

# Life at the Employed Bar February 2023 0

## Contents

| Foreword: Employed Barristers' Committee                            |
|---|
| Foreword: Chair of the Bar  |
| Acknowledgements  |
| Findings5   |
| Recommendations   |
| 1. Introduction   |
| 2. Methodology  |
| 3. Background   |
| 4. Data analysis  |
| 4.1 Number of employed barristers10                                 |
| 4.2 Type of employer11  |
| 4.3 Practice area12   |
| 4.4 Protected characteristics                                       |
| 4.5 Geographical location/Circuit17                                 |
| 4.6 Income  |
| 4.7 Bullying, discrimination and harassment21                       |
| 4.8 Other useful statistics on the employed Bar24                   |
| 5. Focus groups   |
| 5.1 Attractions of the employed Bar26                               |
| 5.2 Career progression  |
| 5.3 Improvements that could be made to a career at the employed Bar |
| 5.4 Ways that Bar Council might better support employed barristers  |
| 6. Conclusion   |
| Annex I: Action taken following the 2016 employed Bar report        |
| Annex II: Focus group discussion questions                          |

## Foreword: Employed Barristers' Committee Chair and Vice Chair

This research has provided a fantastic opportunity to step back and look at who is working in employed practice. For employed barristers: where you work, what you are working on, and – most importantly – how you are doing.

It has been a privilege to join the focus groups that were convened as part of the research, and to find common cause with so many employed barristers across England and Wales.

We believe this report and its recommendations give us a clear indication of where the Bar Council and our committee can provide better and more tailored support. It also highlights the challenge we continue to face in engaging effectively with our constituency, ensuring that you know how many employed barristers are currently representing your interests across the Bar Council, and ensuring you are aware of the initiatives for the employed Bar that are already in place.

Key themes and opportunities emerge in this report. There is clearly a role for us in supporting recognition of employed barristers. We also need to get much better at explaining what the Bar Council is doing on behalf of the employed Bar.

This report's recommendations provide a clear steer on things we must improve, such as: better information about the benefits of a career at the employed Bar; targeted support on career progression – particularly when it comes to judicial appointments for employed barristers; a greater focus on tackling bullying and harassment within the employed arm of profession; and support in developing networks for employed barristers throughout England & Wales.

We know employed barristers will all have very different working lives: from the Governmental Legal Department (GLD) and the Crown Prosecution Service (CPS) to law firms and commercial organisations like banks and businesses to charities, the Armed Forces, non-governmental organisations, local authorities, and regulators. But we believe this report, and the recommendations in it, will enable the Bar Council to target support in an appropriate way for each and every practitioner at the employed Bar.

To be relevant to you we need to ensure we add value to your working lives, and we will continue to need your help as we implement these recommendations.

| Stuart Alford KC                    | Heidi Stonecliffe KC                |  |  |  |  |
|-------------------------------------|-------------------------------------|--|--|--|--|
| Chair                               | Vice Chair                          |  |  |  |  |
| Employed Barristers' Committee 2023 | Employed Barristers' Committee 2023 |  |  |  |  |

## Foreword: Chair of the Bar

#### One Bar

Although we work in different practice areas, in different parts of England and Wales (and beyond), and in different workplace settings, the 17,000+ barristers of England and Wales are united by our common code of conduct, our independence, our training and qualification processes, and our strong commitment to the rule of law.

So, as you will see in this report, there is much that unites members of the employed Bar and the self-employed Bar. We face similar challenges and identify similar opportunities to progress in our careers.

But recognising the strength of One Bar does not mean that we cannot also celebrate and recognise the differences. This report describes and analyses what makes the employed Bar a unique place to work, and the employed Bar offers a wide variety of career pathways in both the private and public sectors.

The employed Bar makes up nearly a fifth of our profession. The positives: it is more diverse, it offers more flexibility and work/life balance, and it reports greater levels of wellbeing, than self-employed practice from chambers. But employed barristers worry about limits to career progression, income, and sometimes feel that there is lack of respect from some at the self-employed Bar.

By setting out these issues, backed by data and testimony, this report is an important step in the Bar Council's work to celebrate, support, and champion the employed Bar.

As Chair of the Bar, I value enormously the contribution of employed barristers to Bar Council committees, working groups and panels. I am particularly grateful to the members of the Employed Barristers' Committee for their work in articulating the clear recommendations in the report, which represent a call to action for the Bar Council and others.

I look forward to working with them, and you, in taking the next steps.

Nick Vineall KC Chair of the Bar

## Acknowledgements

We would like to thank all employed barristers who participated in the focus groups in Autumn 2022 and who completed the Barristers' Working Lives survey in 2021. We would also like to thank those barristers who, despite being unable to join the focus groups, still provided written feedback on their experiences.

## Findings

#### Key statistics<sup>1</sup>

- 1. More than half (51.4 per cent) of employed barristers work in the public sector and nearly a quarter work in solicitors' firms.
- 2. Over a third (34.1 per cent) of employed barristers specialise in criminal practice, which is more than the benchmark of 27.3 per cent across the Bar. A further 14.1 per cent work in commercial and financial services.
- 3. The employed Bar is more ethnically diverse than both the self-employed Bar and the working-age population of England and Wales, with 19.1 per cent of employed barristers identifying as being from an ethnic minority or mixed-race background.
- 4. Only 2.6 per cent of employed barristers are King's Counsel (KCs), compared with 13.9 per cent of self-employed barristers. Of the 52 employed barristers in 2021 and 2022 who are KCs, 40 out of 52 (76.9 per cent) took Silk as a self-employed barrister and then switched to the employed Bar.
- 5. The median income for employed juniors in 2022 is £69,232. For employed Silks it is £208,303. Those who work for law firms (private sector) earn substantially more than those who are employed by the Government (public sector).

#### Working lives

- 6. Half (49.9 per cent) of employed barristers currently have a flexible working arrangement in place. Yet there is a desire for more flexible and remote working, with many at the employed Bar wanting to work part-time.
- 7. Employed barristers report high levels of wellbeing at work, with 86 per cent stating there is a sense of collaboration and co-operation in their workplace.
- 8. Reported experiences of bullying, discrimination and harassment (BDH) have increased across the Bar since 2017, and 31 per cent of employed barristers have personally experienced BDH at work. This behaviour is more commonly experienced by women and people from ethnic minorities, and appears particularly widespread in certain types of organisations, including solicitors' firms.
- 9. A total of 8.3 per cent of employed barristers currently have a barrister mentor, while over a quarter (26.6 per cent) of employed barristers would like one.

<sup>&</sup>lt;sup>1</sup> All demographics data is at 1 June 2022

## Recommendations



closely with the employed Bar and its key stakeholders to increase participation in surveys, including the main Bar Council biennial survey 'Barristers' Working Lives', thereby ensuring data on the employed Bar is accurate and that the experience of the employed Bar is captured. This will support the development of appropriate policy support and services.

1. Better data collection. The Bar Council should work more





- 2. Greater visibility. The Bar Council should ensure that relevant information about and for the employed Bar is prominent and easily accessible on the Bar Council's website and related media. It should also continue to promote the achievements of the employed Bar, including through the Employed Bar Awards.
- **3. Promoting careers at the employed Bar.** The advantages (e.g. secure income, flexible working/work-life balance and quality/type of work) of life at the employed Bar, as well as the differences between working at the employed and self-employed Bar, should be clearly articulated in Bar Council careers literature. This will enable Bar students to better appreciate and understand career opportunities and law covered by the employed Bar.



4. Tackling bullying & harassment. The Bar Council's policy efforts on tackling bullying and harassment should also include a focus on the employed Bar. This includes promotion of the Talk to Spot reporting platform, which enables the Bar Council to track and monitor incidents in order to identify appropriate interventions. In particular, the Bar Council should work with the Crown Prosecution Service and Government Legal Department, as well as law firms, to encourage and support culture change programmes and initiatives to tackle bullying and harassment.











- 5. Creating communities of employed barristers. In addition to reviewing the existing Employed Bar Engagement Network on LinkedIn, the Bar Council should also work with the Circuits and Inns of Court to help develop opportunities for employed barristers to network and support each other across England and Wales.
- 6. Defining seniority. King's Counsel (taking Silk) as a signifier of seniority is less applicable at the employed Bar. The Bar Council should work with representatives of the employed Bar to identify and promote equivalence.
- 7. Supporting career progression. The Bar Council should work with representatives of the employed Bar to identify support required by employed barristers (e.g. mentoring) to help them progress in their organisations.
- 8. Increasing judicial appointments. There is an appetite for a greater number of judicial appointments at the employed Bar. The Bar Council should work with the Judicial Appointments Commission (JAC) and others to: (i) remove barriers to judicial appointment; and (ii) promote and support judicial applications to employed barristers.
- **9. Communicating the unique skill sets of employed barristers.** The Bar Council should actively promote the skills of barristers and the unique role they play both in employed and self-employed practice to key stakeholders and employers across England and Wales.

## 1. Introduction

The Bar Council represents around 17,000 practising barristers in England and Wales; about a fifth (18.1 per cent) are employed.

An employed barrister is defined as a barrister who supplies legal services in the course of their employment. This includes both those who are employed under a contract of employment, and those employed under a written contract for services<sup>2</sup>.

Employed barristers work in a huge range of organisations including: the Crown Prosecution Service, the Government Legal Department, the Armed Forces, local government and regulatory bodies (e.g. the Nursing and Midwifery Council), law firms and private companies (e.g. banks).

The experience of professional life for an employed barrister can be quite different to that of their self-employed peers, and this research intends to explore these different experiences to enable the Bar Council to better represent, and more appropriately support, our members at the employed Bar.

## 2. Methodology

This report uses two quantitative data sources and one qualitative data source (a series of focus groups with employed barristers).

Our main source of data is the internal membership database shared by the Bar Council and the Bar Standards Board - CRM. Each year, as part of the Authorisation to Practise process, every barrister who wishes to continue to practise must renew their practising certificate. The information collected as part of that process allows monitoring of key demographic characteristics and trends.

This data is supplemented by attitudinal data from our regular survey of the profession, last carried out in 2021. We received attitudinal survey responses from 375 employed barristers as part of our biennial Barristers' Working Lives survey in 2021 (BWL21).

We contextualised the data with a series of four focus groups held in early October 2022. The focus groups were organised according to the sector in which employed

<sup>&</sup>lt;sup>2</sup> Bar Standards Board Handbook, definitions

barristers worked: one for commerce, finance, and industry; two for the Crown Prosecution Service (CPS)/Government Legal Department (GLD); and one for those who worked in law firms. Each focus group was chaired by a leading employed barrister. The sessions were held over Microsoft Teams and lasted 90 minutes. All were conducted under the Chatham House Rule and recorded by a note-taker from the Bar Council. The reporting of findings from the focus groups is therefore anonymous, and any potentially identifying details have been removed or changed where appropriate.

#### Limitations

Participation in the focus group discussion was self-selecting and discussions may not reflect the views of all employed barristers in all employment contexts.

While the response rate for Barristers' Working Lives 2021 makes the report statistically robust, we note that the proportion of employed barristers who responded (10.8 per cent) is significantly lower than the proportion of employed barristers at the Bar (18.1 per cent).

### 3. Background

The Bar Council last carried out a research project into the professional needs of employed barristers in 2015/16, resulting in '<u>Snapshot Report: The Experiences of Employed Barristers at the Bar</u>'. The 2015/16 report made four key recommendations. That the Bar Council should:

- 1. Give greater visibility to employed barristers (by promoting role models)
- 2. Give greater recognition to the achievements of employed barristers
- 3. Establish a network of employed barristers to facilitate mutual support and information sharing
- 4. Target communications to employed barristers

In Annex I, we list actions taken to date by the Bar Council in these four areas.

## 4. Data analysis

#### 4.1 Number of employed barristers (inc. years Call and Silks)

Employed barristers have represented around a fifth of the whole Bar for the last five years. In 2022, there was a total of 3,106 employed barristers (compared with 13,602 self-employed barristers and 485 barristers who work at both the employed and self-employed Bar - known as dual capacity).

## Table 1: Number of employed barristers each year for the last five years and % ofthe Bar

| Employed barristers<br>Year |      | Dual capacity<br>barristers |     |      | ployed<br>sters | Total number of<br>practising barristers |       |      |
|-----------------------------|------|-----------------------------|-----|------|-----------------|--|-------|------|
|                             | Ν    | %                           | Ν   | %    | N               | %  | Ν     | %    |
| 2018                        | 2938 | 18.2%                       | 369 | 2.3% | 12838           | 79.5%                                    | 16145 | 100% |
| 2019                        | 2968 | 18.0%                       | 425 | 2.6% | 13109           | 79.4%                                    | 16502 | 100% |
| 2020                        | 2954 | 17.9%                       | 435 | 2.6% | 13093           | 79.5%                                    | 16482 | 100% |
| 2021                        | 3037 | 17.9%                       | 543 | 3.2% | 13422           | 78.9%                                    | 17002 | 100% |
| 2022                        | 3106 | 18.1%                       | 485 | 2.8% | 13602           | 79.1%                                    | 17193 | 100% |

#### Call

The employed Bar has a smaller proportion of young barristers (defined as <7 years in practice) than the self-employed Bar. For 8-12 years' Call, the proportions are almost exactly the same. There is a higher proportion of 13-17 years' and 18-22 years' Call at the employed Bar. For those 23+ years' Call, the proportion is roughly the same.

## Table 2: Time since call: employed, dual capacity, and self-employed barristers as compared with total Bar population

|                    |            | Employed<br>barristers |       | Dual capacity<br>barristers |       | Self-employed<br>barristers |       | Total Bar<br>population |       |
|--------------------|------------|------------------------|-------|-----------------------------|-------|-----------------------------|-------|-------------------------|-------|
|                    |            | N                      | %     | N                           | %     | N                           | %     | N                       | %     |
| Young<br>Bar       | 0-2 yrs.   | 77                     | 2.5%  | 21                          | 4.3%  | 501                         | 3.7%  | 599                     | 3.5%  |
| Dai                | 3-7 yrs.   | 336                    | 10.8% | 83                          | 17.1% | 1915                        | 14.1% | 2334                    | 13.6% |
| Middle<br>Practice | 8-12 yrs.  | 417                    | 13.4% | 96                          | 19.8% | 1840                        | 13.5% | 2353                    | 13.7% |
| Years              | 13-17 yrs. | 519                    | 16.7% | 71                          | 14.6% | 1900                        | 14.0% | 2490                    | 14.5% |
|                    | 18-22 yrs. | 509                    | 16.4% | 73                          | 15.1% | 1916                        | 14.1% | 2498                    | 14.5% |

| Later             | 23+ yrs. | 1248 | 40.2% | 141 | 29.1% | 5530  | 40.7% | 6919  | 40.2% |
|-------------------|----------|------|-------|-----|-------|-------|-------|-------|-------|
| Practice<br>Years |          |      |       |     |       |       |       |       |       |
| Total             |          | 3106 | 100%  | 485 | 100%  | 13602 | 100%  | 17193 | 100%  |

#### King's Counsel

Employed barristers make up 2.6 per cent of all KCs and this proportion has only shifted very slightly upwards in the last five years (between 2018 and 2022 the proportion grew by 0.4 per cent). Of the 52 employed barristers in 2021 and 2022 who were KCs, a total of 40 barristers (76.9 per cent) took Silk when they were a self-employed barrister and then switched to the employed Bar.

| Year | Employed barristers |      | Employed barristers Dual capacity barristers |      |      | ployed<br>sters | Total number of<br>practising barristers |      |
|------|---------------------|------|--|------|------|-----------------|--|------|
|      | Ν                   | %    | N  | %    | N    | %               | N  | %    |
| 2018 | 39                  | 2.2% | 28   | 1.6% | 1717 | 96.2%           | 1784                                     | 100% |
| 2019 | 43                  | 2.3% | 37   | 2.0% | 1769 | 95.7%           | 1849                                     | 100% |
| 2020 | 45                  | 2.4% | 34   | 1.8% | 1800 | 95.8%           | 1879                                     | 100% |
| 2021 | 52                  | 2.7% | 38   | 1.9% | 1863 | 95.4%           | 1953                                     | 100% |
| 2022 | 52                  | 2.6% | 39   | 2.0% | 1895 | 95.4%           | 1986                                     | 100% |

#### Table 3: Number of KCs each year for the last five years and % of the Bar

#### 4.2 Type of employer

A total of 51.4 per cent (more than half) work in the public sector and nearly a quarter in a solicitors' firm.

|   | Employed barristers<br>(BWL21) |      |  |  |
|---|--------------------------------|------|--|--|
|   | N                              | %    |  |  |
| BSB-regulated entity <sup>3</sup> (including ABS) | 13                             | 3.5% |  |  |
| Charitable/voluntary/third sector organisation    | 12                             | 3.2% |  |  |
| Entity regulated by another regulator             | 5                              | 1.3% |  |  |
| Other   | 6                              | 1.6% |  |  |

<sup>&</sup>lt;sup>3</sup> BSB authorised entities are (i) Authorised Bodies that are fully owned and managed by authorised individuals (lawyers with current practising certificates); (ii) BSB Licensed Bodies, also referred to as Alternative Business Structures ("ABS"), are owned and managed jointly by authorised individuals and others. These could include a mix of other professionals, or family-owned businesses.

| Other private sector organisation        | 42  | 11.2% |
|--|-----|-------|
| Professional/membership/regulatory body  | 17  | 4.5%  |
| Public Sector: Crown Prosecution Service | 72  | 19.2% |
| Public Sector: elsewhere                 | 62  | 16.5% |
| Public Sector: Government Legal Service  | 59  | 15.7% |
| Solicitor's firm                         | 87  | 23.2% |
| Total                                    | 375 | 100%  |

As shown in Table 5 below, a total of 71.7 per cent work in a non-Authorised Body.<sup>4</sup>

#### Table 5: Where employed barristers work (source: CRM)

|  | Employe | d barristers |
|--|---------|--------------|
|  | N       | %            |
| BSB Authorised Body                        | 75      | 2.4%         |
| BSB Licensed Body                          | 5       | 0.2%         |
| Chambers                                   | 16      | 0.5%         |
| Non-Authorised Body e.g., CPS/GLD/FCA/HMRC | 2212    | 71.7%        |
| Non-BSB Authorised Body                    | 717     | 23.2%        |
| Non-BSB Licensed Body                      | 59      | 1.9%         |
| Total                                      | 3084    | 100%         |

#### 4.3 Practice area

Employed barristers are most likely to work in crime, commercial and financial services, and public law. More than a third (34.1 per cent) of employed barristers work in crime (compared with 27.3 per cent of the whole Bar). Meanwhile, 12.9 per cent of employed barristers work in public law (whereas just 5.7 per cent of the whole Bar work in this area, and 4.1 per cent of the self-employed Bar).

In Table 6 below, a colour scheme is used to illustrate the comparisons:

- red shows where the proportion of the employed Bar working in a practice area is smaller than the proportion of the whole Bar working in that area
- amber is used where the proportions are the same
- green shows where the proportion of the employed Bar is greater than the proportion of the whole Bar working in that area.

<sup>&</sup>lt;sup>4</sup> For example, Crown Prosecution Service, Government Legal Department, Financial Conduct Authority or His Majesty's Revenue and Customs

|   | barri | loyed<br>sters | Dual<br>Capacity<br>barristers | Self<br>Employed<br>barristers | Total Bar<br>population |
|---|-------|----------------|--------------------------------|--------------------------------|-------------------------|
|   | Ν     | %              | %                              | %                              | %                       |
| Admiralty                               | 1     | 0.0%           | 0.4%                           | 0.1%                           | 0.1%                    |
| Arbitrator or Umpire or Mediator        | 5     | 0.2%           | 0.8%                           | 1.3%                           | 1.1%                    |
| Chancery (Contentious)                  | 43    | 1.4%           | 3.5%                           | 4.2%                           | 3.7%                    |
| Chancery (Non-Contentious)              | 19    | 0.6%           | 0.4%                           | 0.4%                           | 0.5%                    |
| Commercial & Financial Services         | 439   | 14.1%          | 15.3%                          | 10.0%                          | 10.9%                   |
| Competition                             | 36    | 1.2%           | 0.2%                           | 0.7%                           | 0.7%                    |
| Construction                            | 31    | 1.0%           | 1.6%                           | 1.6%                           | 1.5%                    |
| Crime                                   | 1060  | 34.1%          | 28.2%                          | 25.8%                          | 27.3%                   |
| Defamation                              | 11    | 0.4%           | 0.2%                           | 0.3%                           | 0.3%                    |
| Employment                              | 85    | 2.7%           | 5.2%                           | 3.7%                           | 3.6%                    |
| European                                | 25    | 0.8%           | 0.4%                           | 0.1%                           | 0.3%                    |
| Family (Children)                       | 77    | 2.5%           | 5.2%                           | 16.3%                          | 13.5%                   |
| Family (Other)                          | 34    | 1.1%           | 3.1%                           | 3.6%                           | 3.1%                    |
| Immigration                             | 29    | 0.9%           | 4.8%                           | 2.6%                           | 2.4%                    |
| Insolvency                              | 9     | 0.3%           | 0.6%                           | 1.0%                           | 0.9%                    |
| Intellectual Property                   | 36    | 1.2%           | 0.6%                           | 1.1%                           | 1.1%                    |
| International                           | 121   | 3.9%           | 2.7%                           | 1.0%                           | 1.6%                    |
| Landlord & Tenant (Non-<br>Residential) | 12    | 0.4%           | 0.2%                           | 0.4%                           | 0.4%                    |
| Landlord & Tenant (Residential)         | 23    | 0.7%           | 1.7%                           | 1.5%                           | 1.4%                    |
| Licensing                               | 8     | 0.3%           | 0.2%                           | 0.1%                           | 0.1%                    |
| Other                                   | 144   | 4.6%           | 1.7%                           | 0.5%                           | 1.3%                    |
| Other Common Law                        | 29    | 0.9%           | 3.9%                           | 2.0%                           | 1.8%                    |
| Personal Injury                         | 59    | 1.9%           | 5.4%                           | 9.3%                           | 7.9%                    |
| Planning                                | 16    | 0.5%           | 1.2%                           | 1.4%                           | 1.2%                    |
| Professional Discipline                 | 125   | 4.0%           | 2.3%                           | 1.2%                           | 1.7%                    |
| Professional Negligence                 | 12    | 0.4%           | 0.8%                           | 0.7%                           | 0.7%                    |
| Public Law                              | 401   | 12.9%          | 3.9%                           | 4.1%                           | 5.7%                    |
| Revenue                                 | 63    | 2.0%           | 1.0%                           | 1.1%                           | 1.3%                    |
| No Information                          | 153   | 4.9%           | 4.5%                           | 3.6%                           | 3.9%                    |
| Total                                   | 3106  | 100%           | 100%                           | 100%                           | 100%                    |

#### Table 6: By area of practice as compared with the whole Bar (source: CRM)

#### 4.4 Protected characteristics

#### 4.4.1 Sex and ethnicity

Women make up nearly half (48.6 per cent) of the employed Bar (compared with 36.8 per cent of the self-employed Bar).

|        | Employed<br>barristers |       |     | apacity<br>sters | Self-employed<br>barristers |       |  |
|--------|------------------------|-------|-----|------------------|-----------------------------|-------|--|
|        | Ν                      | %     | Ν   | %                | Ν                           | %     |  |
| Female | 1466                   | 48.6% | 162 | 33.7%            | 4850                        | 36.8% |  |
| Male   | 1548                   | 51.4% | 319 | 66.3%            | 8338                        | 63.2% |  |
| Total  | 3014                   | 100%  | 481 | 100%             | 13188                       | 100%  |  |

#### Table 7: Employed Bar vs self-employed Bar by sex (source: CRM)

A total of 4.8 per cent of the employed Bar are Asian/Asian British women (compared with 3 per cent at the self-employed Bar), while 3 per cent are Black African/Caribbean/Black British women (compared with 1.5 per cent at the self-employed Bar).

In Table 8 below, a colour scheme is used to illustrate the comparisons:

- red shows where the proportion of women from a particular ethnic group at the employed Bar is smaller than the proportion of women from a particular ethnic group at the self-employed Bar
- amber is used where the proportions are the same
- green shows where the proportion of women from a particular ethnic group at the employed Bar is greater than the proportion of ethnic minority women at the self-employed Bar

#### Table 8: Employed vs self-employed Bar by sex and ethnicity (source: CRM)

| Ethnicity/Sex                           | -    | Employed<br>barristers |     | Dual capacity<br>barristers |       | nployed<br>risters |
|---|------|------------------------|-----|-----------------------------|-------|--------------------|
|   | Ν    | %                      | Ν   | %                           | N     | %                  |
| Asian/Asian British F                   | 134  | 4.8%                   | 23  | 5.3%                        | 377   | 3.0%               |
| Asian/Asian British M                   | 115  | 4.2%                   | 61  | 13.9%                       | 514   | 4.1%               |
| Black African/Caribbean/Black British F | 84   | 3.0%                   | 14  | 3.2%                        | 183   | 1.5%               |
| Black African/Caribbean/Black British M | 47   | 1.7%                   | 7   | 1.6%                        | 190   | 1.5%               |
| Mixed/Multiple ethnic groups F          | 69   | 2.5%                   | 11  | 2.5%                        | 215   | 1.7%               |
| Mixed/Multiple ethnic groups M          | 45   | 1.6%                   | 10  | 2.3%                        | 202   | 1.6%               |
| Other ethnic group F                    | 15   | 0.5%                   | 5   | 1.1%                        | 44    | 0.4%               |
| Other ethnic group M                    | 15   | 0.5%                   | 4   | 0.9%                        | 97    | 0.8%               |
| White F                                 | 1053 | 38.1%                  | 96  | 21.9%                       | 3820  | 30.6%              |
| White M                                 | 1190 | 43.0%                  | 207 | 47.3%                       | 6823  | 54.7%              |
| Total                                   | 2767 | 100%                   | 438 | 100%                        | 12465 | 100%               |

The employed Bar is also more ethnically diverse than the working-age population of England and Wales.

| Ethnicity             | Employed<br>barristers |       | Dual capacity<br>barristers |       | Self-<br>employed<br>barristers |       | Working<br>age<br>population<br>in England<br>and Wales⁵ |
|-----------------------|------------------------|-------|-----------------------------|-------|---------------------------------|-------|--|
|                       | Ν                      | %     | Ν                           | %     | Ν                               | %     | %  |
| Asian/Asian British   | 251                    | 8.9%  | 85                          | 19.3% | 905                             | 7.1%  | 8.1%   |
| Black African/        |                        |       |                             |       |                                 |       |  |
| Caribbean/            |                        |       |                             |       |                                 |       |  |
| Black British         | 135                    | 4.8%  | 21                          | 4.8%  | 382                             | 3.0%  | 3.4%   |
| Mixed/Multiple ethnic |                        |       |                             |       |                                 |       |  |
| groups                | 121                    | 4.3%  | 21                          | 4.8%  | 433                             | 3.4%  | 1.8%   |
| Other ethnic group    | 30                     | 1.1%  | 10                          | 2.3%  | 155                             | 1.2%  | 1.1%   |
| White                 | 2292                   | 81.0% | 304                         | 68.9% | 10861                           | 85.3% | 85.6%  |
| Total                 | 2829                   | 100%  | 441                         | 100%  | 12736                           | 100%  | 100%   |

Table 9: Employed vs self-employed Bar vs working population of England &Wales by ethnicity (Source: CRM/Census)

#### 4.4.2 Age

In Table 10 below, the red-amber-green colour scheme is used to illustrate an agebased comparison between the employed Bar and self-employed or dual-capacity barristers.

Table 10: Employed Bar vs dual capacity and self-employed Bar by age (source: CRM)

| Age     | Employed barristers |       |     | capacity<br>risters | Self-employed<br>barristers |       |  |
|---------|---------------------|-------|-----|---------------------|-----------------------------|-------|--|
|         | N                   | %     | Ν   | %                   | Ν                           | %     |  |
| 16 – 24 | 2                   | 0.1%  | 0   | 0.0%                | 27                          | 0.2%  |  |
| 25 - 34 | 409                 | 14.7% | 93  | 21.8%               | 2330                        | 19.6% |  |
| 35 - 44 | 859                 | 30.9% | 121 | 28.3%               | 3344                        | 28.2% |  |
| 45 - 54 | 930                 | 33.4% | 110 | 25.8%               | 3267                        | 27.5% |  |
| 55 - 64 | 501                 | 18.0% | 79  | 18.5%               | 2119                        | 17.8% |  |
| 65 plus | 83                  | 3.0%  | 24  | 5.6%                | 790                         | 6.7%  |  |
| Total   | 2784                | 100%  | 427 | 100%                | 11877                       | 100%  |  |

#### 4.4.3 Disability and caring responsibilities

A higher proportion of employed barristers have a disability (9.3 per cent) as compared with members of the self-employed Bar (6.6 per cent), and it is more common for employed barristers to be a primary carer for a child or children under

<sup>&</sup>lt;sup>5</sup> Office for National Statistics 'Working Age Population' Census 2011 data

18 (a total of 35.8 per cent of employed Bar respondents said 'yes' to that question as compared with 28.8 per cent among the self-employed Bar). However, it is worth noting that 40 per cent of barristers did not answer these questions or indicated 'prefer not to say', which makes this data helpful but not statistically robust.

## Table 11: Response to the question 'Do you consider yourself to have a disability, or do you automatically meet the disability definition under the Equality Act 2010?' (source: CRM)

| Disability | Employed barristers |       |     | capacity<br>risters | Self-employed<br>barristers |       |  |
|------------|---------------------|-------|-----|---------------------|-----------------------------|-------|--|
|            | Ν                   | %     | Ν   | %                   | Ν                           | %     |  |
| Yes        | 186                 | 9.3%  | 29  | 9.1%                | 538                         | 6.6%  |  |
| No         | 1811                | 90.7% | 288 | 90.9%               | 7646                        | 93.4% |  |
| Total      | 1997                | 100%  | 317 | 100%                | 8184                        | 100%  |  |

## Table 12: Response to the question 'Are you a primary carer for a child or children under 18?' (source: CRM)

| Carer | Employed barristers |       |     | capacity<br>risters | Self-employed<br>barristers |       |  |
|-------|---------------------|-------|-----|---------------------|-----------------------------|-------|--|
|       | N                   | %     | Ν   | %                   | Ν                           | %     |  |
| Yes   | 700                 | 35.8% | 91  | 29.7%               | 2342                        | 28.8% |  |
| No    | 1256                | 64.2% | 215 | 70.3%               | 5797                        | 71.2% |  |
| Total | 1956                | 100%  | 306 | 100%                | 8139                        | 100%  |  |

Table 13: Response to the question 'Do you look after, or give any help or support to family members, friends, neighbours or others because of either: long-term physical or mental ill-health/disability or problems relating to old age?' (source: CRM)

| Carer                     | Employed<br>barristers |       |     | capacity<br>risters | Self-employed<br>barristers |       |
|---------------------------|------------------------|-------|-----|---------------------|-----------------------------|-------|
|                           | Ν                      | %     | Ν   | %                   | Ν                           | %     |
| Yes, 1-19 hours per week  | 221                    | 12.0% | 37  | 12.6%               | 1001                        | 13.0% |
| Yes, 20-49 hours per week | 22                     | 1.2%  | 3   | 1.0%                | 74                          | 1.0%  |
| Yes, >50 hour per week    | 12                     | 0.6%  | 4   | 1.4%                | 46                          | 0.6%  |
| No                        | 1594                   | 86.2% | 249 | 85.0%               | 6584                        | 85.5% |
| Total                     | 1849                   | 100%  | 293 | 100%                | 7705                        | 100%  |

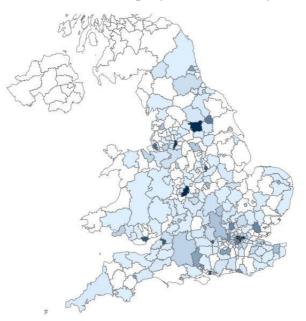
#### 4.5 Geographical location/Circuit

A total of 58.8 per cent of employed barristers are based in London (compared with 63.4 per cent of self-employed barristers). Whilst the distribution of employed barristers throughout England & Wales is better than that of the self-employed Bar, as with the self-employed Bar, London and the South-East are still the dominant locations.

|                 | Employed barristers |       |     | Capacity<br>risters |       | Self-employed<br>barristers |  |
|-----------------|---------------------|-------|-----|---------------------|-------|-----------------------------|--|
|                 | Ν                   | %     | Ν   | %                   | Ν     | %                           |  |
| East Midlands   | 76                  | 2.5%  | 9   | 1.9%                | 298   | 2.2%                        |  |
| East England    | 119                 | 3.9%  | 15  | 3.1%                | 221   | 1.6%                        |  |
| London          | 1781                | 58.8% | 331 | 68.2%               | 8596  | 63.4%                       |  |
| North-East      | 41                  | 1.4%  | 8   | 1.6%                | 268   | 2.0%                        |  |
| North-West      | 154                 | 5.1%  | 23  | 4.7%                | 1394  | 10.3%                       |  |
| South-East      | 295                 | 9.7%  | 25  | 5.2%                | 472   | 3.5%                        |  |
| South-West      | 108                 | 3.6%  | 19  | 3.9%                | 641   | 4.7%                        |  |
| Wales           | 62                  | 2.0%  | 6   | 1.2%                | 286   | 2.1%                        |  |
| West Midlands   | 101                 | 3.3%  | 17  | 3.5%                | 645   | 4.8%                        |  |
| Yorks. & Humber | 131                 | 4.3%  | 10  | 2.1%                | 676   | 5.0%                        |  |
| Channel Islands | 17                  | 0.6%  | 1   | 0.2%                | 5     | 0.0%                        |  |
| Isle of Man     | -                   | -     | -   | -                   | 1     | 0.0%                        |  |
| Scotland        | 9                   | 0.3%  | 1   | 0.2%                | 5     | 0.0%                        |  |
| Outside UK      | 136                 | 4.5%  | 20  | 4.1%                | 60    | 0.4%                        |  |
| Total           | 3030                | 100%  | 485 | 100%                | 13568 | 100%                        |  |

## Table 14: Where employed barristers are based (region/country) as compared with dual capacity and self-employed barristers (source: CRM)

#### Figure A: Geographical location of employed barrister by local authority area



Life at the Employed Bar, February 2023 | 17

#### 4.6 Income

In this report we have calculated median income to avoid the problem of outliers in the gross income data figures published in our 2016 report. The median income among employed barristers for 2022/23 is £70,000.

Median incomes for the following categories of employed barrister are:

- Law firm: £83,750
- Other: £74,601
- CPS/GLD: £67,820

This data does not take account of working patterns (we know that 14.3 per cent of employed barristers work part time).

## Table 15: Median income for employed barristers 2021 and 2022 who have provided an exact income declaration (source: CRM)

| Date of   |                            | 2021                        | /22              |                             |                            | 2022                        | 2/23             |                             |
|-----------|----------------------------|-----------------------------|------------------|-----------------------------|----------------------------|-----------------------------|------------------|-----------------------------|
| Call band | Number<br>of<br>barristers | Lower<br>quartile<br>income | Median<br>income | Upper<br>quartile<br>income | Number<br>of<br>barristers | Lower<br>quartile<br>income | Median<br>income | Upper<br>quartile<br>income |
|           |                            | (£)                         | (£)              | (£)                         |                            | (£)                         | (£)              | (£)                         |
| 0–2yrs.   | 40                         | 31,337                      | 42,900           | 57,862                      | 33                         | 30,845                      | 43,432           | 50,000                      |
| 3-7yrs.   | 279                        | 45,000                      | 55,489           | 80,000                      | 293                        | 45,741                      | 55,268           | 75,000                      |
| 8–12yrs.  | 412                        | 50,000                      | 62,682           | 84,030                      | 383                        | 52,000                      | 65,367           | 90,500                      |
| 13–17yrs. | 417                        | 53,043                      | 69,021           | 92,255                      | 469                        | 54,000                      | 69,000           | 100,000                     |
| 18–22yrs. | 503                        | 54,000                      | 68,447           | 110,812                     | 453                        | 52,694                      | 69,811           | 107,165                     |
| 23+ yrs.  | 1049                       | 54,789                      | 73,737           | 110,000                     | 1116                       | 57,173                      | 75,000           | 117,990                     |
| Total     | 2700                       | 51,000                      | 67,998           | 100,000                     | 2747                       | 52,426                      | 70,000           | 103,100                     |

## Table 16: Junior employed barrister breakdown of median, lower quartile, and upper quartile income (source: CRM)

| Date of   |            | 2021/22  |        |          |            | 2022/23  |        |          |  |
|-----------|------------|----------|--------|----------|------------|----------|--------|----------|--|
| Call band | Number     | Lower    | Median | Upper    | Number     | Lower    | Median | Upper    |  |
|           | of         | quartile | income | quartile | of         | quartile | income | quartile |  |
|           | barristers | income   |        | income   | barristers | income   |        | income   |  |
|           |            | (£)      | (£)    | (£)      |            | (£)      | (£)    | (£)      |  |
| 0–2yrs.   | 40         | 31,337   | 42,900 | 57,862   | 33         | 30,845   | 43,432 | 50,000   |  |
|           |            |          |        |          |            |          |        |          |  |
| 3–7yrs.   | 278        | 45,000   | 55,453 | 79,539   | 292        | 45,706   | 55,134 | 75,000   |  |

Life at the Employed Bar, February 2023 | 18

| 8–12yrs.  | 412  | 50,000 | 62,682 | 84,030  | 383  | 52,000 | 65,367 | 90,500  |
|-----------|------|--------|--------|---------|------|--------|--------|---------|
| 13–17yrs. | 417  | 53,043 | 69,021 | 92,255  | 468  | 54,000 | 68,900 | 99,501  |
| 18–22yrs. | 499  | 54,000 | 68,403 | 110,312 | 448  | 52,512 | 69,575 | 107,029 |
| 23+ yrs.  | 1008 | 54,687 | 72,000 | 101,780 | 1073 | 56,418 | 74,568 | 110,000 |
| Total     | 2654 | 50,735 | 67,000 | 98,000  | 2697 | 52,000 | 69,232 | 100,000 |

## Table 17: KC breakdown of median, lower quartile, and upper quartile income (source: CRM)

|       |            | 2021     | /22     |          | 2022/23    |          |         |          |
|-------|------------|----------|---------|----------|------------|----------|---------|----------|
|       | Number     | Lower    | Median  | Upper    | Number     | Lower    | Median  | Upper    |
|       | of         | quartile | income  | quartile | of         | quartile | income  | quartile |
|       | barristers | income   |         | income   | barristers | income   |         | income   |
|       |            | (£)      | (£)     | (£)      |            | (£)      | (£)     | (£)      |
| Total | 46         | 131,750  | 211,850 | 573,943  | 50         | 130,000  | 208,303 | 614,750  |
|       |            |          |         |          |            |          |         |          |

Tables 18, 19 and 20 below show how incomes differ across the three categories of the focus groups: CPS/GLD, law firm and other.

| Date of Call  |                         |                              | 2022/23              |                              |
|---------------|-------------------------|------------------------------|----------------------|------------------------------|
| band          | Number of<br>barristers | Lower quartile<br>income (£) | Median income<br>(£) | Upper quartile<br>income (£) |
| 0-2 years     | 28                      | 25,944                       | 31,071               | 38,000                       |
| 3 – 7 years   | 123                     | 37,932                       | 48,077               | 52,916                       |
| 8 – 12 years  | 110                     | 48,056                       | 51,970               | 63,551                       |
| 13 – 17 years | 127                     | 50,100                       | 58,000               | 66,450                       |
| 18 – 22 years | 148                     | 49,854                       | 63,867               | 69,994                       |
| 23+ years     | 412                     | 55,610                       | 67,973               | 76,514                       |
| Total         | 948                     | 48,496                       | 60,071               | 71,023                       |

#### Table 18: Income breakdown for CPS/GLD barristers across Call bands

#### Table 19: Income breakdown for law firm barristers across Call bands

| Date of Call  | 2022/23    |                |               |                |
|---------------|------------|----------------|---------------|----------------|
| band          | Number of  | Lower quartile | Median income | Upper quartile |
|               | barristers | income (£)     | (£)           | income (£)     |
| 0 – 2 years   | 24         | 43,875         | 49,000        | 74,750         |
| 3 – 7 years   | 120        | 52,375         | 83,750        | 135,281        |
| 8 – 12 years  | 135        | 62,306         | 90,000        | 136,195        |
| 13 – 17 years | 143        | 55,500         | 105,260       | 172,000        |
| 18 – 22 years | 150        | 56,851         | 89,388        | 233,750        |
| 23+ years     | 253        | 56,000         | 108,000       | 250,000        |
| Total         | 825        | 55,000         | 92,000        | 175,000        |

| Date of Call  | 2022/23                 |                              |                      |                              |
|---------------|-------------------------|------------------------------|----------------------|------------------------------|
| band          | Number of<br>barristers | Lower quartile<br>income (£) | Median income<br>(£) | Upper quartile<br>income (£) |
| 0-2 years     | 13                      | 45,998                       | 54,000               | 59,000                       |
| 3 – 7 years   | 81                      | 48,500                       | 57,531               | 63,000                       |
| 8 – 12 years  | 148                     | 55,383                       | 66,101               | 83,000                       |
| 13 – 17 years | 225                     | 54,000                       | 71,000               | 92,105                       |
| 18 – 22 years | 201                     | 55,000                       | 75,000               | 120,000                      |
| 23+ years     | 535                     | 56,480                       | 87,000               | 132,000                      |
| Total         | 1203                    | 54,053                       | 74,601               | 112,000                      |

Table 20: Income breakdown for barristers at 'Other' employers across Call bands

#### Figure B: Median income for CPS/GLD, law firm and other



Figure C: Lower quartile income for CPS/GLD, law firm and other





#### Figure D: Upper quartile income for CPS/GLD, law firm and other

#### 4.7 Bullying, discrimination and harassment

A total of 31 per cent of employed barristers responding to the BWL21 survey reported having experienced bullying, discrimination or harassment (with 9 per cent saying they had observed but not experienced it themselves). This is similar (1 per cent higher) to the whole Bar. Higher levels of bullying and harassment were reported by dual-capacity barristers.

## Figure E: Prevalence of BDH at employed Bar as compared with 2017 and Bar overall (source: BWL21)

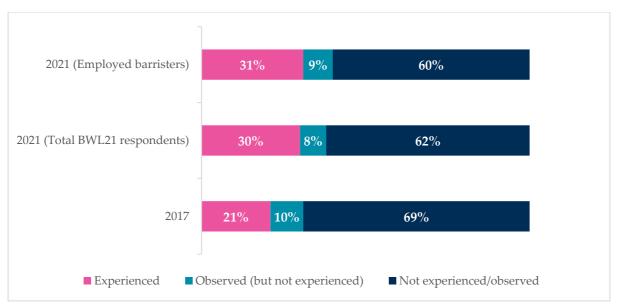
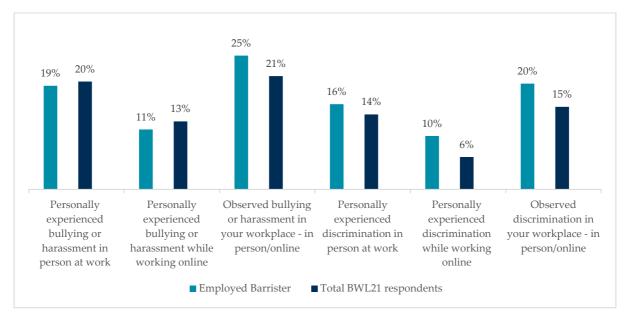


Figure F (below) shows differences between in-person and online.

## Figure F: Further breakdown of prevalence of BDH at employed Bar and total Bar (source: BWL21)



In BWL21, barristers were asked about the nature of the bullying or discrimination they had experienced or observed, with more than one answer being allowed.

When employed barristers were asked to identify the role of the person responsible for discrimination:

- over a quarter (26.3 per cent) said it was another barrister, compared with 51.3 per cent for the self-employed Bar;
- 19 per cent of employed barristers said it was a manager, compared with 10 per cent (citing chambers/management committee) at the self-employed Bar; and
- 16.1 per cent of employed barristers said a judge as compared to 48.6 per cent at the self-employed Bar.

Where a link was identified, the majority of employed Bar survey respondents said the nature of the bullying or discrimination experienced was linked to gender, race or age.

## Table 21: Response to 'What was the nature of the bullying or discrimination you experienced or witnessed?'

|                              | Employed barrister respondents<br>(BWL21) |
|------------------------------|---|
|                              | N   |
| Linked to gender             | 59  |
| Sexual harassment            | 9   |
| Linked to age                | 24  |
| Linked to race               | 37  |
| Linked to religion or belief | 5   |

Life at the Employed Bar, February 2023 | 22

| Linked to class                            | 14 |
|--|----|
| Linked to disability                       | 9  |
| Linked to sexual orientation               | 3  |
| Linked to pregnancy/maternity              | 11 |
| Another form of discrimination or bullying | 34 |
| Unsure what it was linked to               | 35 |

Employed barristers who are women, identify as Black/Black British and who either work in a solicitors' firm, the CPS or GLD are most likely to report having experienced bullying, harassment or discrimination.

More than a quarter of women at the employed Bar (26.5 per cent) have experienced bullying and harassment at work in person, compared with 10.2 per cent of men. A total of 22.9 per cent of women at the employed Bar have experienced discrimination at work in person, as compared with 6 per cent of men.

In BWL21, of those who answered the question, a total of 2 per cent identified as Black or Black British. Black/Black British barristers at the employed Bar were disproportionately likely to report having personally experienced bullying or harassment in person at work (4.8 per cent). They also made up a disproportionate amount (9.4 per cent) of those saying they had personally experienced discrimination while working online, and the same goes for personally experiencing bullying or harassment and discrimination while working online (5.9 per cent).

Barristers working in a solicitors' firm accounted for 23.2 per cent of the employed barristers who responded to BWL21. However, of all the employed barristers reporting they had personally experienced bullying or harassment in-person at work, those working in law firms accounted for 28.6 per cent of respondents – meaning a disproportionately high number of barristers in law firms said they had been bullied or harassed compared with their share of respondents in BWL21.

They accounted for a third of those saying they had personally experienced bullying, harassment and/or discrimination while working online, and they made up a quarter of those who had observed bullying, harassment or discrimination at work either in person or online.

CPS employees made up 19.2 per cent of BWL21 respondents. They made up a disproportionately high amount of those saying they had personally experienced bullying or harassment at work either in person (24.3 per cent) or online (25 per cent). They also made up a disproportionately high amount of those who had observed bullying or harassment at work either in person or online (23.3 per cent).

Given that 15.7 per cent of employed barristers work at the GLD, according to the BWL21 survey, GLD barristers made up a disproportionately high amount of those saying they had personally experienced discrimination online (19.4 per cent).

#### 4.8 Other useful statistics on the employed Bar

**Mentoring**: A total of 8.3 per cent (28) of employed barristers who answered the question in BWL21 have a barrister mentor, while 26.6 per cent (96) would like one (14.1 per cent of respondents from the self-employed Bar have a mentor). Of the employed barristers with a mentor, most found the relationship either very valuable (48.3 per cent) or quite valuable (41.4 per cent). Only 10.3 per cent said they find it not very valuable or not at all valuable. Women employed barristers were more likely to have a mentor than male barristers (21 women vs 7 men – out of 28) and to want a mentor.

**Practice/performance review**: A total of 72.6 per cent (254) of employed barristers who answered the question in BWL21 have a review at least once a year or more (compared with 44.9 per cent of self-employed practitioners). The proportion of employed Bar respondents who said they had never had a review was 19.4 per cent (68).

**Flexible working**: Of employed Bar respondents to the BWL21 survey, half (182) have flexible working arrangements in place. When employed barristers were asked what changes they would like to make to their practice and/or working patterns, the most common answer was more flexible working and/or more remote working.

Out of the 360 employed barristers who answered the question, a total of 152 said they would like to change to more flexible working arrangements – with 104 of that group also saying they would welcome more remote working. Other responses included:

- Being paid for additional hours worked and properly for legal aid work
- Having higher quality work, and more control over work
- Moving to part-time or more flexible working
- Returning to self-employment or retiring
- Part-time Judicial Appointments (including having employers realise the benefits of judicial appointment)

**Working hours**: More than 80 per cent of employed barristers who responded to BWL21 reported working 31–60 hours in their most recent working week compared with 56.6 per cent of the self-employed Bar. The proportion who worked 31–50 hours was 61.5 per cent compared with 36.8 per cent of the self-employed Bar, and the proportion who worked more than 40 hours stood at 60.7 per cent compared with 62.3 per cent at the self-employed Bar. A total of 22.3 per cent of self-employed barristers Life at the Employed Bar, February 2023 | 24

worked 61 or more hours in the most recent week compared with 7.0 per cent of the employed Bar.

The vast majority (85.7 per cent) of employed barristers work full-time, as is the case with the self-employed Bar (91 per cent), while 14.3 per cent work part-time. Around half (49.6 per cent) of employed barristers work extended full-time hours as compared with 72.7 per cent of self-employed barristers.

Nearly three-quarters (74.6 per cent) of employed barristers work additional hours they are not paid for, compared with 91.2 per cent of self-employed barristers.

**Job satisfaction**: A total of 68.6 per cent of employed barristers who responded to BWL21 were satisfied with their jobs, as compared with 60.5 per cent of the self-employed Bar, with 86 per cent reporting they generally have a co-operative and collaborative working environment – which is higher than the equivalent proportion for the self-employed Bar (76.3). Most (57.6 per cent) employed barristers reported their relationships with colleagues to be as good as they would wish them to be compared with 51.1 per cent of the self-employed Bar.

**Workload**: A total of 55.8 per cent of employed barristers who responded to BWL21 found their workload manageable which is slightly higher than the self-employed Bar figure of 50.2 per cent. In response to a separate question, 45.2 per cent reported feeling that they had significant control over the content and pace of their work. This compared with 42 per cent of self-employed barristers who felt that they had significant control over the content and pace.

## **5. Focus groups**

In the four focus group sessions we explored the themes identified in the quantitative data generated via analysis of information on the CRM and the Barristers' Working Lives survey 2021.

Themes explored in the focus group discussions included:

- Attractions of the employed Bar
- Career progression
- Improvements that could be made to a career at the employed Bar
- Ways the Bar Council might better support employed barristers

The list of questions used to guide the focus groups is available at Annex II.

#### 5.1 Attractions of the employed Bar

Focus group participants identified key benefits of working at the employed Bar, with some saying these had influenced their decision to join it.

#### **Regular** income

Regular, guaranteed income was a significant driver.

"I am from a non-traditional background and there simply wasn't the money for me to really have anything but a proper and steady wage."

Participants acknowledged that while self-employed practice can bring higher earnings, the employed Bar's promise of a stable income was a more powerful factor for some.

"It tends to be financial security [that makes you seek a career at the employed Bar] even though you may be getting paid less than your self-employed counterparts. The regularity of the work is also a bonus."

#### **Flexible working**

The opportunity to work more flexibly was also identified as a key driver. Participants spoke highly of the chance to work flexible hours – including compressed hours – and some pointed to the benefits brought by remote working.

"I've heard colleagues say that they can pick the kids up, put the washing on and then log back on for work."

#### A more inclusive culture

This culture of flexible working was also seen as helpful for disabled barristers and, more generally, participants considered that the employed Bar was more diverse and inclusive.

"It was a choice to go the employed Bar. I have a disability, so it was the flexibility and stability."

There was general agreement that the working culture at the employed Bar differs substantially from the self-employed Bar.

"I have the benefit of having seen employed and self-employed. It was a massive, massive change – the two ways of working are entirely professionally different."

"...a complete lifestyle and working shift."

#### Family-friendly

The employed Bar was also described as a more family-friendly option as compared with the self-employed Bar. Employed working conditions were felt to be much easier for parents.

"Starting a family was a big motivation," said one barrister, when outlining their reasons for joining employed practice. "The travel was a lot [while working at chambers]."

#### A better work/life balance

Barristers felt that the employed Bar offered a better work/life balance and most enjoyed what they felt was a supportive workplace.

One barrister said their employer's procedures "allow lawyers to adopt a good work/life balance," adding: "There's also a culture of providing pastoral care to new employees."

#### Quality of work

The variety of work and cases available was highlighted by barristers from a range of employers.

"You may not get paid that much, but the things I've been exposed to are so different and I would not have had the opportunities as a selfemployed barrister."

"You get to do really interesting, complex work."

"I'm not bothered by the label [of 'employed barrister'], as long as I'm doing good quality work."

#### Teamwork

The sense of being part of a team

"I like working in a team with my colleagues... you can walk down the corridor and ask for a view."

#### 5.2 Career progression

Focus group participants had both positive and negative views on career progression at the employed Bar.

#### Opportunities for support and career development

Employed barristers said they have generally benefited from a more structured career path, and they welcomed regular reviews to support their career and personal development. Yet the greater structure also brought some challenges.

"When at the self-employed Bar, you're a master of your future, [but] there's a structure and parameter in the employed Bar even if you're doing superb work."

"Employed barrister progression is dependent on how the organisation chooses to structure itself in terms of being able to identify ourselves."

#### Promotion has downsides

Participants said that while there are opportunities to achieve promotion, this can sometimes lead to a shift away from complex and fulfilling legal work.

"[My work has] several talent management programmes which highlight people that might progress. So that's quite a positive thing. I would agree with regards to the higher up you get, the further away [you are] from litigation. It's a bit different with advisory. By my experience, you don't have the regular client interaction. There's still an extent of involvement in legal work, but it's a little removed."

One barrister said a vast amount of their time in a more senior role was spent "dealing with things that aren't legal at all."

#### Failing to recognise the key skill sets of employed barristers

A number of participants expressed frustration that their employers failed to recognise the different skill sets between barristers and solicitors.

This was highlighted by some barristers working in the public sector, so may not necessarily be the case in other types of organisations.

"I know [my employer] likes to believe that solicitors and barristers are the same, and that we are all [...] lawyers, but the fact is that solicitors and barristers do have different skill-sets, and [my employer is] currently woefully under-utilising the skill-set of the many barristers they employ."

Another participant said:

"[A]s barristers, I think we're a bit of a wasted resource. It's very much the same role as solicitors. While I understand that and it was made very clear from the start, I wish there were more opportunities to keep oral advocacy honed, to keep that skill intact."

#### Lack of respect from the self-employed Bar

There was a strong view that the skills of employed barristers are under-valued by the profession more widely.

"I think that generally the Bar can be very suspicious (wrongly) of the employed Bar."

One respondent suggested that the wider Bar was a "foreign country" to them.

#### Limits to progression

A number discussed their perception that a career at the employed Bar was potentially limiting.

"I think being in the civil service helped me in some regards, while being at the employed Bar hindered me in others."

Others, particularly some participants in the public sector, believed their progression as practitioners plateaued after a certain period.

In discussions about taking Silk or gaining a judicial appointment, most felt judicial appointment was a more realistic option – and something they knew more about with respect to the application process.

"I'm about to have my third interview [for a judicial role]. I would expect every employer to encourage people to apply for a judicial post."

Another noted in a written submission they were already a deputy district judge.

"I think there is work that could and should be done to encourage the employed Bar to apply for the Bench, not least as we are often a more diverse workforce, and the Bench needs far better diversity."

On Silk appointments, there were mixed views. Some highlighted that taking Silk was linked to advocacy and this is not necessarily something every employed barrister is doing on a regular basis.

However, one barrister suggested judicial appointments were a good route into Silk, saying: "I know someone that became an immigration judge at a tribunal part-time then managed to gain Silk that way."

The focus groups heard that some employed barristers have no financial incentive to take Silk, unlike at the self-employed Bar where fees increase upon becoming a KC.

"As I am not an advocate and I can't earn more money from it, I don't really see the purpose of KC for me."

Some participants did say, however, that employed barristers should be able (and encouraged) to take Silk if they wished. This highlights the contradictory nature of opinion surrounding this issue.

"I do not think it should be excluded from any lawyer simply because they are not advocates or are advocates but not at the self-employed Bar."

#### 5.3 Improvements that could be made to a career at the employed Bar

#### Income

Relatively low incomes were identified as an issue for participants – particularly those working in the public sector, who observed that public sector wages were contributing to a problem with retention.

There was some suggestion that limited career progression was a factor in employed barristers being unable to access higher salaries.

#### Working hours

One participant suggested that the working hours at the employed Bar can be punishing – but this is not widely recognised.

The Covid-19 pandemic had a considerable impact on working hours and expectations, the barrister added.

"We were working extended hours and on call at the weekends – you would get an email at 11pm and they would want a response. We

became 24-hour lawyers. The employed Bar is not working 9-5 which [is what] other people think."

#### Inclusion

While participants agreed that the employed Bar was seen to be more inclusive than the self-employed Bar, there were still issues with respect to bullying, discrimination and harassment.

One barrister noted that, while they felt the employed Bar offered greater "protection to minorities" they had previously resigned from an employed post "due to discrimination and issues with that organisation."

Another participant said they had experienced bullying in two companies, and a couple of barristers mentioned they had experienced discrimination – one of the instances was in relation to disability, with the other being linked to gender.

"I have definitely seen discrimination and experienced discrimination due to my gender, which may be surprising as a man. More often than not, my organisation challenged this."

#### 5.4 Ways that Bar Council might better support employed barristers

Participants raised concerns about a perceived lack of representation within the Bar Council and a sense of being invisible, lacking dedicated resource.

Those participating in the focus groups also indicated an interest in the creation of a strong hub or place to connect with other members of the employed Bar.

#### Representation

Many felt employed barristers were not very well represented at the Bar Council and activity that was suitable for employed barristers was too London-centric.

"I don't think I've seen a Chair [of the Bar] or Vice Chair be a member of the employed Bar."

#### Positioning/visibility

A number of participants talked about the wider Bar/Bar Council as a whole as having little relevance to them or to their work.

"I don't think there are resources available on the website. When you look at the job opportunities section, it's just nothing. And I think that's disappointing. The employed Bar seems almost secret, it's very much if you know someone." On this basis a number felt that the Bar Representation Fee (BRF) did not represent value for money to them

"The fee is irrelevant once you move into employed practice."

## 6. Conclusion

Barristers participating in the focus groups confirmed that the employed Bar is seen as an attractive career option for those seeking a better work-life balance and a more family-friendly environment, offering more flexible working patterns. This is backed up by data which clearly shows the employed Bar is more diverse than the selfemployed Bar, with a higher proportion of women and barristers from an ethnic minority background.

The view that the employed Bar is more inclusive is perhaps re-enforced by participants who identified income stability as an important factor when making their career decisions. This means the employed Bar is more attractive for those who may not have the privilege of a financial cushion for any 'lean' periods.

But this perception of a more diverse and inclusive workplace can mask some serious issues facing those at the employed Bar – bullying, harassment and discrimination appears to be as much an issue among employed practitioners as it is at the self-employed Bar. There are clearly opportunities for the employed and self-employed Bar to find common cause in tackling bullying, harassment, and discrimination in both arms of the profession.

Any view that working at the employed Bar is easier than working at the selfemployed Bar clearly also needs challenging. The data suggesting these views persist in some corners of the profession are at odds with the type and quality of work undertaken at the employed Bar, and this evidence should support activity to challenge incorrect perceptions of any employed barrister taking on less significant and interesting work. Employed barristers bring a unique skill set to their workplaces, and it is important the rest of the Bar – and, on occasion, their employers too – better recognises this.

This research identifies a number of areas where the Bar Council and other Bar-based stakeholders can support the employed Bar, specifically those in the publicly funded part of the employed Bar.

These are set out in 'Recommendations' above.

## Annex I: Action taken following the 2016 employed Bar report

The Bar Council published '<u>Snapshot Report: The Experiences of Employed Barristers</u> <u>at the Bar'</u> in 2016.

This report found members of the employed Bar were generally satisfied with working conditions, but some challenges were identified around recognition and career progression.

The report made four key recommendations:

- 1. Give greater visibility to employed barristers (create role models).
- 2. Give greater recognition to the achievements of employed barristers.
- 3. Establish a network of employed barristers for mutual support and information sharing.
- 4. Target communications to employed barristers.

#### **Recommendation 1 - greater visibility**

We have worked to encourage employed barristers to put themselves forward for Bar Council leadership roles.

**Bar Council**: Our governing body comprises one-fifth employed barristers and fourfifths self-employed barristers; this mirrors the profession as a whole.

**Committees (within the Bar Council)**: Employed barristers are represented across all key representative committees (See Table 23 below). This means employed barristers are now part of the decision-making process across the highest levels of the Bar Council. Every committee has at least one employed barrister and we continue to work to increase this representation on relevant committees.

## Table 22: Number (and %) of employed barristers on each of the Bar Council'srepresentative committees as at 8 December 2022

| Committee                                       | Employed   | Total      | % of employed |
|---|------------|------------|---------------|
|   | barristers | barristers | barristers    |
| Bar Representation Committee                    | 2          | 16         | 12.5          |
| Education and Training Committee                | 5          | 25         | 20            |
| Ethics Committee                                | 4          | 29         | 13.8          |
| Equality, Diversity & Social Mobility Committee | 2          | 24         | 8.3           |
| European Committee                              | 3          | 24         | 12.5          |
| International Committee                         | 1          | 26         | 3.8           |

Life at the Employed Bar, February 2023 | 33

| Law Reform Committee                         | 1 | 29 | 3.4  |
|--|---|----|------|
| Legal Services Committee                     | 2 | 27 | 7.4  |
| Pro Bono and Social Responsibility Committee | 2 | 15 | 13.3 |
| Remuneration Committee                       | 2 | 24 | 8.3  |
| Young Barristers' Committee                  | 2 | 19 | 10.5 |

**Pupillage Fair**: At each Pupillage Fair an employed Bar session is held giving prominent employed barristers an opportunity to highlight the variety of careers available at the employed Bar. Speakers have included representatives from the Crown Prosecution Service, Government Legal Department, Nursing & Midwifery Council and Citi.

**<u>#IAmTheBar</u>**: employed barristers acting as Social Mobility Advocates have featured in this high-profile Bar Council campaign promoting inclusion.

#### **Recommendation 2 - greater recognition**

The <u>Bar Council's Employed Bar Awards</u>, now held every two years (since 2017), celebrate the achievements of employed barristers. The 2022 Awards, which were hosted in partnership with Gray's Inn as part of its Employed Bar Dinner, brought together more than 140 guests and highlighted the significant contributions made by employed barristers. The awards are heavily promoted by the Bar Council and <u>information about the 2022 winners</u> has been published on the Bar Council website and shared across all communications channels. The next round of awards will be held in 2024.

#### **Recommendation 3 - networks**

The Bar Council works closely with the Inns of Court and the Bar Association for Commerce, Finance & Industry (BACFI) promoting and supporting activity which brings employed barristers together to ensure they are aware of, and involved with, developments within the profession at large.

Together with BACFI, the Bar Council also hosts several webinars each year for the benefit of the employed Bar, with panels that include role models from their part of the profession.

In August 2016, the Bar Council set up the <u>Bar Council Employed Barristers' Network</u> on LinkedIn to update members on the work of the Employed Barristers' Committee and to enable employed barristers to contact the Committee directly.

#### **Recommendation 4 - targeted communications**

The Bar Council promotes matters of interest and opportunities directly to the employed Bar to ensure employed practitioners get the information they need. A

'Chair's Update,' providing insight into what the Employed Barristers' Committee has been working on, was launched in late 2022 as a successor to the previous 'Employed Bar Newsletter' and provides a dedicated news stream for the employed profession.

# Annex II: Focus group discussion questions

- 1. What made you decide to seek a career at the employed Bar?
- 2. Would you recommend your career path to a friend?
- 3. What is your view on career progression opportunities at the employed Bar? (Specifically in terms of income, ability to achieve seniority, and ability to access challenging work.)
- 4. What do you think would help junior employed barristers to build rewarding careers?
- 5. How much support do you feel you receive from your Inn of Court/Specialist Bar Association when it comes to career progression?
- 6. What do you find positive about your working life/workplace culture?
- 7. What would you like to see change about your working life/workplace culture?
- 8. Do you think there is a problem around retention at your workplace?
- 9. Would you like to say anything about bullying, discrimination, or harassment you have witnessed or experienced in the workplace?
- 10. To what extent do you feel that you are respected by peers as a barrister in employed practice?
- 11. Do you feel that applying to become a silk or a judge is an option that is open to you? If not, what are the obstacles/challenges?
- 12. Do you think there is anything the Employed Barristers' Committee of the Bar Council could do differently to better support employed barristers?
- 13. Do you think the Bar Representation Fee (BRF) represents value for money for employed barristers?