

The Counter-Intuitive Solution

Barristers hate not working. We complain incessantly about how much work we have to do, but there is no more accurate metric of a barrister's self-worth (at least in professional terms) than how busy they are. Respond to this refrain by suggesting to a barrister that they need to take more time off, and they will look at you with the kind of uncomprehending outrage that one ordinarily associates with a Bateman cartoon; *The Man Who Took His First Sick Day In 30 Years*, perhaps.

A matter of days ago, I was amiably castigated by the South Eastern Circuit's Previous Recorder for not looking after my own health over the course of the CBA's recent dispute with the MoJ. With a painfully predictable inevitability, I furnished her with all the reasons for why the circumstances were so exceptional that I could not be expected to achieve the kind of balance that I am supposed to promote. What struck me was the fact that most barristers (certainly most criminal barristers) deploy similar arguments for circumstances that are by no means exceptional. It has become the grim reality for most members of the criminal bar that those who are able to work constantly and consistently, to do trials back-to-back as far as possible, must do so in order to survive. Some are lucky enough to supplement their publicly-funded income with private work. Most are not.

It is no good for barristers, and it is no good for justice. The joint BSB/SRA report into [judicial perceptions of criminal advocacy](#) notes that a major driver in what judges see as falling standards is what one of them described as the "appalling level of remuneration". Another judge observed that "advocates... have got to feel appreciated". The report clearly identifies the alarming consequences of the demoralisation of our profession.

The fact that the Criminal Bar's recent action is, for the time being, suspended has done little to augment the wellbeing of a section of the Bar who are beyond breaking point and have been so for too long. It is about the money, but it's not *just* about the money.

What is to be done? The answer is an uncomfortable one. We have to do what we find utterly counter-intuitive; we have to stop working. I don't mean in the sense of taking industrial action – I simply mean in the sense of looking after our health. Your most important commercial asset as a barrister is your mind, and working without relent in conditions of unmanageable stress can be viewed as a kind of commercial recklessness.

You have a professional obligation to ensure that the party instructing you can rely on your best performance, which means that you need to take time. Take time to have lunch. At lunchtime. Every day. If there are interview edits to be done, they will still be there at 2 o'clock. It is not reasonable to sit up all night reading unused material or drafting skeleton arguments. It is not reasonable to engage in email exchanges at 3am. It is not reasonable or healthy to go to work when you are sick, physically or mentally. It is not acceptable to expect someone in a state of bereavement or loss to come to court to represent a party to criminal proceedings. So don't. You are entitled to a personal life. Most judges will understand. Some will raise an eyebrow. A few will complain or even bully. But our duty to be at our best, for our client, is non-negotiable. It is finally time to avail ourselves of the fearlessness for which we are so well known.

The CBA has invested in an Employee Assistance Programme, which can be accessed by members, their partners and any dependents between the ages of 16-24 and in full-time education. Members can call the confidential telephone service at any time, as many times as you want and for as long as you need; counselling is

available for both emotional and practical issues. You will also have access to the online services, providing information and assistance with common health concerns.

The service is already available.

Telephone: 0800 169 2040.

This is a number designated to CBA members exclusively. You will not have to provide any additional form of verification, and your call will be treated in the strictest confidence. Put the number in your phone now. Nobody hopes that you will need it, but we want you to have it if you do.

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