

# Snapshot: The Experience of Self-Employed Women at the Bar



The Bar Council  
*Integrity. Excellence. Justice.*





# Contents

Foreword	3	3.3 Junior practice	22
Acknowledgements	4	3.3.1 Practice area/work allocation	23
Summary of findings	5	3.3.2 Harassment and discrimination	24
Figures and tables	8	3.3.3 Support	25
Key to abbreviations	8	3.3.4 Work/life balance and family life	26
Appendices	8	3.3.5 Other observations	28
1. Framework	9	3.3.6 Bar Council assistance	35
2. Methodology	13	3.4 Silk and judicial appointment	36
2.1 Data collection	13	3.4.1 Recruitment	37
2.2 Method of data analysis	15	3.4.2 Support	37
2.3 Ethical issues	15	3.4.3 Harassment and discrimination	38
2.4 Limitations	15	3.4.4 Work/life balance	38
2.5 Quality issues	15	3.4.5 Other observations	38
3. Findings	16	3.4.6 Bar Council assistance	39
3.1 Introduction	17	4. Conclusion	40
3.2 Training	19	5. Recommendations	42
3.2.1. Recruitment	19	Appendices	44
3.2.2 Practice area/work allocation	19	Appendix 1: Profile of participants	44
3.2.3 Harassment and discrimination	19	Appendix 2: Questions asked during focus groups	45
3.2.4 Support	20	Appendix 3: Questionnaire	47
3.2.5 Other observations	21		



# Foreword

Whilst this report presents only a snapshot of the experience of self-employed women in the profession, it nevertheless provides an extremely useful insight into life at the Bar for women barristers.

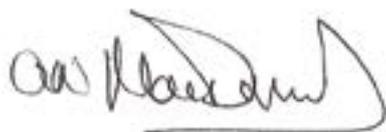
It is heartening to see that, as a profession, we have clearly moved on in the way women are treated and most, if not all, of the examples of inappropriate behaviour quoted in this report were in the past. Indeed all participants acknowledged how life had changed at the Bar for the better in this respect.

That said, there are clearly new challenges for women barristers. The Legal Aid cuts are a threat to all members of our profession, but they perhaps have the most significant impact on those who are primary carers, of whom the majority are women. Balancing work and family life is difficult in every profession. But when income cannot cover the costs of childcare we are potentially creating 'no go' areas of practice for women. That is bad for justice and for society as a whole. As a profession we must do all that we can to tackle this; to support and encourage women to remain at the Bar and become the Queen's Counsel and judges of our future.

The rich data in this report can only help the Bar Council in its campaigning work in relation to publicly funded practice areas and reform of the Criminal Justice System. These real stories will help us identify and fight against any disproportionate impact of proposed changes on women.

In addition to taking forward the recommendations within this report we simply must do more to communicate the support for women that is already in place. The requirement to appoint an Equality and Diversity Officer (EDO) and to have chambers' policies on parental leave, flexible working, fair access to work and addressing harassment are all important steps the profession has already taken. EDOs have a responsibility to support members of chambers and these required policies should make it much easier for women to achieve their aspirations.

Finally, I should like to thank all those who participated in this research. Their motivation was not to criticise their colleagues, chambers or the profession as a whole. Despite the challenges, the clear message from participants was that they loved their jobs and the profession. They wanted to highlight what has been achieved and to identify and suggest constructive solutions to make things work better for other women in the profession and, inevitably, for the profession as a whole.



Alistair MacDonald QC  
*Chairman of the Bar Council*

## Acknowledgements

The Bar Council would like to thank the Association of Women Barristers, and all those women barristers who gave up their valuable time and participated in our focus groups held in London, Bristol, Manchester and Leeds over July, October and November 2014.

We would also like to thank all those who completed our questionnaire or told us their stories directly or via email.

Thank you to everyone who shared their personal experiences with such trust and honesty.

# Summary of findings

This research set out to provide a snapshot of women barristers' experience at the Bar in 2014/15. The research aimed to bring to life gender statistics on the profession by giving us the stories and experience of the women behind the numbers. We wanted to know about the highs and lows of being a woman in professional practice today.

A mixture of qualitative and quantitative research methods was applied, including the use of focus groups and questionnaires to gather women barristers' views and experiences. The number of women barristers<sup>1</sup> contributing to the research was limited due to the scale of this study and the study's limitations are clearly outlined within the methodology. However, the focus group feedback was supplemented by reference to existing quantitative Bar Council data on the profession and the themes which emerged in the focus groups are validated by that quantitative data<sup>2</sup>. The title of this study has been adapted to reflect its focus almost exclusively on the experience of self-employed women barristers.

Findings suggest the prevailing conditions in different practice areas and the culture on circuits and in individual chambers has a huge impact on different women's experience of the profession.

There is clearly no problem in attracting women to the Bar; women and men join the Bar in equal numbers and have done so for some time. Newly qualified women barristers today have a very different and much more positive experience in training to become a barrister and in the early years of practice than their predecessors. Reports of recent sexual harassment were rare. The most significant challenges were avoiding being pushed into certain types of work and balancing career and caring responsibilities. These challenges may play a large part in the high attrition rate; many women leave the Bar after becoming parents and do not return. Junior women leaving the Bar results in under-representation at senior levels; for every woman with more than 22 years call there are more than 4 men<sup>3</sup>. This has implications for the pool of talent from which we recruit members of the judiciary, the number of female Silks and for chambers politics. The experience of women barristers reflects a wider social challenge for all those combining work and primary caring responsibilities in any workplace, and the low proportion of women in senior positions at the Bar is echoed in many other professions. It is hoped that this new data may assist the Bar to support women to stay in the profession, and ensure that those who do stay are not disadvantaged.

## Training

Women of all ages were positive about their experience of the Bar Course (now the BPTC) and regarded their treatment as fair. Views on pupillage (including recruitment for pupillage) were also generally positive. Most of the negative experiences identified by participants happened in the past and were brought up by more senior practitioners.

There were still isolated incidents of inappropriate behaviour, mainly in the form of banter (e.g. comments about appearance and during dining sessions) rather than physical incidents (such as inappropriate touching). The prevailing view was that this is being addressed as the older generation makes way for the next and as social attitudes change. Participants felt the Equality & Diversity provisions in the BSB Handbook were supporting this culture change and improving recruitment practice.

Challenges in pupillage were identified as the same for men and women, where the relationship with pupil supervisor is critical. That said, participants acknowledged women tend to lack confidence and felt the benefits of a supportive pupil supervisor might be more marked for women. A number talked about occasional awkwardness associated with the close relationship which can emerge between a pupil supervisor and their pupil when they are male and female, but this was not the general experience and could be put down to individual and very specific circumstances.

Participants talked of a mixed experience of senior women as role models. Some found women supportive and this was valued. Others felt some senior women (who they acknowledged had faced discrimination and harassment in developing their own careers) had less tolerance for the challenges new practitioners face. Gender 'solidarity', the need for mutual support based on gender, was seen as extremely important by all.

## Junior practice

A significant number (but not all) participants felt they had been pushed into traditional 'women's practice areas' of family and sex crime. This is important because it has implications on future flexibility (over hours/location), income and individual wellbeing. Many women talked about the stress and adverse impact dealing with sex crime had on their personal lives.

<sup>1</sup> 73 women participated in focus groups and 12 completed questionnaires.

<sup>2</sup> Bar Barometer 2014; BSB Statistics on the Profession (<https://www.barstandardsboard.org.uk/media-centre/research-and-statistics/statistics/>); Barristers' Working Lives: A Second Biennial Survey of the Bar 2013, Change of Status Survey 2014 and Momentum Measures Research 2015.

<sup>3</sup> Bar Council Core Database (1 June 2015) 812 women with >22 years' call vs 3,346 men with >22 years' call.

The difficulties of having children at the Bar was discussed extensively at each focus group and was raised in all questionnaire responses. Most women barristers who were parents were primary carers for their children (this reflects data gathered in the Biennial survey which found that 57% of women at the Bar with children were primary carers compared to just 4% of fathers at the Bar<sup>4</sup>). Balancing family life and a career at the Bar was seen as hugely problematic and a real barrier for women in the profession. Success was put down to practice area, luck and the availability of either a partner as the primary carer or other support. Some practice areas were seen as more flexible than others (i.e. less court based work), and some had the capacity to generate a higher income (which made childcare more affordable or enabled practitioners to not work during school holidays). Younger members of the self-employed Bar said they could not see how it was possible to have a career and family, and did not see that they had a long term future in self-employed practice.

Individual chambers' culture and policies also had a huge impact on women's experience of bringing up children at the Bar, where supportive chambers made it possible and unsupportive chambers effectively forced women out of the profession or to a different chambers. A number of incidents of poor treatment of working mothers were identified, including the attitudes of some clerks and senior members towards those that chose to have a family. Some talked of the impact which being a working parent had within chambers, including their perception of membership of their chambers (not being seen as a full member of chambers if you were working flexibly), access to chambers services (online resources) and tapered rent/fee arrangements (which favour high earners).

Women talked about frustration with networking designed around traditional male activities and interests (e.g. football, cricket and golf). The design and timing of chambers' marketing events were also cited examples of non-inclusive practices, though all participants acknowledged childcare made networking in any form difficult. Others talked very personally about how they felt as a young single woman when entertaining male clients and their fears about how their activity might be perceived (both by client and colleagues).

Participants also talked about being disadvantaged by power structures within chambers. The low numbers of senior women mean management committees and those with influence in chambers are often senior men, all skilled advocates. Younger women talked about how intimidating it was to potentially challenge chambers' decisions on policy, practice and particularly rent arrangements. They explained how a personal interest in, for example tapering arrangements or maternity policies meant they felt vulnerable and likely to have to defend

themselves against accusations of self-interest when discussing such issues.

Generally participants felt the BSB's Equality Rules had supported fairer treatment, including in access to work, and that women had benefited; but that there was still often a gap between policy and practice. They suggested that in their experience the real challenge was implementing fair policies, particularly when times are hard and chambers' finances are under pressure.

Culture in the clerks' room came up time and again. All participants reinforced the vital importance of the working relationship between any barrister and their clerk. Where it works, participants found their clerks an immense source of support; where it didn't many felt their position was untenable. There were mixed experiences of both male and female clerks and practice managers, both good and bad, and it was clear a female clerk did not automatically mean a female barrister enjoyed a better support. There was considerable discussion about who sets the culture in the clerks' room. Many felt more senior male barristers in chambers effectively endorsed and enabled misogynistic attitudes to flourish.

## Silk and judicial appointment

Women who have successfully gone on to apply for Silk or Judicial appointment talked about the importance of receiving encouragement from their chambers, colleagues and clerks and that this gave them the confidence to apply. Some felt they were actively encouraged not to apply/take Silk and advised by their clerks that if they did their work would dry up. Others said they felt men in chambers were given much greater encouragement and support.

Those that did apply found the process time consuming but far less daunting than they expected and welcomed improved transparency over the application process. They did however share their concerns over the requirements for referees, a particular issue for those with less court work, who have recently taken a career break, or who work flexibly.

Some participants shared some negative experiences of the attitude of some male judges, specifically around allegations of women judges being appointed because of gender not merit. There was also some reference to judges' training (residential course) not being very family friendly nor the requirement to relocate for some judicial roles, particularly when they had school age children.

Those in fee paying judicial roles indicated that their success in a part-time post would give them the confidence to apply for a salaried judicial post.

<sup>4</sup> Barristers' Working Lives: A Second Biennial Survey of the Bar 2013

## Recommendations

Recommendations are based on what women participating in the research themselves suggested during the focus groups and in their responses to the questionnaire.

Recommendations are that the Bar needs to:

1. Encourage and facilitate mentoring of junior women by senior women - particularly around building a practice and establishing working relationships with clerks/practice managers. These mentoring relationships should focus on building junior women's confidence in themselves and their ability to control their practice and relationships with others in chambers.
2. Facilitate access to business advice/coaching on developing a sustainable practice better able to withstand and support career breaks and more flexible working associated with having a family.
3. Establish more senior and more visible female role models.
4. Promote women's marketing networks for barristers, particularly on the circuits and specifically focussed on developing relationships with professional clients.
5. Create support networks (i) of working parents at the Bar as a source of advice and guidance around return to work, childcare, flexible working etc.; and (ii) of women at the Bar for other women in the profession.
6. Extend the Bar Nursery to the circuits and explore what other direct and flexible childcare provision can be developed to support working parents at the Bar.
7. Encourage a better gender balance on key decision-making committees within chambers to ensure chambers empower women members in decision-making and do not develop policies that disadvantage women.

The Bar Council will now explore ways to put these recommendations into practice.

# Figures and tables

Figure 1 Gender Profile of the Bar

Figure 2 Gender Differences between Self-Employed and Employed Bar

Table 1 Numbers of women called to the Bar

Table 2 Summary of statistics on women barristers

Table 3 Profile of women by practice area

Table 4 Profile of focus group and questionnaire respondents

# Key to abbreviations

BC Bar Council (General Council of the Bar)

BSB Bar Standards Board

EDSM Equality, Diversity and Social Mobility Committee

RSG Retention Sub-Group

AWB The Association of Women Barristers

CBA Criminal Bar Association

FLBA Family Law Bar Association

CB Chancery Bar

JAC Judicial Appointments Commission

# Appendices

Appendix 1 Profile of participants

Appendix 2 Questions asked during the focus groups

Appendix 3 Questionnaire

# 1. Framework

The Bar Council intends to periodically examine the experiences of barristers with specific protected characteristics. In 2014 the Equality, Diversity and Social Mobility Committee (EDSM) chose to examine the experience of women at the Bar.

This research aims to supplement statistics outlined in Table 1 and 2 (below) and findings from recent Momentum Measures research by providing an insight into the experience of women at the Bar. It is hoped this will support evidence based policy-making and initiatives to support gender diversity.

Through focus groups and surveys we considered real and perceived structural barriers to women’s progression within the profession. Themes explored included treatment by colleagues, clerks, solicitors and the judiciary; and the challenges of managing work/life balance (and specifically family life).

This report aims to identify the challenges faced by women at the Bar and to share ideas and solutions to barriers and challenges identified.

The Bar is under pressure to become more diverse, with activity focussed on:

- a) Improving access to pupillages (and tenancy) to those from under-represented groups, including from lower income backgrounds;
- b) Encouraging chambers to facilitate more flexible working (and improve maternity arrangements) in order to retain talent in the profession; and
- c) Encouraging under-represented groups to apply for Silk (and the Judiciary) to improve representation at all levels.

The profession has responded and many practice areas demonstrate significant diversity (See Table 3).

Pressure to be more aware of diversity issues and to improve diversity continues to be applied - primarily through a compliance-based approach e.g. the introduction of Equality and Diversity Rules and monitoring requirements (from the BSB) and through procurement initiatives (e.g. the Law Society’s Diversity and Inclusion Charter). Other initiatives (e.g. the Diversity League Table) also exist to encourage chambers’ diversity.

Despite progress, diversity at the Bar is fragile. Legal Aid reforms hit those areas of the Bar which are publicly funded and are traditionally more diverse; whilst women and some minority groups are perceived to be failing to make significant headway in privately funded practice areas. Further, recent debate over the application of Equal Merit provisions and the potential for targets in judicial appointment revealed very different attitudes to diversity, and specifically initiatives to support progression of minority groups, across the Bar.

This would suggest it may be a good time to revisit women’s experience at the Bar more generally in order to assess progress and to explore current attitudes.

It is hoped this research will support ongoing efforts by many barristers (across all practice areas) who continue to champion efforts to make the Bar more inclusive.

**Table 1: Number of women called to the Bar**

Year	Total no. of practising barristers (England & Wales)	Number of women included in total	Percentage of women
1955	2,008	64	3.2%
1965	2,164	99	4.6%
1975	3,646	258	7.1%
1985*	5,367	696	13%
1995	6,398	1,525	23.83%
2005	11,617	3,643	31.35%
<b>2014</b>	<b>15,716</b>	<b>5,545</b>	<b>35.28%</b>

\*data for 1985 is self-employed only

Source: Bar Council Records

**Table 2: Summary of statistics on women barristers**

Career Stage	% of Women <sup>5</sup>
BPTC (training)	50% (2011/12) <sup>6</sup>
Call	50% (2013/14) <sup>7</sup>
First Six Pupils	45% (2013/14) <sup>8</sup>
New Tenants	44% (2011/12) <sup>9</sup>
Practising Bar	35% (2014) <sup>10</sup>
<i>Self-Employed Women with &gt;22 Years' Call</i>	6% <sup>11</sup>
<i>Self-Employed Bar</i>	33% (2014) <sup>12</sup>
<i>Employed Bar</i>	46% (2014) <sup>13</sup>
QCs (Self Employed)	12% (2012) <sup>14</sup>
Judges (Courts)	24% (2012/13) <sup>15</sup>

**Table 3: Profile of women by practice area<sup>16</sup>**

Gender	Criminal	Civil	PN/PI <sup>11</sup>	C&C <sup>12</sup>	Family	Int'l/EU	All
Male	64%	66%	69%	75%	39%	65%	63%
Female	36%	34%	31%	25%	61%	35%	37%
Base N=100%)	1013	878	279	475	503	82	3230

Source Biennial Survey of the Bar 2013

<sup>5</sup> Based on most recent data available

<sup>6</sup> Bar Barometer 2014 (page 72) [[http://www.barcouncil.org.uk/media/287767/bar\\_barometer\\_report\\_updated\\_-\\_june\\_2014\\_.pdf](http://www.barcouncil.org.uk/media/287767/bar_barometer_report_updated_-_june_2014_.pdf)]

<sup>7</sup> BSB Website 2015 (data drawn from Bar Council Core Database on 1 October 2014)

<sup>8</sup> BSB Website 2015 (data drawn from Bar Council Core Database on 1 October 2014)

<sup>9</sup> Bar Barometer 2014 (page 61) [[http://www.barcouncil.org.uk/media/287767/bar\\_barometer\\_report\\_updated\\_-\\_june\\_2014\\_.pdf](http://www.barcouncil.org.uk/media/287767/bar_barometer_report_updated_-_june_2014_.pdf)]

<sup>10</sup> BSB Website 2015 (data drawn from Bar Council Core Database on 1 October 2014)

<sup>11</sup> Bar Council Core Database (1 June 2015) there were 4,192 self-employed women barristers still practising at the Bar. Of these 812 were women with > 22 years' call; there were 8,506 male self-employed barristers of which 3,346 had more than 22 Years' Call.

<sup>12</sup> BSB Website 2015 (data drawn from Bar Council Core Database on 1 October 2014)

<sup>13</sup> BSB Website 2015 (data drawn from Bar Council Core Database on 1 October 2014)

<sup>14</sup> Bar Barometer 2014 (page 46) [[http://www.barcouncil.org.uk/media/287767/bar\\_barometer\\_report\\_updated\\_-\\_june\\_2014\\_.pdf](http://www.barcouncil.org.uk/media/287767/bar_barometer_report_updated_-_june_2014_.pdf)]

<sup>15</sup> Court Diversity Statistics [<https://www.judiciary.gov.uk/publications/diversity-statistics-and-general-overview-2013/>]

<sup>16</sup> Unpublished data drawn from those who disclosed their protected characteristics whilst participating in the Bar Council's Biennial Survey of Barristers' Working Lives (2013). Please note: Limitations of the data include (i) this is a survey of half the practising Bar of England & Wales where N=100% refers to the population of respondents rather than the whole practising Bar; (ii) it includes missing data ('no answer') or where participants did not disclose their Protected Characteristic (answering 'prefer not to say').

<sup>11</sup> Professional Negligence/Personal Injury

<sup>12</sup> Bar Barometer 2014 (page 46) [[http://www.barcouncil.org.uk/media/287767/bar\\_barometer\\_report\\_updated\\_-\\_june\\_2014\\_.pdf](http://www.barcouncil.org.uk/media/287767/bar_barometer_report_updated_-_june_2014_.pdf)]

Figure 1: Gender profile of the Bar

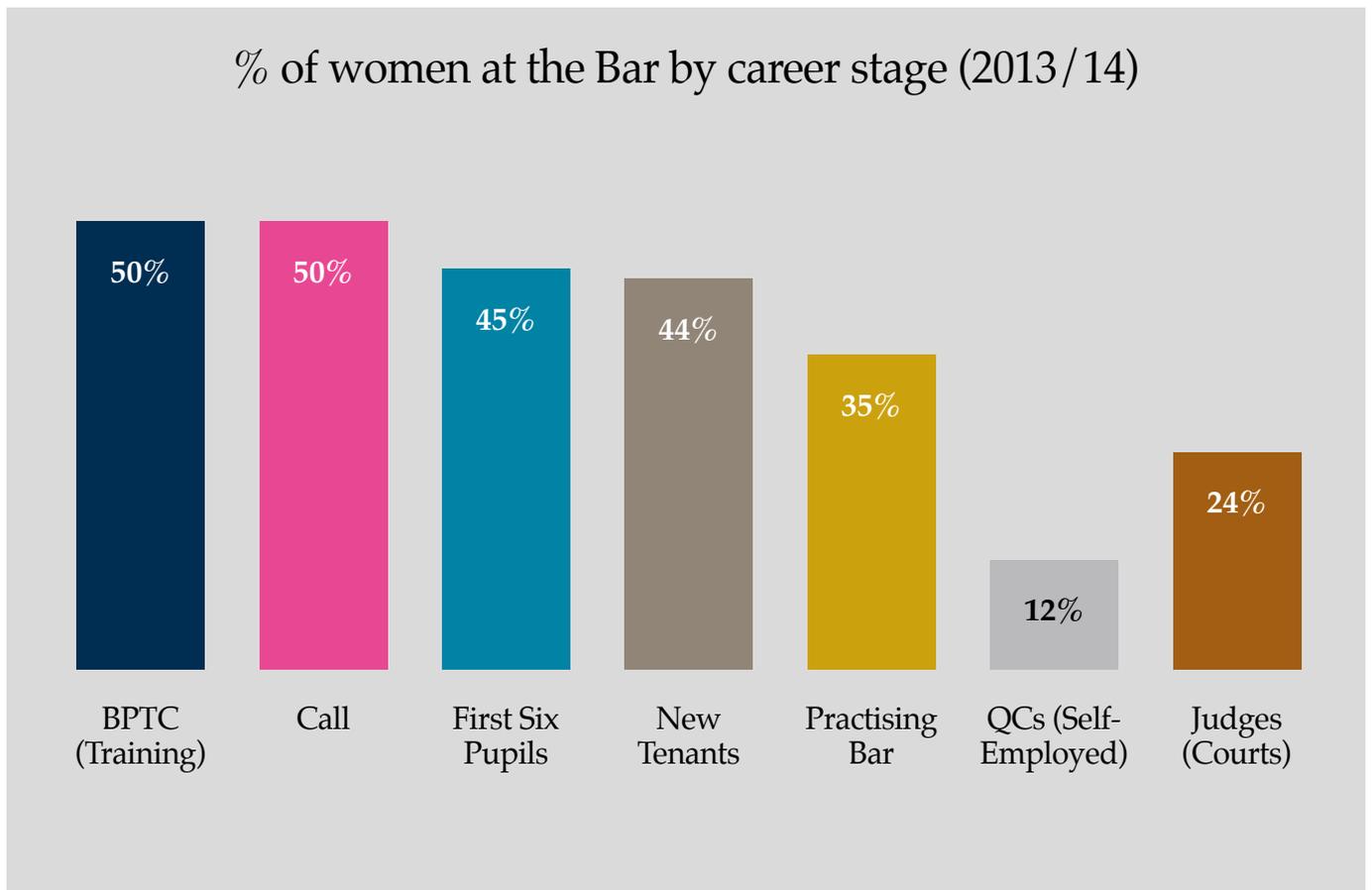
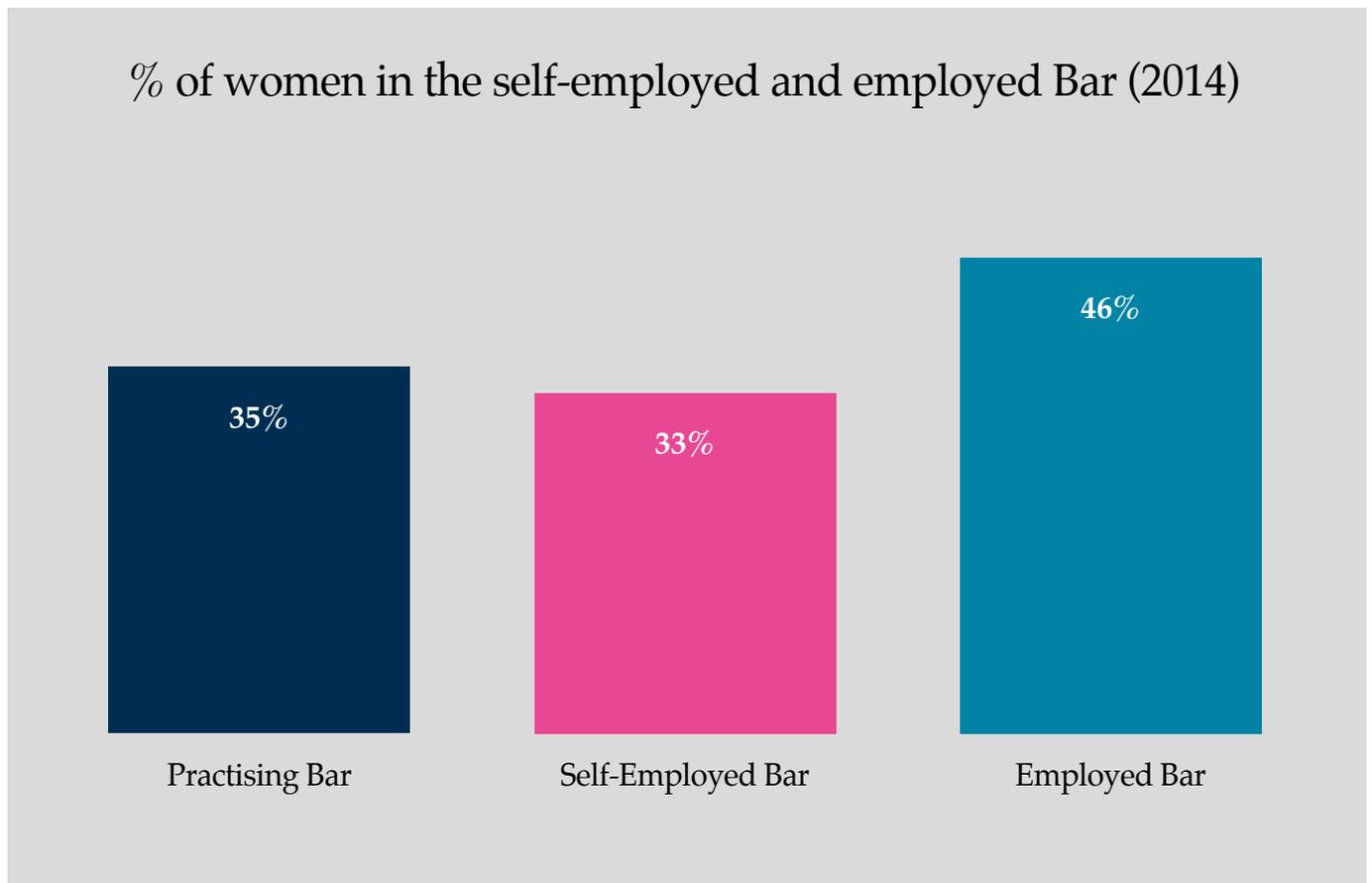


Figure 2: Gender differences between self-employed and employed Bar



## Momentum Measures: Women at the Bar

In 2014, the Bar Council commissioned research<sup>17</sup> to establish progress women were making at the Bar and to model when, based on current trends, the Bar might achieve gender balance (i.e. 50% men and 50% women).

Two sources of data were used in modelling progress (i) working age cohorts in numbers called to the Bar; and (ii) working age cohorts of those who are practising (defined by those who currently hold a practicing certificate).

The research established there has been a clear movement towards gender equality at Call to the Bar with an approximate 50:50 balance being achieved in 2000 and having been maintained since. The research also established there is no evidence that women are under-represented in the attainment of pupillage.

However, the research found notwithstanding the increasing gender balance in called working age barristers, the model of practice at the Bar suggests that gender balance of practising barristers is unlikely ever to be achieved given current trends. This is because women have a lower propensity to move from Call to practice and a higher attrition rate once in practice. The attrition is such that it would require a very long period of substantial imbalance in favour of women at call to achieve balance of women in practice. The model suggests that given current attrition rates approximately a 60:40 split in favour of women being called to the Bar would be required to establish gender equality in practice.

In respect of practising barristers of more than 15 years of call, on current trends the practising Bar will not ever achieve gender balance.

<sup>17</sup> Momentum Measures Research (Bar Council, 2015) – [www.barcouncil.org.uk/about-the-bar/facts-and-figures/statistics](http://www.barcouncil.org.uk/about-the-bar/facts-and-figures/statistics)

## 2. Methodology

Statistics on the Bar were pulled from Bar Council’s own records (BSB Website and Bar Barometer 2014<sup>18</sup>), the Biennial Survey 2013<sup>19</sup> and the Change of Status (Exit) Survey 2015<sup>20</sup>.

Eight focus groups were commissioned to examine:

1. Perceived and structural barriers to access
2. Perceived and structural barriers to retention
3. Perceived and structural barriers to progression, and
4. Managing family life at the Bar.

Invitations to participate were sent to all practising women barristers on the South Eastern, Northern, Western and North Eastern circuits. All women participating in the focus groups volunteered to participate. Participants were drawn from all practice areas, but were predominantly self-employed.

Focus group feedback was supplemented by questionnaires and 1:1 interviews; and a general call for stories from the profession.

## 2.1 Data collection

Primary data was collected between July and November 2014 and was generated through focus groups and questionnaires. A total of 73 women participated in focus groups and 12 completed questionnaires.

Five focus groups were held in London; one focus group was held in Manchester, another in Leeds and another in Bristol. Focus groups were held at different times (lunchtime, in the early afternoon and early evening) to accommodate as many participants as possible. Focus groups were held in July, October and November 2014.

Women participants were of mixed ages, from different ethnic groups with different religious beliefs and non-beliefs and at different levels of seniority (See Table 3).

**Table 4: Profile of focus group and questionnaire participants (total 85)**

Main Practice Area	42% practised in Crime
	14% practised in Chancery and Commercial
	11% practised in Family
	9% practised in Common Law/Civil
	9% practised in Personal Injury
	7% practised in Employment
	1% practised in Professional Negligence
	7% practised in other areas
Year of Call	31% had more than 20 years’ Call
	28% had between 15-20 Years’ Call
	18% had between 10-15 Years’ Call
	13% had between 5-10 Years’ Call
	11% had less than 5 years’ Call

<sup>18</sup> Data taken from the Bar Council Core Database of practising barristers

<sup>19</sup> A biennial survey of approximately half the practising Bar

<sup>20</sup> A survey of those changing their practising status

Classification	96% were self-employed
	1% were sole practitioners
	1% were not practising
	1% classified themselves as 'Other'.
Age	6% (the majority) were between 35 and 44 years old
	25% were between 45 and 54 years old
	19% were between 25 and 34 years old
	5% were between 55 and 64 years old
Gender	All participants were women
Disability	2% declared a disability
Ethnic Group	80% identified as White; 20% identified as BAME
Religion & Belief	48% identified as Christian
	38% declared no religion or belief, or identified as atheist
	14% declared other faiths or beliefs
Sexual Orientation	96% identified as heterosexual
	4% identified as either lesbian or other
Educational Background	38% were first generation at university
	63% went to state schools, 33% went to an independent school
	(4 were educated outside of the UK)
Caring Responsibilities	56% had primary caring responsibilities for a child
	24% had caring responsibilities (<19 hours per week) for either an older relative or neighbour / friend; 1% cared for another more than 20 hours a week but less than 49 hours,
	1% cared for another more than 50 hours per week

Focus groups lasted 2 hours and were designed to examine the participants' subjective perceptions of their experience of life at the Bar

During the focus groups, participants were asked to discuss how they thought and felt about their experiences. Discussions explored the extent to which their gender had impacted on their experience. Themes explored were

experiences during training, starting out in practice, developing practice, managing family life while in practise and expectations or experience of progression into silk and judicial appointment. Focus groups were recorded and later transcribed. Recording the focus groups avoided the distraction of note-taking, and ensured participants' own words were used in analysis.

## 2.2 Method of data analysis

An inductive, grounded approach to data analysis was adopted. Useful quotes were linked to emerging themes to support final analysis. Since a modest amount of data was generated in this research exercise, a manual approach to coding was adopted.

The role of Sam Mercer, the lead analyst and author in data generation and subjectivity in the analysis is acknowledged, despite attempts to be faithful to the interviewees' responses.

## 2.3 Ethical issues

It was recognised personal opinions and experiences shared by participants could harm their professional position and cause emotional distress, if attributable. Accordingly, participants (who all volunteered) were provided with anonymity, and informed consent was obtained. Transcripts of the focus groups will not be published.

To build trust and encourage participants to be open and honest, from the outset we disclosed the nature of the research, notwithstanding the potential risk that this could influence responses.

## 2.4 Limitations

The scale of this study was necessarily limited due to resource constraints and this is reflected in the methodology adopted. It is acknowledged further research would be required to test the generalisability of findings. By extending the study, it would have been possible to evaluate more fully the experience of women across the Bar.

It would also be helpful to compare the experience of women at the Bar with those in other professions and of women in public life more generally.

The study originally set out to explore all women barristers' experience of life at the Bar. Participants were however almost exclusively self-employed and the study has been adapted to reflect this. We are therefore unable to currently comment on the experience of employed women barristers.

In writing up this research, consideration has been given to the potential for interviewees to tell us what they 'thought' we wanted to hear. We also recognise some participants may have volunteered to take part because they had a particular view to express. This study was also limited to women barristers able to make time to participate in the focus groups or complete a questionnaire. It is also possible that the process of data collection and interaction with others during the focus groups could have changed the way participants felt about the issues discussed.

## 2.5 Quality issues

This study was designed to provide insight.

Credibility was established by reference to previous studies of women barristers' experience. Transferability was established through ensuring participants came from different practice areas and different geographical locations. Dependability is demonstrated through extensive documentation covering the research method adopted and the process of data analysis (records and transcriptions of focus groups are available). Data triangulation was undertaken by comparing different focus group discussions and questionnaire responses.



Findings

# 3. Findings

## 3.1 Introduction

In order to provide context and balance to discussions we first asked women what they loved about their career at the bar. They said:

- Meeting amazing people
- Doing something socially useful
- Interesting, fascinating and varied work
- The unique environment
- The independence
- The advocacy and 'buzz' of cross examining someone
- The intensity of the work
- The freedom
- The camaraderie
- The opportunity to travel, and
- The flexibility (albeit for some).

*'The fact you can finish one piece of work and move on to something completely different'.*

*'[That] every case is my own – and the emphasis I bring to it is my own, and how well I do is on a case by case basis'.*

*'The challenge of not just being on top of your brief, but being able to be with and communicate effectively with people of all backgrounds'.*

*'[I love] the intellectual rigour, the law itself, understanding and solving the problems and going to court and having a good row. I love my court-based practice'.*

*'It is wonderful to be able to stand up and represent someone in court using your skills, to win a case for them'.*

*'Every time you get a new brief it is like opening a new novel'.*

*'The adrenaline rush; cramming to prepare for court and then it is all over'.*

*'I love everything about my job... every day is like a production, you couldn't write the one liners. I like the sort of camaraderie; I like the challenge of advocacy, I like being involved in children's lives and the lives of their families and I like being able to contribute to that and to the future of those people... assisting vulnerable people through the legal process'.*

*'... the clients I work for, the clients I meet...normally in the darkest possible parts of their lives and they share their stories with me, invite me into their lives and I try to help them through that difficult process'.*

*'Some days in court, you're doing cross examination, some days you are at home doing advisory work, which is much more academic and focussed and other days you can go out with your mum, on a Tuesday!'.*

*'I work a lot from home, I work strange hours during the day and night in order to fit my job around bringing up kids...I wouldn't be able to do that in any other profession'.*

*'When working you feel you are doing something important'.*

We then asked women what they disliked about the Bar. They said:

- The hours
- The lack of security associated with self-employed status
- The difficulty in maintaining income (in the current economic environment)
- The stressful nature of the work
- The difficulty of maintaining family life
- The requirement to travel (particularly for those on some circuits – linked to maintaining family life)
- The difficulty in socialising/marketing yourself (especially when you have a family), and
- Difficult judges and solicitors.

*'I don't like having to work at strange times of the day'.*

*'I'm never quite sure if I love or hate the self-employed status...'*

*'I don't like being rejected'.*

*'Juggling kids and work'.*

*'Freedom is relative when you're really slaves to your solicitors who are going to instruct you at the end of the day'.*

*'I do a lot of legal aid work and it's quite stressful to make ends meet'.*

*'I can't stand the financial insecurity and really struggle with never knowing where legal aid is going and the constant stress... I worry that we've too many threats now and that it is becoming increasingly untenable... and I know that all women [feel the same] and that's a worry'.*

Training



## 3.2 Training

Views on pupillage (including recruitment for pupillage) were generally positive. One participant summed it up:

*'I think there is now a lot more interest in training and how they can support women than 20 years ago'.*

### 3.2.1. Recruitment

Participants didn't identify any current discriminatory practises within training, nor with pupillage selection.

*'I am a pupil supervisor and have sat on the pupillage committee in two sets of chambers. My experience is both sets were very conscious of diversity issues and compliant with equality and diversity policies and good practice'.*

*'I think our pupillage procedures have become very much transparent over the last five years or so, which involves an enormous amount of work in terms of the sifting process of applications but I think the result is that I could say it's not a discriminatory practice, certainly at my set, but that has come about through putting in place a very clear system'.*

But some felt that there was an innate feeling amongst their male colleagues that women were more likely to go off sick, would be primary carers for children etc. One cited an example of sexist attitudes in the past, albeit with reference to chambers' staff recruitment.

*'My senior clerk used to put applications from female candidates for the clerking roles into the bin on the basis they would get women's troubles'.*

When more senior women talked about current pupillage they identified that it was not a sexist process...

*'People are scared to ask questions like 'when are you going to have children' and 'will you come back to the Bar then', which they used to in in my day. It was fairly standard and there wasn't a lot you could do about it. I think everybody is far too scared about being reported to ask anything'.*

But when talking about past experience of their own recruitment experience, some felt there had been discrimination. One said:

*'I was asked if I wanted to get married in a pupillage interview, in a kind of jokey way. It was a pointed question'.*

### 3.2.2 Practice area/work allocation

Older participants talked about their past experience with respect to work allocation whilst training.

*'...whether because of diary commitments, personalities or possibly gender, the male pupil was selected by members of chambers to be the junior in the bigger cases and generally I did not get selected'.*

*'As a pupil it was touchy feely subjects for women and commercial for men. If I had a commercial case in the diary it was removed'.*

*'It was assumed that as the female pupil I would do family work, or prosecution crime. It was a real struggle to get defence crime which was given to the male pupil. I think things have changed since I did my pupillage [late 80's]. Then it was genuinely difficult for solicitors to instruct women because sexism was rife amongst defendants too'.*

Again participants felt things had improved and whilst there may be isolated incidents more generally discrimination in work allocation was no longer the case.

### 3.2.3 Harassment and discrimination

Encouragingly, most also felt times had moved on with respect to their treatment in chambers, at court and in practice.

A few provided examples of inappropriate banter and behaviour in the past.

*'When I came to the Bar it was still considered risqué for a woman to wear trousers and that was only in the mid to late 90s... there was a lot more sexism and female pupils had to put up with a lot of unwanted attention'.*

*'...when I attended court the solicitor told me my senior clerk had sold me to him on the basis that I had a great pair of legs'.*

Another said...

*'I do think that there was a lot of sexism about when I was a pupil. I was told by my senior clerk that instead of wearing trouser suits I ought to wear shorter skirts and have lower neck lines because the criminals would talk to each other in prison and they might ask for me next time!'*

Several participants observed:

*'Looking back [comments] were shocking... about dress, about wearing long boots... all considered acceptable, but they shouldn't have been'.*

*'[There was] lots of talking to the chest area. I remember that. Someone put their hand on my knee during dinner and just the shock of it. I didn't say anything'.*

*'I got a hand down the back of my trousers once'.*

One senior practitioner shared her experience of sexual harassment as a pupil, from her pupil supervisor.

*'My second six pupil supervisor came in one Monday morning (my having had a haircut over the weekend) and said you look quite f\*ck-able with your hair like that... He also once said, put your jacket on, I am only human... and... remind me are you a stockings or tights girl...'*

She went on to say, that at that time...

*'...it would have been pointless saying anything to the clubbable world of senior members of [chambers] and that is why I didn't. I really did not and do not believe anyone would have spoken to him, it would have been something about which I was to keep my chin up and head down'.*

Another observed, she had felt...

*'...spoken to and treated less favourably by some male members of colleagues in a way that male pupils were not. I felt I was demeaned by the attitude of some members and felt that I was not always allocated work of the same challenge and quality as male pupils, making it harder to give a good impression.'*

Time and again the issue of knowing how to deal with and securing recourse for harassment or bullying was raised.

*'Between trying to get pupillage and getting pupillage, there was a man in chambers sexually harassing me... there was no way to complain... I think the problem with some chambers is there isn't anyone to complain to, there isn't one specific person whose job it is to sort those kind of problems out, to give encouragement.'*

Bringing thing to the present, some spoke of continuing disrespectful comments.

*'I think that too many men at the Bar feel that they are existing in a children's playground, [they] think they can say grossly disrespectful things because nobody is going to stop them and nothing is going to be said about it.'*

Many seemed to take the view...

*'The Bar, it's a very different world, we're sort of behind the world, in a secret world.'*

One participant talked about the importance and ongoing challenge of after-hours socialising.

*'Going out for a drink is a big issue. As a pupil you learn a lot more having drinks at the end of the day when people are more relaxed and open, willing to chat more and tell you what you should be doing. The difficulty for women in my experience is that unless you can hold your own people will come on to you.'*

There was very little evidence of physical sexual harassment; indeed one participant later observed with respect to sexual harassment...

*'It was heartening to hear the experience of sexual harassment so rarely featured in our discussions.'*

Of course not all experience of pupillage in the past was negative. One participant said...

*'I was the first woman pupil in chambers and there was positive discrimination. They didn't dare let me do tea as they didn't want me to feel discriminated against.'*

### 3.2.4 Support

For some, the support of their pupil supervisor and clerks made a huge difference to their first experience of the Bar.

*'I had a positive experience of pupillage with two excellent pupil supervisors and a friendly team of clerks.'*

Many said things had improved with respect to the support they received from their pupil supervisors.

*'I think pupil supervisors now, whether they are male or not, will generally really fight their pupils' corner. I really think that the tide has turned in recent years, certainly in my chambers'*

Indeed, one senior woman who talked about her past experience of bullying in chambers said she would now step in if she saw someone being treated badly.

*'...I was bullied in pupillage and I put up with it because I felt I had to, but if I saw someone else being treated in the same way I would speak up on their behalf.'*

But some younger participants talked about the challenges that sometimes crop up in such a close relationship where the supervisor was male. They acknowledged it could be difficult for the actions of both pupil and supervisor to not be misconstrued.

*'My second six pupil master had an affair with his pupil when he was in another chambers and married her, so when I was his second six pupil that was always a joke all the way through...'*

*'Often your only point of contact is the pupil supervisor... if you are being looked after you are ok, if not you are on your own'. The men in my chambers are very much 'women stay over there' ...the male pupils... all went to their male supervisors' houses for dinner with their families and I never went to my supervisor's house ...that is really important, in particular chambers it is detrimental to your career and opportunities.'*

Women also talked about their experiences of sponsorship and support. They had mixed experiences. A number had secured a sponsor through their Inn.

*'I took part in my Inn's sponsor programme and got a male sponsor, a bumbling fool who I've not seen since. He said you'll have to do family law; women can only do family law and survive at the bar. I said well I'd like to do criminal law actually. He said: "no hope. I don't know anything about you, I accept that much, but you've got no hope, all women have to do family law".'*

Another said (of her sponsor)

*'I met him once. He didn't even say family law. He just said what on earth are you doing at the Bar? He said it's not a place for a woman.'*

A younger practitioner talked about the lack of support she and her fellow female pupil had had from other women in chambers and across the profession.

*'At the end of our second six we were both taken to one side to say there had been complaints in chambers that both me and the other pupil were too glamorous and this came from the women in chambers.'*

*'A very senior lady, who went on to become a very respected Judge, announced that there was a series of chambers events for solicitors...the pupils were to be given the jobs of handing out the canapés and pouring out the drinks. The boys were to be upstairs meeting the solicitors pouring the drinks and the girls were to be downstairs in the kitchen. The male supervisors immediately dealt with the issue by speaking to her. But of course all that happened was that she loathed us and we really upset a senior silk...it meant that our time was nailed, we were not going to be taken on. In fact that's what happened, we were the only two who didn't get taken on'.*

*'Women aren't always kind to other women, especially when you're starting out. If you're young and a pupil and you've got a senior female member of chambers, they're not always nice to you. It's a bit like they have a Margaret Thatcher attitude of: "I'm going to be the only one here, the only female one here".'*

Generally participants said they would like to see more successful female role models and sponsors at every stage (including while on the BPTC).

*'I had a sponsor; a woman who had done criminal law [she was] lovely and it was inspiring to see a woman who was successful. Even though I wasn't interested in crime, she was generous with her time'.*

### 3.2.5 Other observations

#### a) Conflict between past and current 'ways of working'

A number of participants commented on the current conflict between 'new' ways of working and the more traditional.

*'There are some really good pupil supervisors who will help and support pupils ... [but] I have seen the way [others] speak to pupils and it is shocking. I have spoken up but they think it's the best way people learn, the school of knocks'.*

*'We stick to [new] rules very carefully, [pupils] are not expected to work late in the evening...senior people in chambers who trained when we didn't have them [the rules] complain, there is this feeling you are not teaching these pupils about the real world'.*

#### b) Better preparing all Bar students with business skills

Given the need to improve retention and the challenges of building and maintaining a practice, a number of focus group participants also made observations about the need for more business skills to be incorporated into the BPTC course.

*'Pupils on the whole are very well trained in some aspects but not in business...perhaps the Bar Training course should be more focussed on the opportunities available – direct access, alternative business modelling, going out into the market place'.*



Junior practice

## 3.3 Junior practice

### 3.3.1 Practice area/work allocation

Women talked about how difficult it could be to assert themselves when first starting out in practice.

*'When you start out in chambers for the first few years it is really difficult to assert yourself...you are just expected to be completely keen and do whatever you are asked to do, so it is hard to take ownership of the direction you want your career to go in, so yes... you would be vulnerable to unspoken expectations if there were any'.*

But those that had stood up for themselves confirmed it had not damaged their practice or their relationship with their clerks.

*'I felt quite controlled by my clerks... I had to kind of do what they said, go where they said and then when I got some decent work, I felt like I had to pluck up the courage to say stop sending me to Southend to do a mention I can make a lot more money doing prep on this case... after that things got better, but I had spent years just being pushed from pillar to post doing what I was told'.*

*'I think in a way I spent too many years being made to smile... I came from a generation where I was told when you come to the Bar you cannot refuse anything, you always smile even if you are sent off to the backs of beyond... and if sent to the wrong courts, you always smiled at the clerks. Times have changed. Now I put my foot down... today I was told I've got to go to Nottingham tomorrow and I said no. Everything was fine'.*

*'I once went from Harrow to Barrow, it was crazy. And then I said you know I can't live my life like this anymore I'm going to go into the clerks' room and say look guys I've already done my apprenticeship here you know I've already been everywhere and done everything. So now you've got to cut me some slack...'*

Many women complained about being pushed into certain practice areas, particularly sex cases...

*'I am aware of a number of female friends whose careers have definitely been pushed towards sex cases by their clerks'.*

*'It was my choice to specialise in crime... it was not my choice to specialise in sex cases and my gender is a significant factor in this type of work being sent to me early in my career. Thereafter the perception develops it is your area of expertise and that attracts more work and greater specialisation'.*

*'In crime, there is discriminatory briefing. There is no doubt about that. We don't think women are good enough - but this is self-fulfilling'.*

One said...

*'In some ways I feel I'm stamping my foot and screaming that I want more of a particular type of work and I'm not getting it'.*

Women explained that they were pushed into sex cases by the clerks and solicitors because of the perception that when the jury sees a woman they presume the defendant can't be guilty because otherwise she wouldn't defend him.

Most participants acknowledged women were also pushed into family law.

*'My chambers director asked me repeatedly when he saw me, how's family law going? Despite the fact I have never done family law'.*

*'All our clerks are female and the only thing I notice is that if you are a girl you will be considered for family whether you want to be or not, and I do not. The expectation isn't made for a bloke which can be bad for them if they want to do family'.*

This wasn't everyone's experience. One younger participant said...

*'I guess I can speak as the junior member here...and I don't feel pressured in any way'.*

One senior barrister of more than 25 years' Call talked about her experience.

*'When I joined [my set] I was an expert on personal injury law... however the clerk made it quite clear I was there to do family law and nothing else would do. I fought it but it was a losing battle. Some work would come my way but it accounted for about 10% of what was doing. I resisted family law for some time but it made no difference, if I didn't go and do the cases there would be nothing else.'*

She went on to say...

*'I should have fought harder but the opposition is so insidious (and the rest of life so busy) that in the end it was easier just to accept it and go with the flow... I jumped ship... it has been a revelation! I am doing all the areas of law I want with clerk who is incredible supportive...'*

Senior women participants looking back at their early careers felt clerking, professional and lay clients influenced the push into specific areas of practice.

*'The clerks perpetuated negative stereotypes in which women were perceived as only suitable to do particular types of work'.*

One participant explained how her career had developed...

*'I didn't feel a discriminatory briefing particularly for the first few years with more junior work... There was part of me at 10 and 12 years' call that wanted to resist going down and just being pigeon-holed into sexual offences and then it came to the point where I thought, actually it is going to be the last bit of work the independent Bar does, the money isn't bad compared to other work and [then] you accept your 'sexual' fate and I have done and I am happy with that work now'.*

But she went on to talk about the impact on her wellbeing.

*'You are in 5 day trial cases week after week and doing loads of paperwork preparation for that every single night... and of course it is difficult and emotional as well. We like to pretend that it doesn't get to us you know because we are hard criminal advocates but actually when you combine that level of stress that you are dealing with every day, with a women who is sobbing as she tells you she has been raped...'*

One participant argued that the CPS should publish their statistics, giving transparency over who they brief and for what.

*'Where are the statistics on murders and death by dangerous? How many women are briefed by the prosecution for massive frauds? It is very difficult to challenge defence solicitors on their briefing because if you are getting a rape case from them once a month you don't really want to rock the boat you don't want to start saying 'why do we only get this, the men get all the big drugs cases and the fraud and all the non-female 'emotional cases'.*

One senior woman on a Circuit said:

*'I cannot think of any complex case work [in this area] in any non-sex case where leading counsel was a woman in all the time I have been at the Bar'.*

All participants acknowledged there was still a subtle expectation that women will do family work, whereas men will do civil work. That said, this had not necessarily impacted on everyone's career choices.

We asked if participants felt there was a fair allocation of work; many said yes - but not all. A number felt that clerks thought men needed to earn more and therefore gave them more work, and more lucrative work.

*'I think there is a perception in my chambers about men and women...[with the men] the clerks are packing their diaries full because they have massive mortgages, fast cars and now they have to earn more. One colleague of mine...she's very junior...she had an unfair allocation of work and has been unable to pay the rent and had to move in with her parents with two small children'.*

*'My perception, whether it is right or wrong, is that the new boys do better than new girls in terms of allocation of work'.*

*'I wonder why it is that you know certain young men always seem to be sent to some of the really interesting international application cases that pay a lot and some of the young women always seem to end up in Manchester, or small county court cases'.*

The new BSB rules requiring work allocation were cited as helpful by one participant.

*'We have a reviews [of work] they give us a print out of our own and we can see what we've turned down because we didn't have time, which cases we were put forward for and didn't get. When I looked through mine, there was nothing in it that suggested discrimination'.*

*'I reported my set and made them set up the work monitoring scheme because I felt that the work was being allocated unfairly to the male pupils and the junior male tenants'.*



### 3.3.2 Harassment and discrimination

We asked about any experience of harassment or gender based discrimination. Most participants were able to provide stories from their junior practice in the past, but few were able to cite more recent incidents. Participants explained discrimination can often be difficult to pin down. They were however able to share some of the more blatant examples of discriminatory attitudes towards junior women practitioners.

*'A senior clerk once said...a member of chambers was no longer a proper member of chambers now that she has had a child... I was horrified at the time and dreaded having to tell him I was pregnant'.*

Where clerks were felt to be treating women less favourably, women felt that blame could be placed at the feet of more senior male members of chambers.

*'I feel much depends on the attitudes of clerks... this cannot be blamed on the clerks because in my view their attitude comes from the senior members of chambers'.*

One mentioned the comments women often get on their appearance.

*'I am sure we get more comments when we come in 'in our civvies' than the blokes do. You are a girl, you make more of an effort but in most office environments I don't think you get commented on every day'.*

*'After a few months, people relax and say it is only banter and it so much fun. But it is like that everyday sexism thing, you think: "there is no way you should say that to me"'*

One barrister told us when she challenged a dominant member of chambers over work allocation [which he had taken control of] he said...

*'What are you concerned about, isn't your husband earning?'*

At the time she said she had she felt vulnerable as the member of chambers had been building a successful practice while she had taken time out to have two children. She went on to say that she felt there were no structures available in chambers where she could turn and had eventually voted with her feet. She went on to observe...

*'Proper support structures and properly educated clerks who can be trusted are so essential to conducting our business and [this] is particularly important for woman at the Bar given the time constraints on their marketing abilities'.*

A couple of participants shared their more recent experience of inappropriate comments and banter.

*'When I got my first big fraud in my own name various senior members of chambers... said to me;" oh my god you must be sleeping with the solicitor to get that case"'*

This wasn't an isolated incident. Another at the same focus group said:

*'I've had that as well, as recently as 5/6 years ago. A woman actually. Another woman in chambers'.*



She went on to observe...

*'I don't mind if somebody is going to say to me 'you must be shagging the solicitor to get a brief that good' because in the broad scheme of things I'm not really sleeping with him I don't really care and if I was, who cares? And all the rest of it, but it doesn't alter the fact that they're not saying it to men and it engenders a disrespectful environment'.*

But another made the point...

*'If they had gone into banking it wouldn't be allowed, they behave like they are in a playground where there are no rules, manners don't matter and they get away with it. The more that happens in chambers, the ethos then... clerks aren't stupid they understand that if you can speak to women in that disrespectful manner then it is ok to clerk women disrespectfully'.*

When we discussed what sort of recourse was available, participants said:

*'I think that there is a general reluctance amongst most members of the Bar, never mind pupils, that if they stick their head too far above the parapet, lodging complaints or even registering a difficulty with the Equality and Diversity Officer in chambers, would be something that you would be extremely reluctant to do... I think that there would be a general feeling in chambers that if I complained that they would close ranks and be like, 'who the hell does she think she is?'.*

In work allocation others had a different, and latterly much more positive experience...

*'I am fortunate to have worked with some excellent local solicitors and have never experienced a problem with the people who instruct me'.*

*'We had two clerks, one was very old school and discriminated against women. Our culture has now changed and I think our senior clerk is a bit soft on us, pushes us forward a bit more. We benefit due to his 'paternal' attitude to his 'girls'.*

We asked participants if they believed they earned the same as male colleagues. They didn't know. They did however cite examples of how women who work part-time are disadvantaged by policies regarding their contribution to chambers.

*'Greater chambers expenses come from the first x of your earnings in an attempt to ensure every member pays their equal share of the running costs. This will undoubtedly have an adverse impact on those working part time. Whilst there is some mention of 'working mums' being provided with some dispensation this had not been addressed by way of the policy and was only added after several female members of chambers protested. The term 'working mums' is specifically referenced in the policy and that in itself is indicative of the attitude of some of my male colleagues'.*

### 3.3.3 Support

We asked participants when they had a problem in junior practice who they turned to. The majority said they felt supported by their clerks, and by others at the Bar.

*'A particular female clerk in chambers is really supportive of me and I love her so much - she it makes all the difference because she gets it and she is emotionally supportive and she can tell if I walk through the door if my stress levels are up to here and if I need to book time out'.*

*'I turn to colleagues and friends'.*

When asked who had a positive impact on their career, participants talked about pupil supervisors, clerks and older solicitors, leaders and opponents within the profession.

*'You definitely cannot underestimate support from members of the Bar. I think my choices have always been influenced by senior members of the Bar or people in chambers who were prepared, regardless of their sex, to put in a little bit of time to assist you, whether it's with a court case at a level that you've not done, or going before judges...'*

But one said *'...largely myself'.*

In fact, many acknowledged they felt *'...very much on their own'.*

Another participant said that it occurred to her that women who were high achievers all had men as mentors and sponsors. She also wondered whether certain women were perceived to 'fit in' better...

*'Is there an acceptable 'Woman at the Bar' that certain men will encourage and support?'*

She also observed...

*'I think the 'lucky' women have the common feature of being in good sets with decent support who perhaps took an economic view as to the value of women'.*

The lack of role models was identified as limiting empowerment.

*'You don't have the same number of examples of women at the Bar who have a balanced life and are happy whereas there are lots of examples of men...'*

One observed that not once in her focus group had she heard anyone say they had been encouraged or mentored by a leading woman and wondered if that was because there were fewer of them or they were less powerful.

We asked if women helped junior women at the Bar and the response was mixed. Some commented...

*'More senior women have made it themselves by being tough in historic circumstances and they can be the worst enemy of more female behaviours or views at the Bar'.*

*'There are some senior women who are worse than the men because they behave like the men. They are so unforgiving'.*

*'You sit there cowering thinking how are we ever going to get around this until we are both more understanding and compassionate about people and especially at the top'.*

On the other hand, others said:

*'A female colleague...enormously improved my self-confidence when I was contemplating having children'.*

One senior woman talked about how she tries to help other junior women on her circuit. She explained she had a document on how she makes it work that she shares with others.

Another said...

*'I definitely try to help other younger women in our chambers. I introduce them to solicitors who I work for and try and get them cases or put them on committees'.*



### 3.3.4 Work/life balance and family life

Much of the discussions during focus groups focussed on the challenges facing mothers at the bar. So much so that one participant later observed...

*'I think it is important to ensure that gender issues are not conflated with the parenting/carer issues all the time, though of course they regularly stand and fall together'.*

When we asked about the impact of children or caring responsibilities, responses included...

*'Trying to combine children with a career at the Bar is incredibly difficult, and stressful. The reality is that this profession is simply not set up for working mothers, unless they have a partner who elects to take on the home maker role. But if both partners work, it is really hard; and also expensive as full-time childcare is necessary. It is also difficult emotionally'.*

*'I know my career dropped a bit when I had children, as I simply wasn't able to put in the hours that I had before. As a consequence I felt I was neither doing my job well, nor being a good mother. I still do sometimes'.*

*'Having children has restricted my ability to accept work that would require me being away from home and means working long hours after they have gone to bed. I also think the need to get home at a reasonable hour inhibits the after-work networking'.*

*'A very good friend of mine who is a primary carer can't travel, she doesn't go to hotels, therefore she doesn't get the junior murder briefs or the long trials and therefore she doesn't get pushed into applying to be a Recorder. It just seems to really stall a lot of women that have to do this, a lot of exhaustive juggling'.*

*'My income has pretty much halved since having a child'.*

One said that it was still more palatable to tell her clerk that she was going for a haircut than if she's got a nanny crisis.

What was particularly worrying was the comments of younger participants who expected to be the primary carer for their children and could not see how they could maintain their career and fulfil that role. On this basis they did not therefore see that they had a long term future at the Bar.

*'My male Bar friends ring up my female Bar friends, sometimes we speak about what we're going to do in 5 years' time? [I think] I can't retain this practice now... what's going to happen when we have children... it's going to be a nightmare... I say that quite a lot with my female friends and I'm 28 and in 5 years it will become an issue, my male friends probably never even think about it'.*

One participant commented...

*'I've had a housekeeper, there's no way I could have continued without back up, there's no way I could continue at the Bar without help or some sort of childcare "insurance".'.*

*'Even women who have taken substantial career breaks of 10 years and come back, they've kids at secondary school, and it still doesn't work for them'.*

One mother talked about how she made her career work for her, but she acknowledged doing this takes confidence.

*'When I went back I said 'I work Leeds, don't do late conferences, I don't work anywhere else, block book time-off and I will be booking off the whole week to make a sports day etc. and they said "brilliant we would rather have you than not "and that has now been set for all the women'.*

Many observed it had got harder to balance work and a family. Barristers were expected to do more for less money whilst childcare costs had increased.

*'The job is simply not compatible with motherhood. You miss so much, and it is so difficult to arrange basic things like parent/teacher meetings, doctor and dentist appointments around a court day. Childcare is also very expensive and with our fees dropping the stress of trying to juggle everything with the job is simply not worth it'.*

*'[When I had young children] there was much less pressure than there is now in terms of what the barrister has to do. Nowadays you have to turn up to court with you position statement, draft the order afterwards and write an attendance note for the solicitors. None of this was needed when I started -we even had time for lunch most days! The pressure the senior judiciary is putting on the Bar in this way is very difficult for those juggling carers and family'.*

*'I remain of the view that in order to be successful at the Bar whether it be through getting good cases, developing your skills and knowledge rising through the ranks, the job always has to come first and inevitably therefore to the exclusion of almost everything else... the perks of the profession used to exist... flexibility and decent remuneration for challenging work are being eroded all the time, so whilst in theory it should be parent friendly in reality every mother I know who doesn't have a full time five day a week nanny is stressed, dissatisfied and disillusioned. And how many of us can afford a full time nanny? Very, very few.'*

One focus group participant observed later in an email:

*'Any parent who seeks to spend a lot of time with their children will inevitably sacrifice to some degree their professional advancement at least in the short term. I think we have to accept that as a reality. That is not to say that people can't progress when they return but there is a clear choice that has to be made... personally I always recognised that choice and accepted that position. That has not meant I have not enjoyed my career simply that I have not progressed as I might have done otherwise. I do not hold the profession or my male counterparts in any way responsible for this and feel it would be entirely unjust to do so.'*

One participant observed:

*'My husband is a primary carer for our children and I came back to work very quickly, it was my own choice... I'd like to go and find all the young women starting at Bar school and just tell them to think very carefully about who they marry.'*

The problem of inflexible childcare came up frequently.

*'Childcare is prohibitively expensive and the nature of my practice means that I work very irregular hours. I'm loath to pay childcare that I don't need but most nurseries and child minders need you to be specific about which days you require.'*

It was also generally agreed that it was easier for women if they establish their careers and increased their earning capacity and position in chambers first before having children and that women at the Bar tended to have their children later.

*'[Childcare] ...is fine when you've reached a certain level, I'm sure that is why women at the Bar tend to have children later.'*

Women participants said the difficulties with juggling childcare and working in the profession have become greater with income cuts across the publicly funded bar, specifically cost of childcare vs. earning capacity.

*'The income from criminal bar work at my level of working short weeks [3 days] is limited, if I had to work set days to fit in with childcare there are many weeks where I would not have earned enough to cover the childcare costs.'*

Women also talked about how they felt they were perceived in chambers once they became mothers.

*'I often feel I am not seen as committed as many (males) because I do not attend all the socials/talks etc. or work late in chambers due to my childcare responsibilities.'*

And their frustrations in trying to continue to be involved in chambers' life.

*'Most chambers meetings are at 5pm because people are in court all day which is understandable but does make it difficult for someone who has to collect a child by 6pm.'*

Women talked about the financial and other pressures on them to return to work, for many earlier than they would have liked.

*'I went back to work when [my baby] was 4 months old because of finances. My chambers does have a maternity benefit policy which is £10,000 credit off chambers fees when you return to work following a period of maternity leave. Whilst generous in some respects this is not adequate to support a family during the time in which you are not actually working.'*

*'I felt pressured to return to work quickly after both children (taking 4 months of only) for financial reasons and to try to ensure I did not lose my practice.'*

They talked about the attitude of colleagues before and after their return.

*'No allowance was made... for the fact one was pregnant, had a small child and the requirements of family life.'*

*'I found it difficult to return to work after maternity and to raise issues about work distribution without chambers being defensive and suggesting it would not be an issue had I not taken time of or made myself available.'*

*'Everyone feels a lot of support from clerks, [those who choose to have a career break find] clerks flexible across the board. What people feel is a lack of support [from] male barristers. In fact people think the male barristers in chambers would prefer women to take a prolonged career break rather than actually come back part time.'*

They also talked about the difference between men and women both practising with shared caring responsibilities.

*'One woman in my chambers, she is a family barrister and her husband is a criminal barrister, and the husband will say 'I've got work to do darling... and she'll say you are forgetting I do the same job as you' ...for the woman she has to drop the kids off a school, get the kids ready and be at court (usually flapping and harassed) because of all she had to do in the morning and the men have sailed in...'*

While participants welcomed the flexible nature (in some practice areas) of working at the Bar they talked about the reality. One observed:

*'I know you can work around children, because you can work in your own time, but the problem with that is you seem to be exhausted because of the child and are too tired to do the work.'*

We asked participants why they thought a low proportion of women return to work after becoming a parent. The role of women as primary carers was implicit in their responses. They said:

*'The workload and pattern of practice at the Bar is very difficult to combine with childcare responsibilities... weekend working is unavoidable, evening work is unavoidable. There is also the problem that many male members of the Bar are able to put work first so you are competing on an unequal footing.'*

*'It is hard: attitudes, unpredictability of work levels, travel commitments, stress, and the level of support, financial issues (unpredictable earnings and high outgoings)'.*

*'I have heard accounts of clerks not being very accommodating to women wishing to work part time or being unwilling to travel away from home'.*

*'The cost of childcare can outweigh what you can earn at the criminal bar'.*

A number of the more junior practitioners said they could not see a future and a family at the self-employed Bar.

*'I think if I am going to realistically have children in the next 5 years, should I look for an employed position now? And then maybe be employed for a couple of years, have my children and then come back to the bar and take advantage of what is fair and provided in the employed sphere that is not provided in the self-employed sphere'.*

Income emerged as a major barrier to those returning to work. One observed the very nature of self-employment, something so many participants loved about the Bar was in fact a major barrier to work/ family life.

*'Remuneration was a real issue with no maternity leave payments beyond the statutory and the habitual delay in payment that barristers work under it was going to be challenging to pay up front for childcare (with no option of child tax credit at the Bar)'.*

*'Remuneration is a huge barrier to women returning to the Bar, as well as the childcare, we have to pay extraordinary amounts on books, training and development- these are not on a pro rata basis. In employed positions good companies back individuals and their development and bend over backwards to retain women. The Bar as a whole just presumes we can carry on as we did before'.*

A family practitioner talked about her own experience:

*'The work [family law] doesn't come in a 2 day format. You can't predict what day your case will be listed for trial so theoretically you have to be available all week. We used a nursery which so I had very little flexibility. This was stressful. The first thing I had to worry about when a brief came in was what to do with my child – call on grandparents [hundreds of miles away] / plead with husband to take time off (silly because his hourly rate was better than mine) or give it to someone else (which would irritate clerks, solicitors and clients and put an end to that stream of work anyway); it was very emotional and draining; unpredictable finish times – because of the importance of the issues family judges tend to sit late which can 'wreak havoc' with childcare – nurseries fine £15 per five minutes after 6pm...'*

One joked:

*'We women often joke about needing a wife for success at the Bar, the successful man we imagine tend to be the ones with a wife in a supporting role who does kids/shirts/household management/hosts drinks parties. They certainly aren't packing the swimming bags and following up on play dates at the door to the court as female parents are.'.*

### 3.3.5 Other observations

- a) Type of practice area
- b) Chambers' culture
- c) Working with clerks
- d) Confidence
- e) Secondments
- f) Marketing and networking
- g) Impact of BSB rules
- h) Experience of judges
- i) Pessimism over the future

#### a) Type of practice area

There was some discussion about the difference in experience based on which practice area a woman worked in, where some practice areas make it easier to combine work and a primary carer role (i.e. a paperwork practice is easier than a court-based practice).

One participant who had a paper based practice said (of those struggling with balancing work and family life):

*'I suspect [problems are] more the case in other areas of work, particularly crime where it may be less easy to accommodate part time working or flexible working'.*

Despite this, one made an observation about the absence of female applicants in commercial and other practice areas.

*'I was mentoring a lady the other day who was applying to commercial sets...[she said] most of the interviews she went to were predominantly men in the waiting room and she didn't know whether if that was typical'.*

One barrister in the construction area said...

*'...we would love to take more women on, but we do have an issue with [a lack of] women applying to the construction field'.*



Linked to this, another observed she had recently attended a career break seminar and that:

*'There was a gentlemen there from the construction Bar... and he said why you don't work for the construction Bar because we work much more from chambers, we don't have to go court as much, we get paid a great deal more and generally speaking there are a number of things, which make it easier to manage family life. He was fascinated that less women want to go to the construction Bar because it would potentially be a great deal easier to stay at the construction Bar than it is to stay at the publicly funded Bar.'*

## b) Chambers' culture

Women's experience was heavily influenced by their individual chambers. This manifested itself in how comfortable they felt in making a complaint, expressing their views, how pressured they felt to return to work and how easily flexible working was accommodated.

*'It is a bit false to say [we're] self-employed because you are clearly at the mercy of institutions and communities [e.g. chambers]'*.

*'I think one of difficulties as a self-employed person is that [your experience/opportunities] is so specific to the environment that you have your job in'.*

The impact of different chambers on a woman barrister's experience was universally recognised. A number had very positive experiences of their chambers.

*'I have had three children which involved two maternity leaves from the Bar and I taught in between. I then came back to chambers and I have been able to do all of that without any complaints... I think one of the reasons I have come back is because of my chambers and how supportive they have been'.*

*'For me the Bar has been a great profession. I think it is because of the nature of my practice, earning a relatively good amount and the very positive environment in my chambers... but I know that for many at the Bar the situation is much more difficult'.*

Participants' shared specific examples of how their chambers accommodated them, particularly with respect to rent relief and flexible working.

*'Our chambers has a return to work policy where people pay very little until they are almost back at the average of their earnings in the 3 years before they left. That is designed to help people to get back to work'.*

*'We have a policy where people don't pay rent or a percentage until they reach a certain level in earnings and there is real encouragement for the clerk to make sure they are given the same amount of work as everyone else even if they have had a career break'.*

*'I only took a short break... but I could have taken longer as we have a generous maternity policy. I returned to work part time and worked part time for a couple of years, which the clerks were able to accommodate. In the long term this has had no significant impact on my career'.*

For some, a negative experience in their first chambers had triggered a move, or they were able to cite examples of other women who had moved as a result of their chambers' policies.

*'I was aware of other chambers which were more accommodating and supportive so found it easier to simply apply elsewhere and move on'.*

*'For the value of £4k which is what it would have cost us (a bit of goodwill) we could have kept a woman who left. She joined a competitor. It was short-sighted and still annoys me'.*



After one focus group at which there was an extensive discussion amongst participants who felt many women found their chambers actively discouraged them from working part time because of the impact on chambers' 'bottom line', one participant felt moved to email the following

*'I was dismayed to hear how pressured so many of the young women feel to perform financially for their chambers. Certainly I never felt such pressure. If there are a number of women working part time and therefore taking up commensurately less of the clerks time and have less need of a fixed desk in chambers then I cannot see why this cannot be recognised as a perfectly legitimate way to work. I want to re-iterate that the profession will not retain women in any sort of number if they can't work part time'.*

The lack of redress for unfair treatment within chambers, and the perceived impact of complaining came up on a number of occasions.

*'Complaining to anyone felt completely out of the question as it would have made me look weak, when I am supposed to be so tough (heels of steel)'.*

One participant pointed out:

*'My chambers are so desperate to have and maintain women that we tend to be a valued minority'.*

Whilst all participants agreed that chambers had a huge impact on their experience they acknowledged in reality choosing chambers on the basis of how woman/family friendly they were wasn't really an option given the competition for places.

Participants discussed attitudes towards women more generally.

*'Quite a few male barristers will describe women as 'goby' because they want someone who is charming and ladylike'.*

*'Four people in the last couple of months went off on maternity leave, they've all returned... [the clerks] have been very supportive...it was the men that were more difficult'.*

Many felt the attitude of their male contemporaries changed over time; where the more time they spent at the Bar, the more they appeared influenced by the attitudes of the older generation towards woman.

*'My concern with [sexist attitudes] is it carries on through the generations, junior, silk to judge. We need to stop it now. The boys in my chambers I look at them and think I don't think they are like it when they join...'*

*'In our year of pupils everyone was approachable, open and had quite an idealistic view of it... and it is only as you creep along the life line and natural things happen that you see the divide opening up... because biologically there is obviously a difference... [the men] they look to the senior people [and] hear what they are saying and adopt their views which they wouldn't necessarily have had when they entered the profession and not only are they adopting their view because they ... want to pay less or are being more competitive ... likewise they are adopting the views of those who are very powerful and very influential, very successful - to all intents and purpose they look like great views'.*

One, on a circuit suggested there was a difference between those practising in London and elsewhere.

*'I think the difference between circuits and London, is the circuit is smaller ...it means certain views get embedded and shared more'.*

Women talked about the challenge of discussing policies that affect them at a chambers level. They said it was difficult because it was so personal and they would prefer greater clarity on what chambers can and can't do.

One explained her dilemma.

*'It is so hard to make it fair because you will have men who are able to work more full weeks for all their career who feel like they are contributing more and have said we are subsidising the women who want to go part time... They may be short sighted but that is not the argument they want to run at that point because it is not helpful financially'.*

Another said...

*'I am inexperienced in ways of the job and I am a female and I am young and they might think well you are biased...it is a stressful and emotional topic to discuss. When you are up against very experienced advocates [by the nature of their job] who are able to dispassionately argue something that makes perfect sense it makes my blood boil. I know it is wrong but I can't quite put my finger on why... and three days later I think that is it, that is what I should have said and it is too late'.*

She went on to say:

*'If you have some guidance laid down with minimum expectations which at the very least are the minimum that should be maintained within each chambers... that is something to work off and have chambers meetings on the back of it. It gives people like me, who might feel a little bit less confident in voicing or able to voice my opinions the opportunity to use it as an opportunity'.*

Others observed:

*'In terms of the management of chambers I think everyone would agree that it inevitably becomes more male as time goes on because we [women] go home and pick the kids up from wherever and meetings are always at 6.30pm and go on until 8pm ... it doesn't help progression because the opportunity to express views on an equal platform is very rare...'*

*'It is a boy's club'.*

*'[Even] at 20 years call it takes a lot of courage to speak out in meetings. I do now, but didn't when I was younger. It sounds ridiculous to someone... we are all barristers, we are all strong women, what is really important [is] you need to have chamber's meetings where you start and you go round the table and everyone speaks and no one interrupts. I don't know whether that is a male or female thing or it is personality... but it is really important'.*

*'[At the Bar] it is a big problem, the lack of women with sufficient seniority'.*

Women also talked about their non-financial contribution to chambers; stressing their 'public spirit,' non-monetary contribution to chambers is often under-valued.

*'Frankly women's contribution to chambers is massive. We have hardly any women in chambers but you wouldn't know it you were in any committee, the women were very involved and just got things done'.*

### c) Working with clerks

Possibly the most important relationship at the Bar is between a barrister and their clerk. One participant summed it up.

*'Clerks are key; if the clerks take you seriously they you get work, you get confidence, you get a reputation and everyone else in chambers follows suit...'*

During the focus groups we explored this the different ways participants felt they were treated to their clerks, and whether the gender of the clerk had any impact.

*'I have identified the reasons why women do not progress and leave, and one is the way she [the clerk] favours the men so much... I've tried everything...I've tried to be hard, I've tried to be kind, I ask if she wants a coffee... she has never accepted a coffee from me... Another male barrister [in his first week] offers a coffee and she had it from him'.*

Another said she had a different problem with her clerk:

*'She is so sweet to me and I feel doesn't take me professionally'.*

*'In my chambers I have female clerks who treat senior men in chambers with an air of professionalism but when the female clerks talk to me they are like are 'ooh, how's it going?' I don't mind but is it at the expense of being treated like a professional person? I do the same job'.*



One shared her experience, she said that in order to develop her practice in the area she wanted she had a formal meeting with her clerks.

*'I took it out of the clerks' room ... in a conference room and I was more formal it to clearly set the parameters of the conversation and that my aspirations would be clear'.*

But she acknowledged it was still too early to be able to know if it had made much difference.

Examples of how clerks had helped and supported participants were also shared.

*'I had some good personal advice...to get the childcare right from a senior clerk. At the time I was a bit affronted but he was completely right. The conversation made me realise he would be there to support me if I did what he was suggesting'.*

*'My clerks are 'mind-blowingly' good. We haven't lost a senior women from our set actually and I think it is because of the clerking to an extent. My clerks have never once made me feel bad ...I say to them you have to return that two week trial because I have the nativity on Wednesday and they will say quite right, good for you they is not one hint of negativity about it'.*

Reassuringly, one criminal barrister observed:

*'My chambers give quite a lot of support to women who take maternity leave, more than half the junior members of chambers are women and the clerks are not going to discriminate against them They are going to give work to anyone who can do it and I think there is far less problems from the solicitors too... I think the world had changed quite radically in the last few years'.*

Linked to clerking, there was some discussion over how women are marketed in chambers. Many felt that the men were positioned as dynamic and the women as friendly and approachable. This perpetuated stereotypes.

One talked about her experience as a silk.

*'...I know that my Senior Clerk has said to another silk in chambers that he doesn't know how to market what he describes as a: "glamorous female silk"'*

#### **d) Confidence**

Nearly all participants said they thought they were less confident than their male colleagues.

*'Women suffer 'imposter syndrome' ...I think this goes on amongst men but I think they are better hiding it'.*

*'I found a lot of women at the Bar have self-confidence issues, but I don't know any men...'*

*'I think I feel less confident than my male colleagues'.*

When we probed this, one said it was because...

*'I have less time to prepare and more on my mind at all times'.*

Another suggested...

*'Women are much more likely to experience self-doubt and say so – if men feel it they rarely express it. On the whole I think women lack confidence more than men and this is inhibiting'.*

Participants talked about how their confidence can be systematically undermined. One explained she had written a book about personal injury law in an attempt at getting more work in her preferred area of practice, and the response from chambers had been...

*'What if it is full of mistakes – who will correct them?'*

One younger participant talked about how she could see her own confidence being eroded over time in her current environment, and how it might impact on her ambitions.

*'If it continues in the same way as now and I am still in chambers in 10-15 years and I had to hear as often as I hear... how good the two boys are and there is no mention of how good the women are... then that would probably affect my confidence in 10-15 years, because you are so used to being ignored'.*

One area of particular area of concern to Bar Council was highlighted in one participant's story. She talked about the impact that her practice and loss of confidence had had on her mental health.

*'I began to get panicky about going to court about the content of the work I was doing, about what people thought of me in chambers, about whether I was pulling my weight. I began to lose confidence in my abilities and avoided doing seminars and avoided going to court. I began to get panic attacks. Unfortunately it is difficult at the Bar when you feel like this. There is no Human Resource service or occupational health available...'*

#### e) Secondments

There was some discussion on the use of secondments to help self-employed women barristers stay in practice between having children or in the early years of having children. Some had experienced little support when adopting this as their own strategy to stay in practice, but there was a feeling that taking up secondments was increasingly being recognised and supported as a good option for women at critical points in their careers.

*'No one was supportive of the secondment that I went to with the CPS. They thought it was a waste of time, they thought it was a jolly, didn't think it would be useful at all... now they are supportive...one person has just gone on secondment and two others are about to... [when I did it] there was a lot to talk about... how could I even apply for it without even telling anybody... and it was something that I should have consulted the powers to be on about my own career'*

#### f) Marketing and networking

The current challenges and issues around marketing and networking came up time and again.

*'[If] you choose not to spend every evening socialising with solicitors because you have a family to come back to...the Bar is a difficult place because that is where a lot of the marketing goes on'*

One of the main issues was that out-of-hours networking conflicts with women's caring responsibilities.

*'Babysitting fees are pretty steep, so unless you've got a husband who is at home a lot and is able to be that flexible, it's quite difficult to continually maintain good links with solicitors to make work you own, particularly if you've been away from practice to have a baby and try to come back to try and reconnect'*

*'A lot of what we do now is taking solicitors out to lunch, going out for drinks and dinners etc., several evenings a week there can be things going on...it is challenging if you have children'*

Younger women shared other challenges they faced in networking. One commercial lawyer talked about her experience:

*'There is a potential danger for genuine marketing attempts by women to be misinterpreted by male solicitors. I find I am much more comfortable asking a woman solicitor for lunch or a drink. I wouldn't do that with a male colleague unless I knew him very well or others were going. I feel I am holding myself back because I am single. I feel cautious about making suggestions than I would otherwise. I think there are challenges for women marketing their business to compete with men for that reason'*

*'A male colleague wouldn't hesitate to get in there to charm a solicitor up and it's a sort of "blokes" culture... going out for beers, football matches...a friend of mine said the female pupils were very recently excluded from going to football and boxing matches that the clerks took the solicitors to as they were not perceived to fit in with this lifestyle'*

*'My problem is speaking to a male solicitor for half an hour about the work he does, then he suddenly starts talking about his wife and you just think, don't flatter yourself!'*

*'I am aware of lots of evenings where some of the men are taking male solicitors, or their building contractor [lay] clients, to places I wouldn't want to go -strip clubs etc. and that is the thing I find really upsetting'*

*'A friend of mine at the construction bar in her pupillage was out with a group of people and they ended up at Stringfellows and it didn't occur to the men this would be uncomfortable for a female pupil'*

Participants expressed frustration at the ease with which men were perceived to network both in and outside chambers. One observed...

*'They get many more chances to integrate vertically in chambers'*



Participants discussed potential solutions. Some said their chambers had tried 'women only' networking events, but had a mixed experience.

One said...

*'We have lots of women's events; several events a year with just women solicitors and just the female barristers'*

But another said:

*'We tried that. It was cringe worthy. It really didn't work'.*

Another had the same experience.

*'The boys ripped the piss. They left for the evening and made comments like... it's the 'WI' this evening isn't it. Things like that just fall flat'.*

The subject of networking came up. One participant said:

*'One of the problems is our capacity to network as a group of women... The solicitors now have a women lawyers' group... I have been to one and haven't seen a barrister there. People are scared about doing it because it is a proactively feminist thing to do, and then you get labelled as a feminist'.*

She went on to say:

*'People comment... they say, you are going to the women's event... they can't see going to the cricket together every week is their 'man' event or when you go to the pub together and don't invite the women...they don't even think about it. They do things all the time together'.*

One talked about her concern about colleagues even knowing she had attended this focus group. She said:

*'I was slightly embarrassed to say I was coming here today. I was thinking people in my chambers would be:"oh right yeah" ... and I was thinking this is quite an open and accommodating chambers but still I am thinking this'.*

*'They think you are an angry woman coming to talk to other angry women'.*

Others shared more positive experiences of women's networking.

*'We have an active thing with the ladies in my chambers. When I first started I arranged monthly girls' drinks and also a monthly end of month drinks in chambers and that has continued. The ladies' drinks now happen bi-monthly and we all go out for dinner. It needs someone to [run it] and make effort. We had a chat recently and decided to arrange something for solicitors and do a marketing event... It was a really nice evening, a fashion show with some champagne. So many solicitors said they loved being invited to something like that when so many invitations are for golf days, and are all the same'.*

*'I had golf lessons for 5 years when I was younger, I can play golf. I don't want to play golf every month. It was interesting to speak to female solicitors who felt they didn't have so many things to go to'.*

*'One firm did a breakfast club for ladies. I raised that at the last meeting in chambers and it seemed to go down quite well'.*

Some older and more established women acknowledged they could do more to support younger female colleagues with networking, but observed that this often meant a choice between helping younger colleagues and seeing their own children; and that seeing their own children usually won.

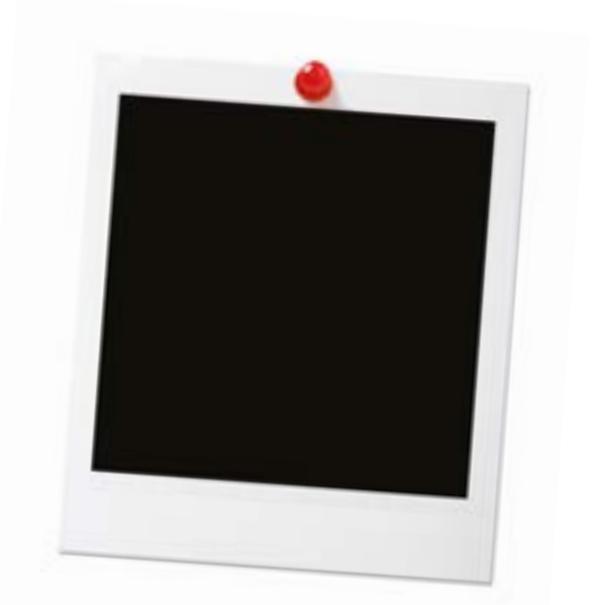
## g) Impact of BSB rules

We specifically asked about the impact of the BSB's Equality and Diversity rules. Most thought their chambers' Equality and Diversity policies met their needs. But one observed:

*'The difficulty is not really policy but practice'.*

And that:

*'The problem is implementation and enforcement'.*



Most felt the introduction of the BSB's Equality and Diversity Code/Rules and the introduction of Equality and Diversity policies in chambers had helped. They also referred to the benefits of training clerks in equality and diversity.

*'My chambers is very aware of the issues and is very conscious of equality and diversity...'*

*'I think my chambers has a good, workable policy in place and they have been very good to me and enabled me to stay at the Bar after having a family'.*

*'There is a high level of awareness of potentially discriminatory attitudes and practices. I believe chambers addresses these issues and have not picked up on any suggestion to the contrary from junior members of chambers'.*

There was however particular frustration around the issue of flexible working policy and practice.

*'It is useless, virtually non-existent. We need a part-time working policy to provide women and men with the confidence to work and care for their children'.*

*'So few chambers have published part-time working policies... without policies the individual is left with the daunting task of approaching the head of chambers or senior clerk in order to try and negotiate part-time work'.*

## h) Experience of judges

*'When I started at the Bar the standard time for hearings to be listed would be 10.30am, so you'd get to court for 9.30am whereas in the last 5 years that has gradually been encroached upon...they often list cases at 9 in the morning and even 8.30am and if you have to factor in getting your child to school and then getting to court... you can't do it... at one point I mentioned that to a judge... then he will forget [and do the same again]'.*

*'I asked to rise at 4pm so I could take my son to the doctors and [the judge] was absolutely fine about it'.*



One went on to comment:

*'It is good that they are fine, but isn't it sad that it means so much when they are nice about it... that it may be perfectly within their rights to say no and then the difficulties that impact on you and your role as a mother... how are you meant to navigate that and that is an everyday struggle'.*

## i) Pessimism over the future

For those in publicly funded practice there was huge concern over the future.

*'In the last year in our chambers four young women have left and gone to the employed Bar'.*

*Three of my best friends who are around 30 who are just about to get married and obviously want to have children, have gone... I haven't asked them why but I know exactly why, it's because they want to have children and they can't take paid maternity leave.... The public will miss out on their talent and it's just dreadful...'*

One criminal practitioner said...

*'We cannot keep thinking [gender] progression will happen and it is only a matter of time which is all we've been told for decades. When I came to the bar 17 years ago, we had 50% women coming to the Bar and more. I look around now at the women of my level of call... in Leeds there is probably not more than a dozen, maybe two dozen. It is absolutely tiny. I'd say most sets of criminal chambers would be able to pick out 2 or 3 [senior women]...'*

Many women feared for the future of women in the profession, particularly in crime.

*'I have seen significant progress in the time I have been at the Bar and I do not recognise the criminal Bar that I joined to the Bar that women join now from the point of view of discrimination. However the demands of work at a more senior level now are not compatible with what most women will want from their job and if the present trends continue I think women will leave or be repelled from crime in their droves. Most of my contemporaries are already planning their exit strategies and my younger colleagues see no appeal in pursuing a successful career if it means living the life they see us leading'.*

*'Women are particularly vulnerable as competition gets fiercer with the continuation of difficult economic conditions'.*

*'We have lost a lot of women, women who have got choices because their partner can afford to look after them'.*

One woman talked about the effect of the downgrading of the whole of the criminal justice system and funding. She said:

*'I always structured my practice to accept there is no flexibility in terms of part-time working in crime ...in terms of your daily week i.e. you cannot take Wednesdays off or you will never do a trial...but that you can ...block book time off, block book the summer, block book the Easter holidays and that was fine but as our fees have gone down dramatically it has made it very difficult to justify working two thirds of the year. If your lifestyle is set up in that particular way ...the limited flexibility that you had in crime has gone through the pressures of finance'.*

One said as well as income falling, the work has got harder.

*'Without solicitors sat behind us for trial... I [now] have to get to work earlier to deal with the defendant ...I have to work later at night to send a note on every single case I ever do to the solicitor. So in terms of my daily work it has become much harder... [the] increased the work load, and reduced the hourly rate that I am essentially on [means] ... you have to work every night after the kids are in bed... that additional work isn't combined with financial reward and that is unsustainable'.*

*'The women I know have left because they look and think 'I have to get childcare even when I know they are at secondary school ...I don't have the time to do their homework with them ...I don't get very much and our lives are pretty crap'.*

*'Most of the women I know at the senior level have got kids and most of them are at breaking point'.*

*'A lot of barristers marry barristers and it is very difficult making it work really and I think often the woman's practice ends up taking second fiddle to the husband's'.*

*'[Fee cuts are particularly] discriminatory for women doing this job, [when you] take into account [you now] can't afford to take the time off; can't afford the childcare. People say in chambers [they] go to court and pay for childcare and get £80 for the day...'*

One newly qualified criminal practitioner said:

*'I am one of three girls who are taking a sabbatical ...another girl has moved to an employed position ...for me I am just questioning is the job right for me. Am I going to work this hard, this long hours, for this amount of money?'*

She went on to explain:

*I have to do stuff because the CPS is no longer resourced or able to do what needs to be done... defence solicitors earn less so they do less... barristers [are] doing so much more... carrying so much more because they are the end users and we go before judge and have professional responsibilities and pride, so you question: is it worth it?'*

One said:

*'Some juniors are going because they can start a new career, they think "I am young, I have enough have energy"... junior women [in particular] because men get good cases and men don't have the possible hiccups that women face?'*

*'Juniors in my chambers (both women and men) who come into my chambers to do crime are now choosing to drop crime. Crime is a specific problematic area right now.'*



### 3.3.6 Bar Council assistance

Many women told us that they found the process of taking part in a focus group, and discussing their experience at the Bar with other women was a very positive experience.

We asked what more could practically be done to support women, and participants said mainly financial support on return after a career break/having a family and in the education of clerks and other members of the Bar.

*'Things have improved, but there is room for more improvement. I was rent free when I was on maternity leave but actually what you need is more financial support for when you come in.'*

*'Clerks are not as in the 'dark age' as they once were, but there is room for improvement...'*

Any assistance with childcare was seen as positive.

*'I thought the Bar Nursery was great, but it appeared too late for me.'*

When we asked what more Bar Council could do to improve its support, they said:

*'The Bar Council should support women more... there are more women on the ground now who are capable of going out and standing up against the men, it is just we have to individually at the moment and that is too scary...'*

Specifically, they suggested:

- Mediation when you fall out with chambers
- Lobbying for tax changes

*'We need to go back to being taxed on receipts rather than billed income. When I had my second child I took eight months off. My tax bill that year was significantly more than I received in fees – it nearly broke me.'*

- Lobbying for childcare
- Offering opportunities (a forum) to identify barriers and debate solutions for women's retention and progression at the Bar

*'It would be good to have [another] focus group concentrating on how we can reform it all.'*

- Mentoring

*'For me, mentoring was good in terms of carving out your career, coaching is good for working on confidence etc. [it may be] nothing to do with your career [it] may be on the pupil/supervisor relationship, ...talking to someone not even in profession, working through problems not necessarily about your career path but about growing you as a person.'*



# Silk and Judicial Appointment

## 3.4 Silk and judicial appointment

### 3.4.1 Recruitment

Some of those in publicly funded practice said they had been discouraged from applying for Silk by their clerks, who told them there were too many Silks and that the work falls away afterwards.

*'I was ready for it. Most colleagues who know me well encouraged me. My senior clerk and others discouraged me – not because they didn't think I was good enough but because of the current state of the criminal bar.'*

For both Silk and Judicial appointment, asking for a large number of referees was seen as unhelpful to women. One said:

*'I never socialise/do drinks/dinners/clubs so would feel awkward to ask people such as judges to be a referee.'*

*'...if your practice is not usually trial based, the chance of having been in front of a high court judge 10 times in 2 years is slim.'*

While the reference requirements stated above are not a current requirement for a Silk application, the fact that many still clearly think this is a requirement and exclude themselves from the recruitment process on this basis is a potentially useful finding.

Participants discussed barriers to progression, particularly the fact that there are fewer women and that their experience doesn't tend to be as good as men who have not taken a career break.

*'There are more senior people with appropriate experience to [apply for] silk, sadly people think about taking silk in their 40s, many women have gone by then or are just coming back to the profession from career break so that is a hindrance.'*

*'I think there is just the general hindrance if you have taken a career break you won't have had the same experiences that those who are your peers and who are male will have had. Not only do the men have those extra years on you, but because there is a fall out of women, then the competition for the work that is there means that they often get the good work and for a few they can sweep in and clean up a little bit...'*

When we asked about the application process, they said...

*'It was much less unpleasant than I thought it would be. I found the process very fair and the interviewers were unfailingly courteous, kind and pleasant.'*

*'There was nothing about it that was challenging specifically as a woman. If anything I would say it was female friendly.'*

But a couple of others said:

The application process takes an age to complete and requires you express yourself in a positive way which many of us find difficult. It isn't enough to say 'this happened' you have to say 'I did this...'

Specifically with reference to a judicial application:

*'The exam itself was particularly challenging to the female applicants because the time constraints made it more difficult for my female colleagues most of whom are very thorough and careful to complete in time.'*

*'I failed the exam twice and gave up. It was off putting.'*

One talked about the problem of the current method of judicial training as a Recorder (often the first step in a judicial career):

*'The challenging part for mothers is to spend a week in Warwick (a residential course) as part of the training course. The women on the course were also far less thrilled that every night was spent in a group drinking session. This was a major problem for anyone with a primary caring responsibility. I have spent time as a single parent and I have to say that without a great deal of support this would have been impossible. There was a woman on my course with a new baby who had to bring her mum to stay with her on the course.'*

### 3.4.2 Support

We asked senior participants if they had been encouraged to apply for Silk or Judicial posts, and by whom.

For some clerks paid a key role and for others colleagues and other women who became role models.

*'I had no interest in sitting; a male clerk went on about it encouraging me to apply. My clerk pushed me to fill out the forms.'*

*'I was encouraged by another member of chambers for my recorder application. I was encouraged by a ...judge to apply for my deputy ... judge position. I would never have had the confidence to do either if they had not pushed me forward.'*

*'One of the women in my set said recently she could apply for silk because she finally worked with a female role model, which made her think that maybe she could do it.'*

Some felt they had been given less support or treated differently to male colleagues:

*'At my chambers there was four of us applying for silk at the same time, one girl and three men, and [the Head of Chambers] telephoned each of the references of the men personally to speak to them, he didn't even know who mine were.'*

We asked participants what they felt about positive action initiatives to increase the number of female silks and judges. When it was discussed participants were against positive action or positive 'discrimination'. One said...

*'I am strongly against any kind of positive discrimination as this leads to the quality of female judges being poorer than the male judges which is counterproductive.'*

### 3.4.3 Harassment and discrimination

We asked if senior women had had any experience of discrimination or harassment from fellow judges, the Judicial Appointments Commission or Judicial Office.

One said:

*'I had one bad experience with a male member of the judiciary when I was doing my judicial training. He made an inappropriate comment about my clothing and touched me a couple of times which I felt was unnecessary and over-familiar'.*

One respondent mentioned she had encountered hostility in her role as a judge, she said she had received comments like...

*'Well you were appointed to make up the numbers... there are still many very able men... who cannot get appointed because they are not lesbians'.*

This may explain the strong views against positive action measures.

Another observed, what she felt was mixed messaging from the JAC<sup>21</sup>

*'I am not entirely sure that when we are told that people who work part time are welcomed as part of the judiciary that is borne out in practice. The fact that I have to declare my income on some applications does not sit easily with that declaration'.*

We checked whether any income information is required by the JAC<sup>22</sup> in judicial applications and were told it is not. However yet again, the perception that it is may still act as a disincentive to those who would otherwise consider making an application and is a useful finding.



### 3.4.4 Work/life balance

One participant said the current appointments system, where an application is made to be a Circuit Judge in general rather than a Circuit Judge in a particular court would put her off applying to sit as a circuit judge. She said that as the mother of school age children she wouldn't want to relocate. The requirement to relocate was also mentioned by another participant, who talked about what put her off applying for a District Judge role.

*'I really wouldn't have wanted to work away from home for 2 years, which is the normal requirement in the provinces. Men seem to go and rent a flat somewhere for the duration and return home at weekends – this would have been wholly unacceptable for most mothers (certainly me)'.*

One successful part-time judge who participated in the focus groups, commented:

*'If I was a primary carer I couldn't do it. I couldn't do either of the two judicial roles I do because they are both in the south east and I live in ... I now live in London 12 weeks of the year which is fine and we have nice weekends and that's what I choose, and that's fine'.*

### 3.4.5 Other observations

- a) Legal aid cuts are a disincentive
- b) Judicial culture
- c) Confidence

#### a) Legal aid cuts are a disincentive

A number of participants in criminal and family law talked about how the prevailing economic conditions had influenced their decision on whether to apply for silk.

*'For people in legal aid practice to apply [for silk] is a massive financial risk, you've got the cost of applying, the cost of getting it and then query whether you lose a massive amount of your work because there isn't enough legal aid silk work around'.*

#### b) Judicial culture

Participants talked about their experience, or the experience of friends with other judges and how they (or their friends) could be made to feel unwelcome.

*'[A friend] sits as a recorder... she is appalled by the comments they make at lunch to her... she feels almost invisible'.*

*'I don't want to sit because I dread the lunches... it's as though you are invisible. No one talks to you, it's like you are a pupil again. I'm put off and try to go to Pret'.*

But not all had the same experience.

<sup>21</sup> Judicial Appointments Commission

<sup>22</sup> Judicial Appointments Commission

### c) Confidence

One observed senior and successful women participants tendency to continue to use the term 'luck'. She challenged it and said...

*'Women use it [luck] to describe their career progression. Women shouldn't refer to their success as 'luck'. They have earned it'.*

Confidence was again sited as an issue.

*'I think personally, it would never really occur to me [I think sensibly] to ever think I'd be capable of doing something – like being a Silk'.*

We asked if having held a fee paid post, participants would now apply for a salaried post. They said...

*'I may well consider applying for a salaried post in the longer term; as yet I am the main breadwinner and could not afford the pay cut that would entail from leaving the Bar. I would also be shy in asking my resident judge in crime for a reference'.*

*'Yes, it gave me the confidence to apply for a salaried post'.*

### 3.4.6 Bar Council assistance

We asked what more Bar Council could do to improve its support for applicants for silk and the judiciary. Many had attended Bar Council events, securing tips on making applications which they found very useful (and much cheaper than using a consultant). They suggested more forums and webinars on these issues. They liked checklists.

Participants suggested:

- Reducing costs for Silk applications
- Providing mentoring
- Running workshops, including women only events, and
- Online resources (information and checklists).

*'Having a list of silks willing to talk applicants through the application process many years in advance'.*

*'Running in house workshops for those intending to apply for silk each year'.*

*'I think all women events [e.g. learning about silk/judicial appointments] are really helpful. You can feel comfortable'.*

Finally we asked what other ideas participants had to support women. Ideas included:

*'Some form of community for women would be hugely positive. My feeling is that there is no 'club' mentality of women at the Bar helping other women'.*

One participant suggested that the JAC should target women as early as possible.

*'As soon as you able to apply start, there should be a push about that and all the benefits that would help women'.*



conclusion



## 4. Conclusion

Findings suggest that women today have a very different and more positive experience in training to become a barrister and in their early years of practice. Those who had been in practice for some time talked a hostile environment, inappropriate behaviours and discrimination in the allocation of work (particularly in crime by both clerks and solicitors) when they started their working lives. The Bar Standard's Board equality rules (and changing societal attitudes) are seen to have supported huge improvements in women's experience of the profession.

While many of the old challenges have been address, significant challenges still remain for women who choose to practice, particularly around balancing career and having a family; and in avoiding being pushed into certain types of work. The dominant cause for the attrition rate appears to be that practice is incompatible with having a family.

Different practice areas and different chambers' cultures clearly have a huge impact on women's working environment and experience of the profession. With respect to chambers themselves, the lack of senior women appears to act as a hindrance to the implementation of fairer policies and practices and to disempower women in the profession.

Today the main barriers for women lie in publicly funded practice, ironically the area in which women disproportionately most practice, with cuts to legal aid and the cost/ accessibility of childcare. The cuts in income make sustaining practice difficult. It was felt by many that the inconvenience of long hours (the inevitable evening and weekend working) and lack of flexibility are no longer compensated by income levels, that in the past enabled women to take longer breaks during school holidays and afford wrap-around childcare. These challenges are seen as insurmountable for many women and are effectively forcing women who are either unable to work full time and/or have caring responsibilities out of some parts of the profession.

Linked to legal aid cuts, findings also suggest economic factors may lie in the significant under-representation of women taking silk, even taking into account the low proportion of senior female practitioners. Many women in public practice appear to have been discouraged from applying for fear of the impact on their practice and income.

With respect to judicial appointment, since the number of senior women in the profession is roughly in proportion to the number of women in the judiciary, under-representation across the judiciary as a whole is likely to be directly linked to the lower numbers of senior women in the profession. From this we might draw the conclusion that the number of women in the judiciary will only improve if we can improve retention of women in the profession as a whole. That said, there are still clearly some misconceptions about the application process which need to be addressed and more flexibility (including around the requirement to relocate/be away from home for significant periods) within judicial appointments themselves might encourage more women to apply.

Finally a number of themes emerged at all stages (training, junior practice and silk/judicial appointment). These included: women's lack of confidence in challenging clerks and colleagues in practice development, and in applying for more senior, silk and judicial roles; the importance of female role models to support and encourage, and to demonstrate a successful career at the Bar is within reach; and the problem of networking, which with ever greater numbers of barristers chasing less work (in the public sector) is becoming more and more important.



## 5. Recommendations

Recommendations are based on solutions identified by participants themselves, and experience of gender based initiatives that work elsewhere. Recommendations are limited to interventions that Bar Council can practically deliver.

### 1. Encourage and facilitate mentoring of junior women by more senior women

Bar Council should extend the Bar Mentoring Service and ensure a scheme is available to support women in building their practice and establishing working relationships with clerks/practice managers. Women talked about not feeling able to refuse work nor take control of the direction their practice was taking. They worried about what flexibility they could reasonably ask for. Mentoring relationships should focus on building more junior women's confidence in themselves and their ability to control their practice and relationships with others in chambers.

Mentoring should also be deployed to help young women before they have families at a really early stage in their career, so that they are fully informed about the challenges which they are likely to face and can put themselves in the best position to deal with them

### 2. Facilitate access to business advice/coaching on developing a sustainable practice

To support women who may wish to have a long term career at the Bar, Bar Council should identify suitable advisors/coaches that can be retained by women who need support in designing and running their practice, particularly if they wish to be able to withstand and support career breaks and work more flexibly once they have a family.

### 3. Establish and profile more senior female role models

More junior women need to see it is possible to have a successful career at the Bar. More senior women need to step up and support junior women. In particular women with different backgrounds and ways of working need to be identified and encouraged to tell their stories, including those who have taken career breaks for children.

### 4. Promote women's marketing networks for barristers

Women's networks should be developed, particularly on the circuits, which specifically focus on developing relationships with professional clients.

### 5. Create support networks for barristers

Create networks specifically designed to support women, of (i) working parents for working parents at the Bar; and (ii) women for women within the profession. Women talked about the difficulty of managing a family at the Bar, particularly where there may not be many other working mothers within chambers. Bar Council should develop a 'network' (likely an online forum) enabling working parents to get in touch with others to share advice and provide guidance around e.g. return to work, childcare, what you could/should ask for in terms of flexibility etc. Women also talked about needing role models and other women to support them, this could be achieved using a similar model to that proposed with parents enabling women to get in touch with each other to share advice and provide guidance.

### 6. Extend the Bar Nursery offering

Bar Council should extend the Bar Nursery facility to the circuits and explore what other direct and flexible childcare provision can be developed to support working parents at the Bar.

### 7. Encourage a better gender balance on key decision making committees within chambers

Bar Council should encourage chambers to consider governance arrangements and the balance of power on key decision making committees to ensure they empower women members in decision making and do not develop policies that disadvantage women.

# Appendices

## Appendix 1: Profile of participants (actual numbers)

Area of Practice	Crime	Common Law/Civil	Personal Injury	Planning	Family	Professional Negligence	Other	Employment	Chancery/Commercial	
Focus Group	33	4	7	0	8.5	1	6	5.5	12	
Survey	4	4	1		1			1	0	
Call	<5 years	5-10 Years	10-15 years	15-20 years	20 + years	PNS				
Focus Group	9	9	9	19	25	0				
Survey	0	1	5	3	0	0				
Classification	Self-Employed	Employed	Sole	Dual	Registered European	Other	PNS	Not Practising		
Focus Group	68	0	0	0	0	1	0	1		
Survey	9	0	1	0	0	0	0	0		
Age	16-24	25-34	35-44	45-54	55-64	65+	PNS			
Focus Group	0	15	32	17	4	2	1			
Survey	0	0	5	3	0	1	0			
Gender	Male	Female								
Focus Group	0	71								
Survey	0	11								
Disability	Yes	No	PNS		Impact of disability	Lot	Little	No	PNS	
Focus Group	2	67	0			1	4	66	0	
Survey	0	11	0			0	0	10	0	
Ethnic Group	Asian/British	Black/British	Mixed	White	Other	PNS				
Focus Group	5	3	7	55	0	0				
Survey	0	1	0	9	0	0				
Religion & Belief	No Religion or Belief	Atheist	Buddhist	Christian	Hindu	Jewish	Muslim	Sikh	Any other	PNS
Focus Group	25	1	0	31	3	6	1	0	0	0
Survey	4	0	0	6	0	0	0	0	0	0
Sexual Orientation	Bisexual	Gay Man	Gay Woman	Heterosexual	Other	PNS				
Focus Group	0	0	1	67	2	0				
Survey	0	0	0	9	0	0				
Socio-Economic	University	1st Generation	Not 1st	PNS		School	State	Independent	Outside UK	PNS
Focus Group		30	0	0			42	25	0	0
Survey		1	9	0			8	1	0	0
Caring	Primary Carer (child)	Yes	No	PNS	Carer (other) (hours)	No	Yes <19	>20 & <49	>50	PNS
Focus Group		36	33	1		47	16	1	1	1
Survey		9	1	0		5	1	0	0	0

PNS = Prefer not to say

## Appendix 2: Questions asked during focus groups

### Draft questions for snapshot focus groups

These questions are not fixed in stone but intended to stimulate debate.

**Name badges will indicate participant's first name only.**

### Welcome and introductory remarks

1. Moderator: welcome remarks and reminder of Chatham House rules in order to stimulate open debate on often controversial issues (*participants are free to use the information received, but neither the identity nor the affiliation/Chambers/etc. of the speaker(s), nor that of any other participant, may be revealed*)

Participants are asked to complete an anonymous monitoring form to enable us to ensure we reflect (as far as possible) women from a wide range of backgrounds, practice areas and of different years' Call.

Participants to be told that issues discussed and comments made during the focus group may be noted but will not be attributed in any way, and if after the event participants wish to impart further experiences privately to the Bar Council Equality team to inform our research, they are welcome to do so.

Remind participants that we want to hear of examples of good practice and experiences as well as obstacles and difficulties that present barriers to progression to better inform our strategy to support ongoing efforts to strengthen gender diversity at the Bar. If there are unique challenges experienced by women at the Bar, we want to understand and consider what we can do about it.

**Also inform participants that we are particularly interested to hear of any experiences of multiple discrimination as well as merely gender, e.g. of BME women or LGBT women.**

### Introduction of participants

2. Each participant to be encouraged in turn to introduce themselves, general practice area, employed/self-employed and:

What they love about their career at the Bar

Why they chose their practice area as an applicant for pupillage [obviously some may have changed practice areas]

## Section One – Access [approx. 30 minutes]

### Bar Training Course

3. Questions to cover:

- Were there any aspects of the training course that they felt were especially difficult for them to deal with as women?

### Securing pupillage

4. Do you think there are areas of discriminatory practices and diversity we still need to address in pupillage selection or have times moved on?

### Pupillage

5. Questions to cover:

- What was your experience of pupillage?
  - Did you feel that there was fair allocation of work between you and any male co-pupils?
  - Did you feel that your pupillage sufficiently prepared you for your practice at the Bar?
  - Did you experience any confidence issues during your pupillage that meant you felt less confident or competent than your male co-pupils?
- If you had a male pupil supervisor(s), do you think you might have fared any better with a female pupil supervisor?
- Did you experience any direct or indirect discrimination during your pupillage?
- Do you think there are areas of discriminatory practices and diversity we still need to address in pupillage or have times moved on?
  - Do you think the implementation of the equality and diversity policy in your Chambers or workplace protects pupils sufficiently from discrimination and harassment?
  - Do you believe your Chambers or workplace sufficiently addresses issues that arise for pupils and pupil supervisors regarding equality and diversity principles?

## Section Two – Retention

[approx. 30 minutes]

### Junior tenancy

#### 6. Questions to cover:

- Why do you consider your practice developed in the field that it did? / Has there been any pressure or expectation to work in a particular specialism?
- Who has had a positive bearing on your career, e.g. pupil supervisor, clerks, other members of Chambers, solicitors?
- Did anyone have a negative bearing on your career?
- How has, having children or caring responsibilities, or a career break impacted on your career? [e.g. finance/cash flow]
- Why do you think a low proportion of women return to work at the Bar after becoming a parent?
- Have you experienced fair allocation of work?
- What do you think of your Chambers or workplace's equality and diversity policy? Are they sufficiently coherent and adhered to meet your professional needs?
- If you have a problem, who do you turn to?
  - Do you feel more or less confident than your male colleagues?
  - Do you feel supported by your Chambers or workplace in your career and practice decisions? Do you feel your earnings are on a par with your male colleagues?
  - Have you experienced any direct or indirect discrimination during your career?

## Section Three – Progression

[approx. 30 minutes]

[Also to explore why others have/haven't considered Silk/Judicial appointment]

### Applying for Silk

#### 7. Questions to cover:

- What made you apply for silk when you did?
  - Was that a decision you made on your own, or were you encouraged (or even discouraged!) by others such as your clerks and solicitors?

- How did you find the application process?
  - Were there aspects of the application form that you feel could be improved or changed?
  - How easy did you find it to fill out the application form, and approximately how long did it take?
  - Were there aspects of the interview process that you feel could be improved or changed?
  - Do you have any tips or warnings for applicants about the application process as a whole?
  - [Was there any part of the application process that you felt may have been particularly challenging as a female applicant?]
- Had you had taken a career break during your career before applying for Silk?
- Do you have any suggestions for how the Bar Council could improve its support of applicants?

### Applying for judicial appointment

#### 8. Questions to cover:

- What made you apply for judicial appointment when you did?
  - Was that a decision you made on your own, or were you encouraged (or even discouraged!) by others such as your clerks and solicitors?
- How did you find the application process?
  - Were there aspects of the application form that you feel could be improved or changed?
  - How easy did you find it to fill out the application form, and approximately how long did it take?
  - Were there aspects of the interview process that you feel could be improved or changed?
  - Do you have any tips or warnings for applicants about the application process as a whole?
  - [Was there any part of the application process that you felt may have been particularly challenging as a female applicant?]
- Had you had taken a career break during your career before applying for judicial appointment?
- Do you have any suggestions for how the Bar Council could improve its support of applicants?
- Have you held fee paid judicial appointments and how has that affected your inclination to apply for salaried posts. Did/Do you anticipate it would be a stepping stone to a salaried post? Has that expectation been realised? If not, why not?

## Practice in Silk

9. Do you think there is anything unique about being a female Silk?
  - Did you struggle to rebuild your practice?
  - Do you find you are presented differently to male Silks? [anecdotal evidence women are presented as ‘approachable; men as tough]

## Any other business

10. Cover any other burning issues before attempting to sum up the main themes that have transpired from the discussions.

## Appendix 3: Questionnaire

### Snapshot of Women’s Experience at the Bar: Questionnaire

The Bar Council is conducting research to explore women’s experience of life at the Bar.

- Whilst many women have positive accounts to relate of their professional life, others encounter obstacles and difficulties we wish to address. We want to understand structural and other barriers to progression, including for example, treatment by colleagues, clerks, solicitors and the judiciary; as well as the challenges of managing working life, specifically with respect to those with a primary caring responsibility.
- We hope our research will identify progress made, as well as areas of good practice and better inform our strategy to support ongoing efforts to strengthen gender diversity at the Bar.
- **Any contributions made will be non-attributable.** Please complete the **confidential** monitoring form at the end to enable us to ensure we reflect (as far as possible) women from a wide range of backgrounds, practice areas and of different years’ Call.

If you have any questions or concerns, please do get in touch with Bar Council’s Head of Policy: Equality and Diversity, Sam Mercer [SMercer@BarCouncil.org.uk](mailto:SMercer@BarCouncil.org.uk)

Please answer as many or as few questions as you wish

### Access: Pupillage

1. Do you think there are areas of discriminatory practices and diversity we still need to address in pupillage selection or have times moved on?

2. What was your experience of pupillage?
  - Did you feel that there was fair allocation of work between you and any male co-pupils?
  - Did you experience any confidence issues during your pupillage that meant you felt less confident or competent than your male co-pupils?
  - Did you experience any direct or indirect discrimination during your pupillage?
3. Do you think there are areas of discriminatory practices and diversity we still need to address in pupillage or have times moved on?
  - Do you think the implementation of the equality and diversity policy in your Chambers or workplace protects pupils sufficiently from discrimination and harassment?
  - Do you believe your Chambers or workplace sufficiently addresses issues that arise for pupils and pupil supervisors regarding equality and diversity principles?

### Retention – Junior Tenancy

4. Why do you consider your practice developed in the field that it did? Has there been any pressure or expectation to work in a particular specialism?
5. Who has had a positive bearing on your career, e.g. pupil supervisor, clerks, other members of Chambers, solicitors?
  - Did anyone have a negative bearing on your career?
6. How has, having children or caring responsibilities, or a career break impacted on your career?
7. Why do you think a low proportion of women return to work at the Bar after becoming a parent?
8. Have you experienced fair allocation of work?
9. What do you think of your Chambers/ workplace’s equality and diversity policy? Is it sufficiently coherent and adhered to meet your professional needs?
10. If you have a problem, who do you turn to?
  - Do you feel more or less confident than your male colleagues?
  - Do you feel supported by your Chambers or workplace in your career and practice decisions? Do you feel your earnings are on a par with your male colleagues?
  - Have you experienced any direct or indirect discrimination during your career?

## Progression – Applying for Silk/The Judiciary

### Applying for Silk

11. What made you apply for silk when you did?
  - Was that a decision you made on your own, or were you encouraged (or even discouraged!) by others such as your clerks and solicitors?
12. How did you find the application process?
  - Were there aspects of the application form that you feel could be improved or changed?
  - How easy did you find it to fill out the application form, and approximately how long did it take?
  - Were there aspects of the interview process that you feel could be improved or changed?
  - Do you have any tips or warnings for applicants about the application process as a whole?
  - [Was there any part of the application process that you felt may have been particularly challenging as a female applicant?]
13. Had you had taken a career break during your career before applying for Silk?
14. Do you have any suggestions for how the Bar Council could improve its support of applicants?

### Applying for judicial appointment

15. What made you apply for judicial appointment when you did?

Was that a decision you made on your own, or were you encouraged (or even discouraged!) by others such as your clerks and solicitors?

16. How did you find the application process?
  - Were there aspects of the application form that you feel could be improved or changed?
  - How easy did you find it to fill out the application form, and approximately how long did it take?
  - Were there aspects of the interview process that you feel could be improved or changed?
  - Do you have any tips or warnings for applicants about the application process as a whole?
  - [Was there any part of the application process that you felt may have been particularly challenging as a female applicant?]
17. Had you had taken a career break during your career before applying for judicial appointment?

18. Do you have any suggestions for how the Bar Council could improve its support of applicants?
19. Have you held fee paid judicial appointments and how has that affected your inclination to apply for salaried posts. Did/Do you anticipate it would be a stepping stone to a salaried post? Has that expectation been realised? If not, why not?

### Practice in Silk

20. Do you think there is anything unique about being a female Silk?
  - Did you struggle to rebuild your practice?
  - Do you find you are presented differently to male Silks? [anecdotal evidence women are presented as 'approachable; men as tough]

### Anything else?

21. Is there anything else you would like to tell us?

This report was produced by the Bar Council and published in July 2015. Material contained within this report may not be reproduced in whole or in part without the permission of the Bar Council.



# *Integrity. Excellence. Justice.*

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

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

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

[www.barcouncil.org.uk](http://www.barcouncil.org.uk)

 @thebarcouncil