what they are most comfortable with, whatever our wishes or the witnesses”*

We also heard interesting comments about ‘hybrid’ court operations, in which some court participants were in court with a judge while most or all witnesses were not, but practical solutions were needed to make this work optimally – such as certain witnesses or litigants being present in a particular room at a solicitor’s premises, rather than individually from home, in order to standardise and guarantee quality of communications.

Participants wanted not only that courts should adopt and implement communications and information platforms to enable more routine remote working, but also that the platforms they used were better in relation to document management. Simply turning documents digital and producing very large PDF files containing hundreds or thousands of pages was not seen as helpful – far better document systems exist that enable users to handle and search the content of digital documents:

*“Using websites or tools that enable you to upload bundles of papers has made a huge difference to time taken to prep cases, it has a positive impact on workload and stress levels. It sounds like a small thing but it makes a massive difference. I can prep a case*

*as soon as I've been granted access. It's far better to use this than trying to work with PDFs".*

The other broad area appeared to be the professional working environment of chambers. We gained the impression that barristers who were employed generally had the benefits of industry-standard ICT systems. However, evidence from focus group participants suggested that many chambers had not yet invested in some ICT platforms that offered the best communication opportunities, and this did impact on self-employed barristers based there. Relatively few, for example, appeared to use a platform like Microsoft Teams. While they had all adopted online communications through Zoom, this lacks the integration of communication and document handling functions. In section 6.1 we noted the comments from some participants about the value they saw in using platforms that enabled users to know which colleagues were available to answer questions so that they could either pose questions to them individually or post a question to the whole staff group instead. As researchers located in a different professional domain, we were (frankly) somewhat surprised to find that these sorts of technologies and platforms were not commonplace in chambers. While there is presumably progress underway in this area, there would seem to be plenty of scope for advancement in relation to use of ICT which will benefit barristers working in chambers, in terms of their professional development, peer-based wellbeing support and also their day-to-day professional practice.

## 8. Key findings and recommendations

### 8.1. Overall findings

#### 8.1.1. Profile of the Young Bar

Based on Bar Council records, almost half of the Young Bar are women (48%), which is more balanced than across the whole Bar, and, unsurprisingly, most are younger. That said, around one third are aged 35 years or more, reflecting that many individuals are called mid-career through a change in direction or mature progression. This reinforces the idea that the 'Young' Bar would more inclusively be seen as a professional/career stage grouping than age-based. The Young Bar is slightly more diverse than the whole Bar in terms of ethnic background but, while women are over-represented in BWL survey responses, unfortunately ethnic minorities are under-represented and this limits the insights available from the survey into the working lives of this group. A higher proportion of young barristers in the BWL survey report a health or learning condition or disability, than disclosed to the Bar Council for its records, and higher than overall across the Bar, which may reflect the increasing willingness of younger people to report such conditions.

This overall picture of enhancement of diversity, however, is strongly focused on certain practice areas. The proportion of young barristers working in family law that are women is twice as high as men, based on the survey responses, while the opposite situation exists in commercial law. Within the Young Bar, women appear to be outnumbering men in criminal law too, although to a lesser extent. There is some evidence for under-representation of ethnic minority barristers in certain areas, including commercial law, and certain ethnic groups in other areas such as family, but slight over-representation in civil law.

Very few (3%) work part-time. Interestingly, only around 10-15% of the Young Bar have caring responsibility for a child, which is lower than the 20% of all UK adults in this position and presumably lower still than the corresponding average within the YB age profile.

Gross earnings vary considerably; the majority of those working on an employed basis earn under £60k gross and only 38% of the self-employed have gross income over £90k (although £90-150k was actually the most common of income band). There are stark differences with area of practice, with the most common income band for those in criminal law being £30-60k and only 10% earning over £90k. Most of their work is public-funded (70% on average). In contrast, 42% of those in commercial law earned over £150k income last year, almost exclusively not funded by the public purse. Overall, there appears to be a clear and strong inverse correlation between the proportion of public-funded work undertaken and average earnings, hence criminal law being the lowest paid on average and commercial the highest. Differences in earnings in certain areas of practice outweigh variances with gender, although we did find some evidence for differences in gross income with ethnicity within several broad areas of practice – however, this analysis was only feasible within the whole Bar and not specifically within the Young Bar due to small subgroup sizes. More than half of the Young Bar did some pro bono work in the last year, which is more than the Bar in general.

#### 8.1.2. Impacts of the pandemic

The COVID-19 pandemic impacted on the Young Bar as much as or more than the Bar in general. Viewed overall, 30% perceived an overall positive impact and 65% a negative impact but focus groups revealed these broad results may be masking the real picture. In reality,

almost all perceived some positive impacts and some negative, depending on their circumstances and area of practice, and any 'overall' view expressed by a respondent will be that individual's perception of the balance between those differing impacts.

45% of the Young Bar reported a negative impact on their financial situation, higher still at 60% for those working in crime – as court work ceased in 2020, their earnings plummeted. As many as 45% in the criminal Young Bar suffered financial hardship. This was the case for very few in commercial law and, overall, up to 15% reported a beneficial net financial effect. On the other hand, the shift to remote working meant that travel expenses dropped substantially for many, which could offset their reduced income to some extent. Participants in the focus groups gave the impression that earnings had since then mostly recovered, and several reported strong recent income due to high levels of work post-pandemic. Where they had managed to continue to work remotely, the reduced expenses could mean an improvement to their net financial situation.

In terms of their professional practice, most reported some negative impact, as not all aspects of remote hearings worked well, such as the lack of ability to test ideas with others informally in the margins or to have pre-case discussions in the robing room. There were (and remain) shortcomings in technology adopted by some courts to enable remote operations, and the extent to which courts have maintained remote operation or returned to in-person seems highly variable. Most barristers would prefer to retain a substantial amount of remote working, although not exclusively and dependent on the context.

There was a significant negative impact for the Young Bar on working relationships with colleagues, as informal discussions were more difficult, there was less networking and the peer and social support they rely upon reduced, hitting the newest entrants hardest. The relatively informal working and management culture prevalent in the Bar is considered a strength but opportunities for learning and development suffered due to the shift to working remotely from being in chambers or workplaces. How well individuals coped depended heavily on the culture of their particular chambers.

In addition to the impact on working relationships, negative impacts were perceived on overall wellbeing due to the lack of informal, in-person support afforded by chambers life. On the other hand, views on work-life balance were mixed – many felt that their work-life balance had markedly improved as a result of reduced travel time (not having to attend court in person), although there was evidence that with the passage of time, diaries were being over-filled in response to that reduced travel time, and in some areas workloads had recently become huge in response to efforts by courts to reduce backlogs, with less 'protection' of time by chambers when barristers were remote working.

### *8.1.3. Wellbeing and working culture*

Post-pandemic, a higher proportion of the Young Bar reported working even more hours than they were before but a higher proportion also reported working fewer hours when the data was gathered in April/May 2021, reflecting differing recovery and working styles in different areas of practice. In family law, 31% worked over 60 hours in the week before the BWL survey (and over 1 in 10 more than 70 hours). After controlling for those with flexible arrangements, 87% of the Young Bar were working extended weekday hours in spring 2021 and 61% also worked on at least one day of the weekend, regularly; this is higher still in crime and family law. The over-riding feeling is that this level of over-work is not sustainable and also reduces

the quality of work undertaken because preparation time is inadequate; it is not surprising that the vast majority oppose the concept of Extended Operating Hours (in the context of a limited resource of barristers).

Work allocation is a major issue, with only half of the Young Bar feeling that work is allocated fairly and some evidence that under-represented groups may feel that they fare worse still. The prevailing culture whereby chambers need to win work, barristers need to take on more cases to maintain income, and to win them in order to progress their career, seems currently to be in tension with a good work-life balance. Almost universally, juniors find it harder to say no to clerks, as they fear there will be consequences in terms of their future income and perceive longer-term risk to their career progression. As a result they tend to accept cases at the cost of their personal time; in consequence, wellbeing and work-life balance suffer. The unpredictability of work, particularly with court backlogs, contributes to this situation. Many in the Young Bar are not taking their allocation of annual leave as a result, which can have detrimental effects on their wellbeing and lead to burn-out or exit from the profession.

On the basis of a specific wellbeing analysis, overall barrister wellbeing is slightly lower for the Young Bar than barristers in England and Wales in general, with lower scores in relation to workload management (especially), psychological wellbeing and supportive work environment.

Work allocation and workload management were seen as issues endemic in the current culture of the Bar, although there was evidence that some individual chambers were more supportive than others and some of the Young Bar have achieved satisfactory work-life balance as a result (but this seems to be a minority). Many want sector support to change an improvement in this aspect of working culture.

On the basis of experiences over the last two years, one third of the Young Bar have suffered bullying/harassment, which is higher than amongst the Bar in general (at 25%). This is higher still amongst women – at nearly half, which is nearly three times the proportion reported by men. It is highest in criminal work, somewhat lower in family law and lowest in commercial. Evidence here suggests that it is not particularly focused on ethnic background, although this does not align with the findings of a recent report.<sup>4</sup> In contrast, while 18% of the Young Bar report that they have personally experienced discrimination, this is higher amongst those of a minority background (37%) and, again, much higher for women (25%) than men by a factor of around three.

The two most common sources of either bullying/harassment or discrimination are other barristers and the judiciary. For the Young Bar, it is especially the former and particularly focused on gender (and to a lesser extent age, which we assume also means experience). Many women in the focus groups reported that older, white male barristers opposing them will routinely belittle them and attempt to undermine them and their case, as tactics to try to wrongfoot them as an opponent. This sort of bullying, in relation to gender and relative youth or experience, appears endemic within the adversarial working culture. There was also clear evidence of discrimination, against women and on the basis of race, from the judiciary in particular. Unfortunately sample sizes were not sufficient to provide the basis for robust quantitative evidence in relation to racial bias, simply because the number of young barristers of colour is limited and the number responding to the survey smaller still. Anecdotal reports

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<sup>4</sup> *Race at the Bar: A Snapshot Report*, Bar Council, November 2021

from some that they welcomed remote working because this meant them suffering less discrimination were particularly telling.

One third of women in the Young Bar have reported an incident of bullying or harassment at some point, in the majority of cases informally to another barrister, and perhaps in 1 in 3 cases formally to their employer or workplace, but only half of the latter had a satisfactory outcome. Resolution of such incidents needs to be better and the position has to shift so that there are no longer fears that reporting discrimination may lead to negative consequences for clients and barristers alike.

#### *8.1.4. Aspirations for future change*

The pandemic has opened the eyes of many young barristers to the possibility of remote working and achieving a better work-life balance, removing some of the time required to travel to courts and hearings. Almost half would like more remote working in future. However, this is not fully distinguishable from a commonly expressed desire for more flexible working. Around 1 in 8 would like to move to part-time work arrangements.

There are numerous strands of evidence suggesting that improvements to the allocation of work, its scheduling (i.e. more preparation time and predictability) are sought. For many, a reduction in current workload is desperately needed. We sense that the demand for more flexible working is related to barristers having more control over all these aspects of their work, which would offer them better work-life balance and improve their wellbeing. Greater ability to protect 'personal time' and to take annual leave are aspects of this. Barristers admit that they should have some agency in changing the culture so that these improvements are possible, but more senior role models with good work-life balance and better working relationships with clerks are also needed. Some hope the Bar Council will play a role by showcasing examples of good work-life balance and providing more developmental support to help young barristers assert their desire for more balance in their working lives.

There was a call for more mentoring for those at the Young Bar. Around 40% already had a mentor and the vast majority of these found this support useful. Of those who did not have a mentor, most would like one (only 20% actively said that they would not). Mentoring was identified as one of the areas in which barristers felt that both practice and working life could be enhanced. In the context of the pandemic and remote working, supportive relationships of this kind will be particularly valuable as those who were new practitioners at this time will not have built up such strong networks through chambers and related social interactions.

There is clearly a need within the Bar to have a conversation about bullying and harassment, and the Young Bar should have a pivotal role in it. Addressing some of the behaviours of opposing barristers, especially, which are arguably professional bullying as much as personal, is important if the Bar wants to have and retain a diverse workforce. If the adversarial culture of the law remains, the professional culture around it needs to shift so that significant groups in the workforce do not have to put up with abusive behaviours from some others. Discrimination – including from the judiciary – against women and under-represented groups (including in relation to race) needs to be tackled, although it is a subtly different issue from some of the more widespread behaviour by barristers that we consider to be bullying or harassment of other barristers. Some culture change will be needed to address both these issues, and it will be important throughout that calling them out must not have adverse consequences on those reporting these issues in terms of case success, work allocation or

longer-term progression. If the Bar wants to have a sustainable diverse workforce, some culture change is unavoidable.

Finally, more widespread and consistent adoption of technology, and selection of the technology that is most beneficial, will increase the effectiveness of the remote operation of courts necessitated by the pandemic and sought in future by many of those in the Young Bar. Some of the industry-standard technology platforms and applications that are ubiquitous in UK offices, and available to those working remotely from them, in other sectors are absent from and overdue within chambers and across the profession itself. Access to such platforms in chambers by self-employed barristers, and their effective use, could markedly enhance communication at all levels and play a role in improving the mutual support, learning and development of barristers, while maintaining the informal culture of the Bar.

Much of the foregoing appears to paint a negative and bleak picture of working life at the Young Bar. While a minority in the focus groups were struggling to see a sustainable future, most did express some joy or powerful feelings of satisfaction with their profession, especially valuing its purpose and collegiality. The overall sense was that they wanted to see working life and culture improve and they recognised that they, as the Young Bar, ultimately did have some agency in creating some of the desired culture changes, although their influence on some other professional issues was much more limited.

## **8.2. Recommendations**

### **Professional behaviours**

- There needs to be a conversation across the profession about acceptable adversarial behaviours and what constitutes bullying or harassment, and the Young Bar should have a central role in this.
- Discrimination against women and under-represented groups in the Young Bar appears to be deep-rooted and needs to be stopped. There need to be more effective channels or mechanisms to report discrimination at local level and to monitor it at higher level, as well as highlighting of successes where it has been reported and resolved.

### **Working culture**

- The Young Bar is increasingly diverse: it is approaching gender parity overall and has a gradually improving ethnic balance, although these gains are driven by certain areas of practice. Those in the parts of the Bar that are less diverse need to accept, embrace and promote increased diversity and support further widening, including in relation to school backgrounds and disability.
- The thirst of young barristers to learn and develop needs to be embraced by bodies across the profession, which should offer more:
  - Mentoring and facilitating development of collegiality and networking
  - Career-related development opportunities and training (especially for new practitioners)
  - Underpinning of development through formal practice and career reviews.

### **Working practices (internal i.e. within control of the Bar)**

- Work allocation needs to be fairer and workloads need to be more manageable in order to avoid burn-out and the loss of young barristers from the profession – these needs culture shifts and currently threaten to undo some of the gains in diversity:
  - Workloads and whether leave is being taken need to be monitored, across all groups in the Young Bar
  - There needs to be leadership on work-life and wellbeing: highlighting senior role models with healthy work patterns and encouraging chambers whose working culture enables tenants to achieve a good balance
  - Specific training and development is needed to help new practitioners and the Young Bar more widely to work with others to achieve the level of work and the work/life balance that they seek.
- The profession needs to upskill in its use of ICT platforms (and their usage) that support effective 21<sup>st</sup> century working, including supporting better remote practice in court and to enhance the learning and culture within chambers and workplaces. Showcasing effective tools and practice would be a good starting point.

### **Working Practices (External – i.e. outside the direct control of the Bar)**

- The Bar Council should work with external stakeholders to ensure reasonable demands on young barristers (in terms of working hours and expectations):
  - The Bar Council should amplify the Young Bar's voice in relation to extended court operating hours, which it overwhelmingly opposes, unless/until there is a marked increase in barrister capacity
  - Listings, the timing of trials and public law fee schemes need to factor in preparation and other working time for barristers – more broadly, court user committees or meetings should be encouraged in order to enhance court effectiveness for all parties
  - The profession needs to explore and defend the gains in work-life balance and professional effectiveness resulting from the increase in remote court operations and remote working during the pandemic.

# Life at the Young Bar

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**Report by the  
Careers Research & Advisory Centre (CRAC)**

**Commissioned by The Bar Council**

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