***Why I’m voting No to this offer***

I have been Northern Circuit representative on the CBA Committee since 2007 and have been involved in fee disputes for years before that. I am completely cynical. I have heard the same arguments again and again on the committee. I have seen the same mistakes made again and again. The number of times I’ve heard it said that we ought to be proud that the cuts aren’t as bad as they were when first threatened is nauseating. I have seen the Bar Council and some Circuit Leaders damage effective action multiple times. We have had inspiring leaders and uninspiring leaders. One fact is undeniably true - we have been on a downward trajectory since grad fees first came in 1997. I am confident that we are still heading downwards with the possible [proposed figures suggested on 6th June](https://www.criminalbar.com/wp-content/uploads/2018/06/AGFS-Proposal-Outline-with-Illustrations.pdf).

I would hope that everyone has run their own analysis over recent months and again since yesterday and over the next few days. The suggested figures are not even confirmed. I fail to see how any practitioner is meaningfully better off and my own time limited analysis suggests that established juniors and silks are still worse off by a substantial margin compared to before the 1st April. Even if young juniors are marginally better off (which I doubt) I can’t see how these fees provide them with anything close to the sort of income they deserve nor a sustainable one. Less pay for complex work makes it more attractive to do the better paid more straightforward volume work that was previously available to young juniors. Less income from senior juniors and silks means higher chambers expenses.

It is said that this proposal amounts to an increase of £15 million. How on earth can that be checked in the time scale proposed? This argument is based upon the LAA’s modelling. If in 18 months time people wake up to the fact that they are earning less then the LAA will just say that the case distribution has changed from that which was modelled. They will say that it is nothing to do with the MOJ that the CPS are serving less material that qualifies as PPE to hit the thresholds in drugs cases. The truth is that neither the CBA leadership nor the Bar Council can categorically determine that this is a gain rather than a slight reduction to the stealth cut imposed on 1st April. The Bar Council and Circuit leaders foolishly agreed to get involved in designing a scheme with no more money. They then appointed representatives to negotiate with near plenipotentiary powers but no mandate. The Bar Council and the Circuit leaders then told us we should be happy with V1 last year and it was the best that could be achieved. They then told us we should accept V2 and it was the best that could be achieved. They now tell us that we should accept V3 and it is the best that can be achieved. I think they are wrong again. They are still involved in the negotiations. It is not the CBA alone. I think this has clouded judgment in the CBA. We are risking making the same mistakes we’ve made for the last 20 years. Make no mistake – just as we have endured 20 years of AGFS and 20 years of a downward trajectory to the bottom of the pit, this scheme will be with us for another 20 or until we die off. We might not go any deeper down but we stay at the bottom of the pit. Until 2038.

The argument in favour of accepting this offer is not that it amounts to fair remuneration nor that it is a good deal. Such an argument is impossible, even for the greatest apologists who push the new scheme. The most conservative estimate is that, even when ignoring inflation, we are 40% down since 1997. Therefore, to restore fees to those of 20 years ago would require an increase of 66.7%. Let’s assume I’m wrong about it being a stealth cut. At best it’s an increase of a couple of percent. So even if we got another 2% per year as opposed to the 1% “promised” next year, in 30 years time we might reasonably expect to be back on the fees we were on 50 years ago. Do we have no self-respect?

To accept such a deal would send a message to this Government and future Governments that we do not value ourselves. To be cowed by the threat that the offer will be withdrawn shows that we are pusillanimous and biddable. It puts us in no position to argue or fight for more in a year or two. The ministers and civil servants would laugh at the profession that calls itself fearless and is supposedly vital to the system of justice.

It is often said that those with a vested interest are anxious to preserve better pay for high PPE cases. I do have a vested interest. However, those who push the scheme claim to speak for junior juniors. I haven’t met a junior junior in favour of this offer. Looking back to the time when I started out, I was more concerned about career progression than short term gain. If I were starting out now, I suspect what would make me leave the profession (early enough still to have a chance of doing something else) is the knowledge that I’m stuck with this bargain for at least another 20 years, that I will never earn significantly more after my first few years on my feet and that I am starting out in a profession that did not fight its corner.

True, there are differing views. We are a democratic organisation. There is every reason to suppose that we will all abide by and rally behind the majority in the ballot. That is what gives us bargaining power. We got this far without No Returns and without Days of Action. We can do more and we can get more.

This vote is not about trust and nor is it about sincerity. There have been inane tweets along the lines of I’m voting Yes because I trust Angela. I don’t need to trust that she has worked hard. I know she has. I don’t need to trust that she is sincere, I know she is. However, she is not infallible and does not claim to be. Don’t be patronised like an errant child. It is not a vote of confidence either. Sometimes when you’re in the thick of it you don’t have the clarity of those outside. All CBA leaders have little or no experience of dealing with ministers and civil servants. It is our greatest weakness whoever is leading. Blind faith and trust exacerbate sincere mistakes. Rejecting the deal shows the Government that we are strong, that we will not be threatened with unprincipled hucksterish time limited offers and that we have more self-respect than to be grateful for stealing slightly less from Peter to pay Paul. Rejection of this offer arms the team for the immediate task ahead and shows that we are a force to be reckoned with in the years ahead.

The only way to survive is to keep fighting. You can’t bank this offer and fight on. It’s not a card game of multiple rounds. The offer in reality is - you lot take this in return for being good boys and girls.

If the majority vote Yes now and if I’m still around in 2038, I might dig out my receipts from 1998 to see if we’ve restored the cuts yet. Maybe I’ll have to hope to live until 2048 if we outdo ourselves with 2% per year.

No-one is happy with this deal. Don’t do some speculative calculation about who will be CBA leader in September 2019 and who will be a minister. Then guess again about 2020 and 2021…Vote No for what we all know is wrong, paltry and derisory now.

Simon Csoka QC 6th June 2018