



The All-Party Parliamentary
Group on Legal Aid

Westminster Commission on Legal Aid Sixth Oral Evidence Session

Experiences of Junior Lawyers

25th March 2021 10:00 – 12:30

Panel

Karen Buck MP (Chair)
James Daly MP (Vice-Chair)
Baroness Amanda Sater
Baroness Natalie Bennett
Baroness Helena Kennedy QC
Lord Willy Bach
Lord Colin Low
Andy Slaughter MP
Laura Farris MP

LAPG

Chris Minnoch
Rohini Teather

Witnesses

Lord David Wolfson QC, Parliamentary
Under Secretary of State for Justice
Karl Turner MP, Shadow Justice Minister
Sir Christopher Bellamy, Chair of the
Independent Criminal Legal Aid Review
Stephen Davies, Tuckers Solicitors
Siobhán Taylor-Ward, Vauxhall
Community Law Centre
Aqsa Hussain, No5 Barristers Chambers
Rose Arnall, Shelter
Dr Jo Wilding

Introductions

Karen Buck MP

Welcomed everyone to the sixth and final session of the inquiry, looking to take evidence on the barriers faced on entry into the profession. This is the last session of the inquiry and after this session we will be pulling out all of the important evidence to put together what I am sure will be one of the most comprehensive reviews of the legal aid since LASPO a decade ago.

3 really strong messages have come out:

- How essential legal aid and legal aid lawyers are. Legal aid is not only the bedrock of access to justice in the criminal system but also a means of guaranteeing rights in education, housing and so many other services, some in scope and some pro bono.

- The vocation of legal aid lawyers, the passion and commitment they bring to their work and commitment that is not properly rewarded.
- The unsustainability of the service. £800m a year less spent on legal aid since LASPO alone, some resource has been put back and we await CLAR's completion but it is still the case that there has been a 38% cut in funding for legal aid services at a time when the challenges have been growing or we can expect them to grow further. One of the critical messages that we have heard is the closure of firms, particularly in the context of advice deserts. Since going into lockdown 63 civil providers and 122 offices have closed.

Lord Wolfson QC

I would like to thank the APPG for inviting me to say a few words this morning and to give me the opportunity to introduce myself as a new courts and law minister. I have a very broad portfolio, responsible for HMCTS, legal aid, legal support, legal services, criminal, civil, family, international work and trade. My predecessor Alex Chalk MP was closely involved with the APPG and I plan to continue that engagement and involvement. The evidence sessions that have been held so far have been extremely informative for ministers and officials. I appreciate the purpose of the session is to hear from the witnesses and not from me.

It is very important the inquiry hears about the experience of junior lawyers because the sustainability of the legal aid sector is ultimately dependent on attracting new members to the profession. I understand the concern that a career in legal aid is becoming less attractive because of the low remuneration rates. We recognise the importance of a sustainable and diverse pipeline into the profession. I gave evidence to the justice select committee just yesterday on what the Government is doing to support that.

We have, in this department, an ongoing inquiry into the sustainability of the civil legal aid system, focussing on recruitment and retention. We have already held a number of round tables with young practitioners to understand the barriers of entry into the profession both financial and structural and how we can support that.

On the criminal side we have listened to the concerns of professionals particularly about the aging provider base. CLAR will also be dealing with this. This is the second stage of CLAR considering how the criminal legal aid market can meet demand now and into the future. To provide an efficient and effective service that provides value for money for taxpayers as well as providing defendants advice from a diverse array of practitioners. I know Sir Christopher and officials are meeting with young lawyers to engage with his recommendations.

Let me end by paying tribute to the members of the APPG for the important work they do. We won't always agree but it is absolutely critical to recognise we all share a core commitment to the rule of law. The rule of law runs through me like the word Blackpool runs through a stick of rock. Whilst we might disagree about means we agree about ends. Legal aid is about maintaining the rule of law by enabling people to obtain their legal rights and that is absolutely central.

I am new to the role and looking forward to further engagement with the APPG and others.

Sir Christopher Bellamy, CLAR 2 Chair

Thank you very much for giving me the opportunity to speak today and I shall of course take into account your evidence and your conclusions in CLAR. This is an independent review, I have a distinguished team of 16 supporting me, a team at the MoJ walled off from the rest of the ministry until the end of the review. My backstop date for completion is the end of the year but I hope to complete something well before that.

You have already alluded to the cuts to criminal legal aid over the past few years. In some ways the criminal legal aid profession has been caught in a double pincer movement, the reduction in, both, money available and the amount of work available which is in turn driven, effectively, by fewer arrests, that may change in the future through hiring of additional police and better resourcing of the CPS. I have already had the opportunity to discuss this with many including Karl Turner MP and Stephen Davies and I look forward to hearing from others to get to the bottom of this. The way the criminal legal aid system works is influenced by the action of other players whether the police, the courts or the CPS they all influence the court system as a whole, whether court closures, CPS recruitment drives or practices in the courts themselves. Up to a point I think I need to take a holistic view of the system as a whole and of course bear in mind the particular challenges caused by the pandemic immediately. This of course has created probably the worst crisis the courts have ever seen but on the other hand has to an extent encouraged the use of technology which is in some respects interesting for efficiency.

My terms of reference are close to those of the APPG but are not limited to sustainability. I will also look at efficiency, quality, user experience – users being defendants, victims, witnesses, jurors and all those who have contact with the justice system. Getting to the bottom of what is going on, I see that as my main role. For instance, I had the pleasure of spending yesterday evening talking to a range of criminal solicitors in Wales, virtually travelling across the whole country hearing from practitioners which gave me a very good feel for what was going on at ground level. I will repeat that experience across the whole country and, covid permitting, in the second half of May I hope to do so in person. I do this to get a full picture that is not in any way London centric.

Clearly we have a sector in difficulties for the reasons that have been outlined and that are obvious, equally there is an overriding public interest in what the minister was saying earlier about the rule of law, access to justice and the best use of taxpayer money. Balancing those things is the main purpose of the review, that is where we are and I look forward to being in touch as the review goes ahead.

[Karl Turner MP, Shadow Minister for Legal Aid](#)

I would like to start by thanking the minister, he is right that he and I agree on the fact there is a real need to improve the system and to provide legal aid whether in civil or in crime. We probably disagree on how to get to that point but we agree that it is absolutely necessary. I would also like to thank Sir Christopher, I had a great opportunity to speak to him and I am confident it will be a comprehensive review, the job he has is a very difficult job indeed and we all want to encourage and support him in his review.

The reality in the criminal justice system is that there is a very unfair balance in favour of the prosecution. The reason for that is obvious, the CPS have an awful lot by way of resources, it is not just resources but they are also in a position to recruit solicitors and trainees and pay them more money than the defence side. For example in a criminal firm of solicitors you would expect a training contract to pay something in the order of £21,000 in the North of England but the CPS pay between £26,00 and £28,000 depending where in the country that trainee happens to be. It is not just about that, it is also about retaining those solicitors. Why would a criminal solicitor with 5 years qualification want to hang around a firm where they are earning only £25,000 - £26,000 when they could go to the CPS and earn £10 – 15,000 more. What happens to that firm when the practitioner leaves to go to the CPS is they lose a duty slot and an experienced criminal solicitor. There is a very unfair advantage to the CPS across the board and I think that needs to be addressed by the minister and I am sure it will be addressed Sir Christopher.

Due to questions I have tabled in the last few months it appears there are 46% fewer criminal firms in the last 12 months and 55% fewer civil firms. Since 2015 we have lost 25% of criminal firms across the board. Without serious Government investment those firms are going to continue to drop off and fall away. The reality for those firms is that they cannot make ends meet. That is really bad for the justice system because individuals simply already cannot access a solicitor due to the fact there are real advice deserts.

I do genuinely wish the newly appointed minister my best and good luck in the role, we need to work together cross-party, often something I have difficulty doing but now is the time for us all to work together to come up with a system that actually works. It needs investment from government and the treasury getting serious with funding, Otherwise, it will continue to go downhill and people will be left to fight their case without the support from a lawyer.

Questions to Witnesses

Stephen Davies, Tuckers Solicitors

Introduction

Stephen is a Criminal Defence Solicitor at Tuckers Solicitors LLP, London, having started his training contract there in 2018 and qualifying as a solicitor in June 2020. He specialises in criminal law and procedure, criminal defence and criminal legal aid in England and Wales, representing clients in the police station, Magistrates' Court, Youth Court, Crown Court and Appeal Courts. Stephen is also involved in academia and is a policy adviser in relation to areas of criminal justice and legal aid. Stephen currently represents the Junior Lawyer Division of the Law Society in relation to the ongoing Criminal Legal Aid Review.

He is from the North East, South Shields, spent a four year period as a paralegal before moving to London in 2018 to start his training contract.

Questions from Karen Buck MP

Karen Buck MP: Can you tell us a bit about your route into the profession and the experiences and barriers you faced?

Stephen Davies: My starting point is that I won't apologise for being brutally honest. There are so many issues, the cost of qualification – I spent a 6 year period at university which cost around £50 -70,000 pounds, when compared with the cost of salaries for legal professionals which can be minimum wage, newly qualified solicitors earning between £24-26000, those being in the duty scheme earning between £30,000 to 35,000 depending on where you are. The cost of legal education versus salary is unsustainable. The complexity of the work which results in low pay means you have to question why you do this job.

When you compare the salary of CPS to defence pay you are talking double. The question is why new entrants would want to go to defence when they could go to the CPS. When you compare the earnings of a junior criminal barrister with that of a commercial set, a commercial set will pay in the region of £75,000. It is right that other lawyers are fairly remunerated but why aren't criminal legal aid lawyers fairly remunerated too? We are doing important work where people's liberty is at stake.

In terms of barriers, it comes down to money. That has resulted in a recruitment crisis in solicitors' firms. CLAR's data sharing has already released that there is a training deficit in criminal legal aid firms. The fact I had to go to London to join a criminal legal aid firm goes some way to evidence the lack of training opportunities across the country. Nationally it is very difficult to get opportunities. That leads to a succession problem. We have heard from the likes of Kerry Hudson in earlier inquiry sessions, the question is who will take over from the senior

practitioners? Where is the succession when there are few lawyers under 35? I am part of the 4% of lawyers under the age of 35 doing this work.

Retention is another issue. Why would defence firms even try to compete with CPS salaries when they simply can't. Lawyers, seen from CLAR and the Govt's data, have been tracked and shown moving from defence to CPS. It is far more attractive to do this sort of work at the CPS. This leads to a diversity issue. The profession has come on leaps and bounds compared to a decade ago but it has got to the point that only those with means can afford to do this job. We need women, BAME members, all types of lawyers in the profession because we deal with all types of clients. We cannot go down the path of the profession only being for the privileged and those with means. The question is, is the profession sustainable. I don't think it is. The rate of remuneration is the key issue.

Other issues include the constant changes, fear of further cuts and the Law society has had to JR the Govt when it is being unlawful. Overall, the issues at the junior end come down to money. It is an ideological price on justice. Junior lawyers are plugging the gaps, facing criticism from the press and Government as fat cat lawyers. There is no security in terms of money because it is so poor.

Right now a major issue is delay. In 4 different parts – pre-charge delay, post charge delay, post-trial and the bubble-wrap effect of Covid-19. Someone like me goes to the police station to assist someone arrested and I earn a fee of about £90 in London as duty, nationally that is about £50. Why is it that a junior lawyer, who is going to represent someone for rape, murder or terrorism spending 8-9 hours in the station, earning that fixed fee. I would invite Lord Wilson and Sir Christopher to look at that. I do not understand why I am being paid such a derisory fee.

Pre-charge delay is important. The person I see at that station is going to be released under investigation. I have a period of 2-3 years where I will not be remunerated by that delay. RUI is an issue created by Parliament, they did not debate it.

Post-Charge delay, nothing other than a cash-flow crisis. Trying to make some money in the current arena is hard when matters are not completing. The refusal culture at the LAA means your request is rejected or lessened.

Then of course there is the Covid-crisis.

For junior lawyers it is very difficult we have a mental health crisis, burnout and so why would young lawyers come to the profession. If I was to be advised I would probably be told to stop doing this work.

Karen Buck MP: I am asking to speculate at the moment but given the disparity in funding between defence and prosecution, how and why has that arisen? It has either arisen incrementally or there has been a deliberate decision to allow that to happen.

Stephen Davies: It is an ideological price on justice and a political decision.

I listened to Lord Wolfson's evidence yesterday to the justice committee carefully. There is an issue with the CPS, disclosure is often inadequate and digitally complex. A senior Crown Prosecutor in London is earning 48-52k. Based on pure finances alone the scales of justice are unbalanced. Lord Wolfson mentioned the backlog, a phrase he did not like to use. When you look at the tax on the defence, I can highlight this with the RUI backlog situation, an area James Daly MP, who had a criminal practice and no doubt experienced the struggles with this, is passionate about. Lord Wolfson talks about not chasing targets, the reduction in judicial sitting days. When you look at the number of receipts being produced in recent years that may

be the case but why is that. RUI is a pressure valve of austerity, it is a slow bleed into the crown court. No wonder receipts are reduced when cases are not entering the system but those cases have not left us. There are ~200k cases waiting to join the post-charge arena. The defence are forced to do unremunerated work explaining to those clients why their case is being delayed. The defence are in an invidious position doing the same complexity of work as the CPS but not being paid the same. Why would a graduate leaving university genuinely want to become a defence lawyer when the CPS pay almost double.

Karen Buck MP: How has the last year impacted on the factors you have been describing?

Stephen Davies: It has been head above water mode, the ship is sinking and we have been spinning plates trying not to let them drop. Some positives have come out, remote PACE interviews were difficult but it got better. The protocol undoubtedly saved lives and allowed suspects to be protected. Cloud Video Platform hearings are undoubtedly a positive, being able to dial into court. The issue is that for defence, the money is made from crown court trials and they have not been completing. The Government response to that is inadequate. The Government response for Covid-19 criminal legal aid can be put to 6 points:

1. The govt said bill your way out of it – there is only a limited pot of money for work completed. That is kicking the cash-flow crisis down the road.
2. In terms of interim payments for the graduated fee scheme we were only allowed to claim a proportion of fees. Kicking the crisis down the road.
3. Hardship payments were predominately brought in for advocates. Why would any advocate claim this when there is no guarantee they will do the trial. We see that with trials listed in 2022-23 on the warned list. Having a volume trial for 3 days in 2022 on a back-to-back warned list for a 2 week period – counsel's availability is not taken into account. A back-to-back warned list for a month where a trial could come in any time means there is no consideration for victims, professionals or anyone.
4. Mister Chalk said he brought in Saturday courts, why on earth would anyone want to do more work when they are already burnt out? The derisory £50 mention fee is perhaps unwanted.
5. Money for not-for-profit organisations. Legal aid firms are there to make money and that is the harsh reality. We need to be profitable or we can't be in business. Seen in Otterburn's report in 2014 that showed a 6% profit margin, surely likely less now.
6. The Cloud Video Platform is welcome to allow simple mention cases but it does not get trials flowing.

I query what has the Govt actually done during Covid-19 for criminal legal aid. The answer is nothing whatsoever. Mr Chalk mentioned before the justice committee on the 4th May 2020, he discussed shillings and pence. I haven't seen a shilling a pence or a pound. We now have a crisis within a crisis. I bear in mind that legal aid costs a fraction of Govt spending. HM Treasury has money for this. They have the funds to plough into things like Crossrail, HS2, PPE procurement but they ideologically do not want to pay for criminal legal aid.

James Daly MP: I would like to correct Stephen on one point. Stephen seemed to suggest my concern over RUI was to do with my own criminal practice. I currently have no criminal practice and have not held one for many years. So, my concern with RUI is not stemmed from my personal feeling.

Stephen Davies: I am happy to withdraw that, I merely was pointing out that James Daly is a respected practitioner and passionate about RUI. I would also like to conclude by saying that to improve the pay situation I would invite an independent board to be set up to discuss and decide on the rate of remuneration.

Siobhán Taylor-Ward, Vauxhall Law Centre

Introduction

Siobhán is a Solicitor with Vauxhall Community Law Centre. She trained and qualified at Greater Manchester Law Centre through the Justice First Fellowship Scheme funded by The Legal Education Foundation.

Siobhán started a Justice First Fellowship in 2018 at Greater Manchester Law Centre and completed her training contract at Merseyside Law Centre. She qualified as a solicitor there in November 2019. She helped to launch and then coordinated the 'Our Liverpool' project which focussed on providing Asylum Support, housing and homelessness advice and representation to Asylum Seekers and vulnerable migrants whilst also managing a landlord and tenant housing caseload. Siobhán was awarded the Legal Aid Newcomer award at the 2020 LALYs. She has also been the chair of the Liverpool branch of ACORN Tenant and community union since May 2019.

In January 2021 Siobhán began her current role as Housing and Social Welfare Solicitor at Vauxhall Law centre where she is developing the housing department with an aim to obtaining a Legal Aid contract at the next contract round.

Questions from Andy Slaughter MP

Andy Slaughter MP: We are seeking to get your view on the costs of the training practice and going in to practice in light of your own personal circumstances. There is a contrast on what we all see, a robust profession and the difference between the circumstances of those going into it. Can you tell us about your decision to become a solicitor and how you felt about that?

Siobhán Taylor-Ward: I did an English literature degree, I was a support worker for about 7 years and I later started to work with asylum seekers and vulnerable migrants. Along the way I learned how little power you have as a non-lawyer in many situations. My clients were having problems with benefits, housing and asylum and I could not resolve them without legal skills. I decided to qualify as a solicitor. I had 2 children. I did the GDL part time at Liverpool John Moores. At that point you could not do that course as a masters degree so there was no post-graduate funding which meant I had to pay that myself. I was lucky that my parents could fund half of those fees and the LPC fees. I got into debt using credit cards to pay those fees. I was earning very little as a paralegal. Because wages stay low in this profession I am still paying off my debts and undergraduate debts.

I then did the GDL part time and the LPC part time and worked 30 hours a week alongside it. I worked as a case worker on the Hillsborough inquest at the time. It was an amazing first experience as a lawyer, because I was in a firm that had a lot of legal aid departments which was also good for me in having opportunities to transfer. I was keen to move into a civil legal aid area out of desire to help the sort of clients that I had worked with as a caseworker. When I was finished with the LPC and sitting my final exams there was a position in the asylum help team at my firm but this required an accreditation, I had to sit other exams to be accredited for this. This forced me to defer my LPC exams by a year which meant I had to delay my application to the Justice First Fellowship, for a funded training contract, by a year while I worked in the asylum team.

I was overjoyed 18 months later to get a Justice First Fellowship with a law centre in Manchester. I was forced to commute between Liverpool and Manchester, the facilities for those commuting between Liverpool and Manchester are just awful and cost £4000 a year for commuting tickets. The Manchester Law Centre and Justice First realised it was not

sustainable for me to do that and thankfully I was able to transfer the rest of my fellowship to Merseyside Law Centre where I completed and qualified from my training contract in 2019.

Andy Slaughter MP: From start to finish, when did you decide to train as a lawyer to the point of qualification and how old were your children?

Siobhán Taylor-Ward: It was 2012 when I first started and I qualified in 2019. My children were 9, and 6 months when I started the GDL.

Andy Slaughter MP: What was the total cost for those 7 years?

Siobhán Taylor-Ward: The GDL and LPC was about £15,000 with an alumni discount.

Andy Slaughter MP: What do you think of the quality of the training you received? In terms of the LPC. We are looking at the SQE coming in and we want to retain the high quality of training, how did you find that in terms of teaching and learning and how difficult was that?

Siobhán Taylor-Ward: The level of teaching has always been great but the difficulty is finding areas of law that reflect the areas you want to practice in your career. The thing I found difficult was finding completely independent advice on how best to enter the profession because universities are competing for your fees. I did not know about CILEX or equivalent means which may have suited me. One of the biggest concerns I have about SQE is that the exams have nothing relevant to social welfare law, there is no housing, family or immigration – for those cross-qualifying into law it is even less likely they will have the opportunity to do work in this side of the sector or to experience it academically.

Andy Slaughter MP: So here was no ready guide for how one could qualify, how could that improve?

Siobhán Taylor-Ward: YLAL are looking at this at the moment. It is difficult. At the moment the main place you will go to is your university for this advice but they are not fully independent because they want your fees. There needs to be a fully independent body providing information about the options available. There needs to be honesty about the success rates of those different routes too. There needs to be clear, independent, detailed advice about the other routes to qualification and the cost for those routes. The equivalent means route for example allows you to get experience that doing the GDL / LLB alone will not get you. People need to understand what the options entail and that information needs to be from an independent body.

Andy Slaughter MP: Do you think it has got easier or more difficult since you started? Whose responsibility is it to make things easier and better?

Siobhán Taylor-Ward: From the beginning of the SQE consultation we have called on the SRA to include at least some relevant social welfare areas in the exam which they did not agree to. At the same time the Government and Press are attacking social welfare lawyers we also feel the SRA are not treating social welfare as a legitimate option. Regarding cost, it is so difficult. When you look at how the corporate commercial sector is managing the SQE they are able to spend money for universities to set up tailored courses including topics relevant to their practice and then they can fund their trainees, that can't happen for legal aid firms.

We need help from the Government in the form of funding training contracts in firms and law centres as a start but it is difficult to get to that point and we need to consider the route beforehand. It is perhaps about attracting post-graduate funding but the issue for legal aid providers is that your wages don't grow, I am unlikely to ever earn £40,000. Taking on all this debt and knowing I will never pay that off is really difficult and it definitely puts people off. The

result is a lot of people go over to Government departments with better funding, clear progression and funding for training.

Andy Slaughter MP: Are you saying that a lot of areas, immigration, employment etc of practice are not reflected in the training courses?

Siobhán Taylor-Ward: Yes.

Andy Slaughter MP: What response have the SRA given you?

Siobhán Taylor-Ward: The SRA say that, first of all, to increase the areas covered will increase the cost. The second is that they say the SQE exam was created to be flexible. It is up to the firms to work with providers to create specific courses. That is possible for the commercial sector but less so for the legal aid sector. The SRA's view is that the SQE is flexible and should be tailored.

Andy Slaughter MP: What routes of funding could a person look to for money?

Siobhán Taylor-Ward: Really it is only the Diversity Access Scheme run by the Law Society which is very small. Other than that, there are only a few scholarships available for training or you can also look at turning your LPC / GDL into a masters for post-graduate funding but that is also another debt. The justice first fellowship is only for the training contract stage and it is limited to 10-15 places a year.

Andy Slaughter MP: How are people actually managing then? Are they giving up or getting into more debt?

Siobhán Taylor-Ward: It is really difficult. One of the things you look at to qualify into this profession is building up voluntary experience, if you are not someone who can work for free then that puts you at a disadvantage.

There are bottle-necks all along. Getting your first paid work as a para-legal is one and then the next bottle-neck is competing for a training contract or a justice first fellowship. Even when qualified there is a bottle neck to obtain a paid newly qualified solicitor position. People drop off at every point, whether leaving the area of law or leaving the profession completely. Para-legals are doing such huge jobs because there aren't enough lawyers to deal with the work coming in, this will only get worse. Case-workers are being paid case-worker wages to do a solicitor's level of work and are then unable to qualify as a solicitor. Legal aid practices are having to limit the amount of times they can run a training contract round to every 2-3 years because of limited funding which then means there are intense competitions for the training contracts. The justice first fellowship also creates a bottleneck because you are only funded for your training contract but not for when you are qualified. I know a lot of people have finished the justice first fellowship and then gone into the Government legal departments. It is also a problem when women are starting families, maternity packages are just not there when compared to universities or Government work. We are losing good people because of the constant concern about whether the job is sustainable. This is compounded by other issues in the country, rent increases and the cost of housing.

Andy Slaughter MP: Where did you hear about the justice first fellowship and how easy was it?

Siobhán Taylor-Ward: Through my role with YLAL. It was a proper thorough interview process and very difficult.

Andy Slaughter MP: Finally, how are you finding practice at the moment?

Siobhán Taylor-Ward: It has been really difficult to manage. We deal with such vulnerable clients and especially when so much of our work is face-to-face relationship building and we cannot do that through the online platform. People are in very bad states when they actually reach practitioners. It was very difficult to transition to working from home at the beginning of the pandemic due to the lack of funding. The main thing that has got us through is the fact we know we are all in the same boat.

[Aqsa Hussain, No5 Chambers](#)

[Introduction](#)

Aqsa Hussain is a (third-six) barrister specialising in criminal, public and regulatory law. In her predominantly crime practice, Aqsa prosecutes and defends at the magistrates' and crown court, doing both private and legal aid funded work in equal measure, mainly because I could not sustain a wholly legally aided practice.

Besides her legal practice, Aqsa is regularly involved with pro-bono work including leading the non-profit Human Rights Pulse, providing legal advice to a charity focusing on hate-crime, and being a trustee at an international human rights charity. Aqsa is also a steering group member of Themis, The Intersectional Women Barristers' Alliance. Before committing to a career as a barrister, Aqsa gained experience in the fields of international development, human rights, cyber security and strategy consulting. Aqsa did her undergraduate degree in Amsterdam; postgraduate degree at the LSE; the GDL and Bar Course at City Law School, and was called to the Bar in 2019

[Questions from Baroness Natalie Bennett](#)

Natalie Bennett: What attracted you to the criminal bar?

Aqsa Hussain: I always wanted to do a job in what felt like the heart of the justice sector. Telling people's stories and delivering justice for vulnerable clients. It is definitely a vocation for me. Perhaps the richer answer for why I went into criminal law, my dad was a policeman and I was always intrigued by his work. He was not a fan of lawyers and there were no lawyers in my wider circle. Financially we struggled growing up but my parents were involved with charity work and my mum regularly spoke about injustices of the world. I developed my own desire and taste for tackling injustices.

I was always a kid trying to make my parents proud. I loved school. Much to their dismay I ended up in Amsterdam for university where I did a liberal arts and sciences degree. I found myself drawn to international law and human rights which is what put law in my mind. A career mentor told me about the learn, earn and return model. First settle down and earn financial security before doing something more purpose driven. Like a classic millennial I decided to disregard that and instead pursue a career I believed in. I love the advocacy and working with clients from such a diverse background.

I do far less legal aid work than I would like to do. A lot of us come in hoping to do legal aid work. Although I am driven by a sense of justice I am also driven by pragmatism requiring me to fulfil my obligations so I cannot solely work in legal aid work.

Natalie Bennett: How has covid affected your practice and how successful were the Government measures to support your position? What is a typical week like now?

Aqsa Hussain: I have only been on my feet for less than a year. I started my second six in April 2020, a terrible time to start. I was physically in court for the first time in July 2020. It took a while for things to get going. Since then it has been pretty full on. Nowadays I am in court almost every day physically. Occasionally cloud vide video playform remote hearings but

mostly in person. I prosecute and defend across the Mags and Crown. In Crown I mainly do pre-trial and sentences. I have travelled everywhere from London to Poole, Birmingham etc in my work. In my week I will travel to at least one city I have not heard of and then a couple of different cities around. I am happy to do this because it is probably the only reason I will leave the house but also because I have the support system of living with my parents which means I do not have to pay rent. As a pupil I have guaranteed earnings and so I am willing to travel and go across the country for low paid work. I have had a couple cloud video platform hearings which are really helpful when we would otherwise have to travel far for a simple administrative matter. They are also really helpful for my colleagues who are shielding or disabled.

There were huge issues in the beginning with how the Magistrates were not allowing cloud video platform hearings to take place. In the beginning of 2021 there was a decision that cloud video platform would be a default hearing unless all parties would need to attend. Before that, we were expected to still go to Magistrates' courts that had no PPE in the cells, no hand sanitisers, no social distancing etc. It felt like a game of Russian roulette running the risk of getting Covid when we went to Court. Many of my colleagues have picked up Covid through attending court and I myself picked it up last summer, though of course I cannot say whether that was from court. Things have got better though so credit where credit is due.

I would also like to give some examples of my day-to-day work. In the majority of legal aid matters, papers are received the night before, long nights and it is stressful. One example, I was in court a few days ago and my client had 15 charges against her. Prison definitely an option. I spent 2 ½ hours prepping 2 ½ hours travelling, a 45-minute conference as it was a complex case involving a co-defendant also, in court for 6 hours in total with first appearance concluded. Travelled home 2 ½ hours and then spent 40 minutes sorting my notes and sent to my solicitor. I was paid £50+vat for all of that work because it is a fixed fee irrespective of the complexity of the work.

Another example is doing youth work which I love doing. I was in a multi-hander gang case involved robbery, weapons etc. A lot of the youth had disabilities and learning requirements. In total I had 5 hearings lasting 4-5 hours a time including waiting in court, an additional 3 conferences outside of the hearings and a 2-day trial as well as advice on appeal. Approximately 36 hours working on this case. For all of that I billed just under £650. £50 was my expenses, travelling food etc so £600 really for legal aid work. The LAA need to approve that amount, they often do not approve the full amount because they often reduce the time spent in conference outside of court and I will probably end up with £4-500 for the full case.

Another example is a magistrates' case I was sent the other week, I got the papers at 3pm and worked until 7pm, got in touch with the prosecution who then sent me a notice of discontinuance. The trial did not go ahead and I was thus paid nothing for the work. If the trial had gone ahead, I would have received £75 for the half-day work.

Natalie Bennett: How much has it cost you to reach your position now?

Aqsa Hussain: My undergrad in Amsterdam was about £4000 a year, did a masters at the LSE, both amounted to £24,000 in tuition fees alone. Then did the GDL costing >£11,000. I paid for that using savings and parental assistance. I was lucky enough to get pupillage in the first round of applications but I then had to find £18,000 for the bar course. I had a generous pupillage award which I could draw down from, I took loans from family members and savings I had earned through working from when I was 16.

When I decided to pursue the GDL I was oblivious to the risks and costs as I did not know a single lawyer. In pursuing a career at the bar I turned down opportunities in finance, consulting that would have provided me with much more of a safety net. In coming into practice, you

discover the terrible remuneration – none of us come into the profession to get rich or a glamorous lifestyle but we do come in with perhaps a naïve expectation that the reality won't be as bad as it is.

A lot of us junior professionals are now talking about our frustrations, hopes and desires for making this more sustainable. I have had friends who have left the criminal bar, even those who started pupillage in 2019. I have many friends who have stopped doing legal aid criminal work and many, including myself, who have to treat criminal work as effectively a pro-bono hobby. I have to subsidise my legal aid work with privately paid work. This profession is definitely unsustainable for a person with a background like mine. These are the people who would normally be drawn to the profession but they are also those who are not going to be able to enter and sustain a life in this profession.

I mentor young aspiring barristers and provide a candid account of the profession, this deters some but I think that's fair because we need to present people with the realities of the bar. We cannot allow people to have lofty expectations and for them to then be blinded by the realities. I have already seen many capable people pursue the solicitor profession or turn towards more common law pupillages. The way I see it, my parents struggled a lot to make ends meet in the country, I saw them penny-pinch their way through my youth, they don't want me to have to do the same. I understand things will get better, when Crown Court trials start flowing and the earnings improve but that is a journey of 2-3 years and unless I live with my parents over that time it is not a journey I can afford to take.

Natalie Bennett: Where do you see your life in 5 years time?

Aqsa Hussain: In 5 years I will be 32. I want to live a comfortable life, hopefully considering a mortgage, passion projects, possibly a family. I want a balanced life, not a burnout. I want to do predominately legal aid work but I cannot sustain my life doing just that. It is a huge privilege doing the work that I get to but it is simply not sustainable and I am forced to treat the legal aid work as pro-bono work. Approaching the end of my pupillage I have spoken to my clerks about how I can develop my practice more pragmatically, I really don't think many of us from non-conventional backgrounds will stick around if we are not paid commensurate for the complexity of the work we do and our education background. Now I have the energy and can work on complex, time consuming tasks, handle the terrible pay but only for now. I have been diversifying my practice and I will have to continue doing so. There seems to be a massive brain drain from the legal aid sector. Not to big myself up but I am a talented young individual and if I don't get paid fairly, I have options and I will pursue them because I really do not want to be in the situation where I am sitting struggling after all the sacrifices my parents have made. My generation is the most diverse for pupils and it is the legal aid sector that has attracted the bulk of that diversity, if we cannot afford to stay in that sector because it is not financially viable then both my colleagues miss out and also the public miss out on having a profession that is diverse and reflects the reality of the world.

I do still want to encourage people to pursue a career at the criminal bar but they need to do so with their eyes open.

James Daly MP: I was a solicitor for 16 years and have instructed many junior barristers over that time, your evidence, for a non-lawyer listening in would probably get the wrong impression that solicitors are deciding your pay. I have never instructed anyone to work for £50 ever. In terms of how solicitors instruct and the fees they offer to barristers, there are a wide array of solicitors who will pay more than you have said. There is a challenge at the criminal bar when you are a junior barrister but the work does come at the end of your pupillage, your career does take off. You are painting a picture of unmitigated doom that is not representative.

Baroness Kennedy: I have to say, James has really not kept in touch with the cuts over recent years with legal aid being obliterated for this type of work. Aqsa, I am saddened to hear that someone as talented as you are having to deal with this in the way you are, I was able to spend all of my practice as a wholly legal aid lawyer, the fact you are having to do this is terrible. Are the attrition rates particularly high for women?

Aqsa Hussain: Yes, the rates of attrition are high. All of my friends who have left the bar are women coming close to 30 worried about lack of financial security. It is definitely something I worry about all the time, I have been told it will get better if I stick it out over a few years. It will get better but how much will I miss out on by sticking it out those few years waiting for it to get better. It is women and others from non-conventional backgrounds who cannot stick it out until things get better. To respond to Mr Daly, I completely agree and did not intend to portray that solicitors set those £50 fees. It is a fixed fee we get for legal aid work. For a half day it is £75, for a full day it is £150 – they are just fixed legal aid rates.

James Daly MP: I am genuinely supportive of your position but the point I was making is that the solicitor receives a fixed fee for their trial, and the barrister gets a cut of that fixed fee but they themselves do not bill that. I do think you should all be paid a hell of a lot more.

[Rose Arnall, Shelter](#)

Introduction

Rose studied Law at UCL followed by a Masters in Human Rights and then the Legal Practice Course. Since then, she has worked for charities including Amnesty International, The Howard League for Penal Reform, Refugee and Migrant Justice and Liberty as well as for a Legal Aid human rights lawyers. Rose pursued the Chartered Legal Executive route to qualification as a lawyer and now works as a Solicitor for Shelter where she is part of their Strategic Litigation team.

[Questions from Laura Farris MP](#)

Laura Farris MP: I wanted to firstly ask about your pathway into practice. I had never heard of CILEX before and I want to clarify, you did that after your LPC and I presume that was instead of a TC, can you talk about that and what it involves?

Rose Arnall: I did my law degree, after which I accepted a job as a para-legal with a view to a training contract. You are not offered security for a training contract but the firm say they will think about whether they offer you one. I was one of 900 applicants for that position which paid around £17,000. My parents paid my LPC fees which I did at the evenings and weekends. I lived outside London and commuted in on an annual season ticket costing £4,000. I was working all hours of every day to get funding. I suddenly became the carer of a disabled family member, I was not able to put in the hours the job required that were outside of my contracted hours. To be clear, I could do my contracted hours but I was no longer able to do extra-contracted hours. I unfortunately had a very difficult experience, the employer said if you cannot do the extra hours you will not make it in legal aid, you should learn some touch typing and become a legal secretary. I was told I would not make it if I could not do the extra hours and I was demoted to a legal administrator role. It was only because I found a job at a local Shelter centre that I could carry on in my LPC. My experience between jobs was night and day. My colleagues were far more diverse, they offered me flexible hours around my caring and studying, they offered me an interest free travel loan, paid study leave, paid carers leave and I was able to complete my LPC. That is because Shelter have supplementary funding as a charity.

Laura Farris MP: How long has it been since you finished your LPC?

Rose Arnall: In 2012 doing it two years over time. Shelter did not have the capacity to offer me a training contract and that is when I first found out about CILEX. Shelter had encouraged me to help out on case work alongside my administrative work. Through solicitors there I was told about the alternative route over a longer period of time.

Laura Farris MP: How long was the CILEX route?

Rose Arnall: I officially started in 2014, I qualified in 2016. It takes longer than a training contract but because I had done a lot of other legal aid work I was able to show 3 years of previous experience.

Laura Farris MP: I recall from my own experience that people on the solicitor side can build experience in that way, if you did not have that previous experience how long would CILEX take?

Rose Arnall: About 5 years. There are stages and exams that allow you to take on more experience after each stage.

Laura Farris MP: You have been a fully qualified solicitor for coming on 5 years now. Getting to that point how did you cover the cost of living and courses and what debt did you incur?

Rose Arnall: I did and do have student debt. I was incredibly fortunate that my family gifted me course costs and exam costs. They also enabled me to stay rent free when appropriate. Without that financial support from my family I would not have been able to stay on and that is what leads to a diversity issue in the profession.

Laura Farris MP: You do not come to legal aid practice for the money but in terms of giving a bit of colour can you tell me about attrition and recruitment?

Rose Arnall: Most of the people I know have had to make difficult choices, whether staying with parents living in shared houses until their 30's, live outside of cities and commute a long way at huge cost, have put off marriage and children or have ultimately left the profession.

Laura Farris MP: Is there any benefit of being part of Shelter?

Rose Arnall: There are huge benefits indeed, for both me and for the clients. When in a pure legal aid firm my hours were high, caseload high and pay low and I was very stressed. That was not pleasant for me or my family but also meant I could not spend enough time with my clients. Now, as Shelter is funded on both legal aid and donations I do not have to take as great a case load which means I can spend more time with my clients and help them both with their problems and building their independence. To talk about the wider economic benefit, that reduces the drain that those clients place on other public services, I can help them not just with their immediate legal issue but also helping them become active independent members of society.

Laura Farris MP: Working through Shelter you obviously work on housing matters but as well as housing what other areas of law are you advising on and the scope of your work?

Rose Arnall: I don't know if many people will understand that their issues are legal issues and that the person they could call is Shelter. If someone does understand that then when they come to us, the tip of the iceberg may be disrepair or an eviction but under that there is often a community care issue, a welfare benefits issue, a family issue etc. Shelter, ourselves or through other providers, are able to provide a fully wrap-around service for clients where we can help with those other issues. That should not be the Rolls Royce level of service, that should be possible for all providers. Clients should not just go to a firm and get help with only one of their issues, wrap around care should be the norm.

Laura Farris MP: Would it be fair to say that your position is only sustainable due to the additional funding provided to Shelter?

Rose Arnall: To the standard of service I provide, absolutely. I also only got to this stage because of the funding from my family.

Baroness Kennedy: Congratulations for your incredible journey. I wanted to really pick up on how you started. You were a para-legal. I have spent some time looking at the situation of para-legals and receive contact from young para-legals about their experience. Do you think the para-legal system in public service law is working?

Rose Arnall: I can only speak from my personal experience. I saw people working into their mid-30s as paralegals on very low pay, handling huge workloads and with no prospect of career progression.

Baroness Helena Kennedy: It is a de-professionalisation of the profession. The people running the practices give paralegals few prospects for recruitment and progression. You stumbled upon CILEX.

Rose Arnall: It was incredibly lucky and that I also had a supervisor and a solicitor that supported me. By the time I qualified I had 5-7 years of case work experience. There is something special about having a lived experience, that diversity of background and experiences allows us to give a much broader experience and expertise to our clients.

Laura Farris MP: I am incredibly sorry to hear about your experience of almost associative discrimination in your first law firm. That would undoubtedly enrich the experience you can give now in your work.

[Dr Jo Wilding](#)

[Introduction](#)

Jo Wilding studied the law conversion course part-time and started pupillage in 2006, when her first child was 15 months old. She got tenancy immediately after pupillage and specialised in immigration and asylum and public law. She had a period on maternity leave in 2009-10 and became a single parent very shortly after returning to work. She remains a tenant at Garden Court Chambers but has been on sabbatical working in academic research at the University of Brighton since 2014.

[Questions from James Daly MP](#)

James Daly MP: Can you give us your view on the issues that have been raised?

Dr Jo Wilding: Listening to Aqsa brought a tear to my eye. Feeling about letting down the sacrifices that her parents had made. My grandparents had been immigrants too and I had the same feeling about struggling through.

I haven't left the bar, I have taken a long-sabbatical which my chambers have allowed, so I won't come into the statistics of leaving the bar. But it is just same the stress and burnout of the profession that leads to people leaving. The money issues come into that.

I did the GDL part time, did the bar course full time, spent a lot of time pregnant, had my first child just after the bar course. Deferred my pupillage by a year and then started my pupillage with my son aged 16 months, living in Brighton with my mother and commuting to London so that my mother could provide free childcare for my son. Started my tenancy as soon as I finished my pupillage and the first thing I said to my clerks was that I could no longer do

criminal work because I simply could not afford to or work around the moving around the country and the immense uncertainty of the warned list.

James Daly MP: Take it for read that we need more funding into the system but what else can we do?

Dr Jo Wilding: It goes beyond criminal law. The warned list was problematic because you never knew when a trial would start. In my pupillage I was supposed to do a sentencing brief the next day in London, I got home and saw I had received an email telling me that I had to do a trial the next day in Watford. So that night I had to go back into London, return the sentencing brief and pick up the new papers for the short notice trial and spend the night at a friend's house preparing for the trial. This occurred because someone else who first had the trial had another case in the warned list which was then allocated for the following and could no longer do the trial that I then had to pick up.

James Daly MP: There are obvious positives and negatives in term of remote justice but do you think it would be positive for you to be able to represent more clients remotely?

Dr Jo Wilding: For administrative hearings it absolutely works. I was asked in pupillage to go to Sheffield from Brighton for a 5-10 minute mention. What I would like to avoid is moving towards a more general practice of having hearings remotely, it does not work in asylum cases and most criminal cases. It should be done on a case-by-case basis and only where the clients want it to be. You cannot have asylum justice remotely.

James Daly MP: Sorry to go back to criminal but if you take your average criminal law firm where there is a requirement for all members of staff to be on duty and thus potentially having to go to police stations at 2-3 in the morning. How can we create a system for all having equal opportunities to thrive and succeed? A lot is about money but also working practices.

Dr Jo Wilding: I think that is really important. In terms of what can be done for people in my position and others to stay at the bar is that it one needs to look at the whole system, it is not just issues in legal aid. For example, in the immigration tribunal all cases are listed at 10am and the judge then decides the order of cases on that morning. There is really no need for that. Where matters have to be adjourned, the courts are often unwilling to relist in a way that takes into account counsel's availability. With immigration work the appeal deadline of 5 days is also incredibly difficult. Judges will reserve their immigration decision for weeks or months and you are unsure when the decision will be given. When it is given, you have at most 5 days to draft grounds for appeal which have to be on a point of law. You may not even get 5 days if your instructing solicitors don't send the decision over immediately. This creates an unpredictable and urgent situation.

The higher courts also have a stance of placing every reliance on test cases and staying every other similar matter until the test case is heard. Because you don't get paid for judicial review work unless you get permission you cannot bill anything for that case which has been stayed. The savings to the court are all made on the back of a self-employed practitioner. You simply do not know when these bills will become submittable.

James Daly MP: On that point in terms of the predictability of income, how can we address that?

Dr Jo Wilding: For example with judicial review, the ideal thing would be to return to the old position where you are paid for judicial work as of right rather than on success at the permission stage. Or if we stay in the current position then we need to have the courts adapt their practice to grant permission for cases that will then be stayed behind test cases. For all

immigration tribunal work barristers receive a fixed fee of £302, in terms of the delays in payment we, the solicitor, then cannot bill that until the case is over. We bill the solicitor, the solicitor bills the LAA in arrears until the case is closed. The solicitor receives that from the LAA and then pays it to counsel. Some solicitors in cash flow crises will sit on that fee for a while before paying it to counsel. You cannot know when you will be paid.

In judicial review cases if you win you get inter-partes fees which are paid at a higher rate but the delay on getting that is huge, particularly against the Home Office. My aged-debt was far bigger than my annual income and most of that aged-debt was fees the Home office owed me. Having not been in court since 2014 I still managed to have an income of £14,000 when I renewed my practice certificate last year, that was primarily from delayed costs owed by the Home Office. A large part was my last CoA case 5 years ago where the Home Office had quibbled every penny I claimed.

James Daly MP: I think that is an incredibly important step that would create better cash flow in the system. My own personal view is that we need to see an increase in legal aid fees and expanding scope for legal aid, we would probably agree on that. What I am also interested in about is entrance into the profession. In criminal legal aid, in many of the main metropolitan areas of the north there are no trainee solicitors at all, something desperate is happening as when I started out there were lots of trainees. The SRA's answer is that there are many still entering the profession. In terms of the bar, the challenge of getting pupillage is overwhelming. How can we improve the experience of those entering the practice to ensure that whatever your background you have a chance to enter? What is it that we can do to bring more young people into the system to give them a chance.

Dr Jo Wilding: This is something I have looked at more in my research than personal experience. There are huge advice deserts across the country and in those areas there are no routes for graduates into training and so people have to leave to get training. Once people have got that training elsewhere they don't move back to the original desert, or at least not until they are much much older. Those advice deserts become self-perpetuating. In terms of how much the money matters it is really hard to say, to me it mattered perhaps very little because I was able to live on almost nothing but the never-knowing when you get paid was the biggest issue. On any given month, the money I got in may not be enough to pay my mortgage. One month I had £92 pre-tax in, not taking into account travel. Those money issues fed into my stress and burnout. You go into it not to make money but to do something useful but you nevertheless have to pay for your needs.

James Daly MP: I did criminal law in Bury, our Magistrates shut down and so people would have to travel into Manchester for one case that would be listed along 30-40 other cases. A young lawyer is effectively paying to go into work for work that you may not be paid for in several months. The other thing is the changing nature of the legal landscape. High Street legal firms as they existed from 10-15 years ago don't exist in that form now. In Bury, there is one criminal legal aid firm. When I started there were 4-6 going on. Something severe is happening at the root of our system that is impacting both the solicitor side and the bar. We have to do something drastic. I don't necessarily have a question on the back of that but is there anything else you want to add?

Dr Jo Wilding: When you look at the payment regime for immigration lawyers and the payment system for barristers and the reasons for unpredictable income. The root is that the payment regime is punitive. It is almost like the LAA begrudge you for doing that work and are saying "if you want to do that work you have to put up with this", as if you are doing something dishonourable. No one expects the bin-men to collect the bins on a rainy day in January for 2/3rds of what they expect to earn, paid 7 months down the line. The existing payment regime

is punitive in the sense that the LAA expect you to do the work without actually expecting to pay you what you've worked. In terms of the Higher Courts, savings made by staying cases are on the backs of practitioners who are not paid. You cannot look after your clients, your family or your own life in that system.

James Daly MP: You have to be able to pay your bills and that is the huge issue.

Dr Jo Wilding: Absolutely, it is the uncertainty. For all of those years, it was my mum that paid for my children to have Karate lessons because I could not.

Karen Buck MP: Can I just thank you very much for your incredibly powerful evidence that will all help to inform a strong report.

Conclusion: James Daly MP

First of all I would like to thank Karen for being an incredibly good and efficient chair of the inquiry and as well as for guiding us new members of parliament. I would like to thank the panel members but most of all I would like to thank all of the witnesses. It has been fascinating, distressing and interesting but the thing that has come out clearly is that we have a system that is failing to deliver all that we want from a legal system that is financial sustainable. We have to see change and I fail to see how anyone cannot take that view. The title of our report is the sustainability of the legal sector and we will put forward suggestions that I hope the government will take into account. Thank you very much to everyone for your time and evidence, it has been appreciated and I would value it all.

Baroness Helena Kennedy: How is a report to be produced and how do we contribute to the report? It could be done in a number of ways. There is something more serious than the lack of money in the system. In the last 20 years there have been a huge increase in young people doing law degrees and unable to become the professionals they have been indebted to become. There is something about the profession and about how there is a denial of opportunity to people who indebt themselves to do it or who are exploited as paralegals. Then there is what that does to clients. I was in a call this morning about justice for girls and women along with Brenda Hale. There is often a backstory about how people end up before the courts but a lawyer needs time to get that backstory. The system at the moment does not enable that. Then there is what it does to justice as a whole. It is a very demanding job for whoever is going to write the report.

Karen Buck MP: Ro is going to tell us the process of that but we, as a panel, will explore the proposed heads of the report and work out way through the draft on the basis of the evidence we have heard.

Rohini Teather: Thank you Helena, that has been another example of how engaged the panel are with this and thank you so much for the energy you have put into the inquiry. A huge thanks from me to the 35-36 speakers we have had. A huge thanks to the juniors who have spoken to today, it must be hugely daunting to speak to ministers and MPs in this context. A quick thank you also to those who have submitted written evidence and to those that have listened over the last 6 months. We wanted it to feel like it was an inquiry lead by practitioners and hopefully that has been the case.

We will be having a heads of panel meeting over the next 6 weeks, we have collected a summary of the witness suggestions, and the panel will be discussing that to decide on their suggestions for the report that will be released in September. The report in September will be released alongside an academics report as well as the results of a legal aid census that we will be carrying out from May this year. We want to hear from all practitioners, students and everyone in the sector. This intends to be the largest census of the sector for many years and

we need your data as part of it. We have met with Sir Christopher Bellamy this week who has said the results of the census will feed into CLAR 2.

Karen Buck MP: I have nothing more to say other than thank you for all who have participated and especially to Chris and Ro who have helped enable all of this to happen.