



Criminal Bar Association Survey of Rape And Serious Sexual Offence Criminal Bar Capacity

Crisis in numbers of RASSO Prosecutors and Defence Counsel to worsen

Immediate increase in RASSO fees needed to address the backlog and meet public expectations

The current crisis in the shortage of criminal barristers available to prosecute and defend rape and serious sexual offences (“RASSO”) will accelerate exponentially over the coming years without urgent intervention to increase remuneration for these sensitive and serious cases as compared to other serious criminal offences.

- **64% of Prosecutors completing the survey said at renewal they will not be reapplying to be on the RASSO List.** Only 246 RASSO Prosecutors confirmed they would conduct RASSO cases in the future.
- **34% of Defence RASSO Counsel said they no longer want to conduct these cases.**
- **53% of those who conduct Section 28 cross-examination do not want to carry on,** with over half of those saying this was down to a lack of remuneration for the work involved.
- **Overall 6 out of 10 surveyed cited poor fees as the reason for refusing to conduct RASSO cases.**
- **Half of all those surveyed pointed to poor well-being as the cause for refusing RASSO work.**

These are among the main findings to be drawn from the first ever, wide-ranging survey of the Criminal Bar of criminal barristers who both prosecute and defence RASSO cases conducted by the Criminal Bar Association of England and Wales.

The Criminal Bar provides specially trained prosecution and defence barristers to conduct RASSO cases which represents nearly 9,800 cases in the backlog. The average wait for a bailed rape trial to conclude since an alleged offence is today around five and a half years, including an 18 month wait on average from charge to trial completion. Many RASSO cases wait longer than 18 months with reports coming to the CBA of trial dates being set for the end of 2026 for rape offences charged in 2022.

Tana Adkin, Chair of the Criminal Bar Association, said: *“We conducted this detailed survey of those who are qualified to prosecute and defend in RASSO cases so that we could understand why we have insufficient numbers of barristers available to conduct these complex and serious cases. The Criminal Bar is committed to do everything it can to address the backlog and continue providing the highest quality advocacy whilst ensuring the vulnerable, complainants and the accused alike are heard. Our ability to deliver what government wants, what courts require and the public expects is currently unsustainable. Doing nothing to increase RASSO fees is not an option unless we want to accept that rape and serious sexual offence trials will continue to be delayed for years, repeatedly postponed on the day because there is no barrister to prosecute or defend. The human cost for victims of these crimes as well as innocent defendants is beyond financial measure.”*

Highlights from the CBA RASSO survey of criminal barristers include:

- Half (49%) currently accept both prosecution and defence instructions in RASSO cases
- Two thirds (67%) will not currently consider taking on more RASSO work
- Over three quarters (78%) of under 5 years call will not consider building a RASSO practice
- One third (34%) state they have reduced RASSO work already in this past year
 - 46% cite insufficient remuneration, 46% diary complications, 42% listing difficulties, 32% wellbeing.

Prosecution

- **Two thirds of Prosecution Counsel (64%) said that they will not reapply to the CPS panel of approved RASSO prosecutors when their renewal is due** – that includes those who are currently on CPS panel lists or who have previously prosecuted for the CPS.
- **Only one third (36%)** currently on the CPS RASSO panel said they would re-apply.
- Only 246 criminal barristers who are currently approved to prosecute on behalf the CPS said that they will make themselves available for CPS panel lists to prosecute RASSO cases.
- Nearly two thirds (62%) of those who prosecute cited insufficient remuneration, 50% also cited wellbeing as affecting their decision not to prosecute RASSO cases.

Defence

- **Over 4 in 10 (42%) of those who take on publicly funded RASSO defence cases do not intend continue to do so.** [Pay is set by Government under Criminal Legal Aid Advocacy fees, AGFS]
- Over half (52%) cited insufficient remuneration as a reason for this, 36% wellbeing, 30% listing difficulties.

Tana Adkin KC, Chair of the Criminal Bar Association, added: *“These findings are devastating but sadly not surprising to a Criminal Bar that undertakes the management and presentation of the most traumatic and often explicit and intimate cases you can imagine without fear or favour. RASSO cases have been undervalued and underpaid for decades in comparison with other criminal offences. It is time remuneration was increased so that dedicated criminal barristers are able to build proper careers in this specialist field.”*

The CBA RASSO survey was sent to all practising members of the Criminal Bar Association and primarily completed by all those who have ever conducted a RASSO case, either prosecuting or defending. A total of 780 criminal barristers completed the survey which was open from Monday 15 January to midnight Sunday night 4 February 2024 with around 57% of responses from men and 43% from women practitioners. Full details on responses by years of Call are provided in a break-down, however a total of 543 of 780 responses came from criminal barristers with 18 or more years of call and those in silk, reflecting considerable experience as specialist RASSO barristers.

Ends

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Notes to editors:

CBA analysis of published official data shows:

1. As at 30 September 2023 the backlog of all outstanding RASSO cases in the Crown Court of England and Wales stood at a record 9,792, up 226% from the historic low of 3,005 on 31 December 2018. Of those outstanding RASSO cases there were 2,591 outstanding rape cases, up 356% from the record low of 568 on 31 March 2019.
2. The total Crown Court case backlog stood at 66,547 at 30 September 2023, a 23 year high since records began, up 102% since the record low of 32,899 at 31 December 2018
3. Outstanding RASSO cases today account for more than 1 in 7 of all backlogged cases in the Crown Court, compared to 1 in 10 five years ago.
4. For the first 9 months of 2023 to 30 September 2023 976 RASSO trials were deemed “ineffective”, adjourned (postponed) on the day they were due to commence. 184 of those 976 ineffective RASSO trials, 1 in 5, was because of a shortage of either a prosecution or a defence advocate on the day required. They comprised 87 RASSO trials ineffective on the day as no prosecution advocate was available and 97 RASSO trials ineffective because there was no defence advocate available.
5. Of those ineffective RASSO trials in the first 9 months of 2023 to 30 September 2023, 42 rape trials were ineffective – adjourned on the day – as there was either no prosecution or no defence advocate available – a more than 10 fold increase in such shortages compared to both the whole of 2018 and 2019 when 4 rape trials in each of those 12 month periods were ineffective due to shortages of either a prosecution or defence advocate.

6. The time taken from a charge of rape case with a defendant on bail to a trial concluding in court has risen on average 80% over the past 5 years from around 10 months to 18 months, making the total average time for a bailed rape trial to conclude after alleged offence to around 5 and a half years.
 - a. Over the three month period, the second quarter of 2023, from April to June 2023, a total of 211 bailed rape trials completed taking a mean average of 2,036 days (five and a half years) from “offence to completion”, comprising a total “pre-court” time average of 1,478 days, and a “charge to first listing” average time of 71 days followed by an average “at court” time of 487 days, meaning the charge to completion time comprised on average 558 days (18 months).
 - b. By comparison over the three month period, the first quarter of 2018 from January to March 2018 a total of 262 bailed rape trials completed taking a mean average of 1,242 days (under three and a half years) from “offence to completion”, comprising a total “pre-court” time average of 957 days, and a “charge to first listing” average time of 43 days followed by an average “at court” time of 285 days, meaning the charge to completion time comprised on average 328 days (10 and a half months).