

Courtroom crunch

Barristers face up to bankruptcy

Legal aid budget cuts hit incomes

Late payments increase troubles

By Franny Rabkin

Growing numbers of criminal barristers are facing possible bankruptcy at a time the government is cutting legal aid funding, an investigation by the Financial Times has discovered. Figures released by the Bar Standards Board confirm that in the past three years, 130 barristers have given notification that they are facing bankruptcy

proceedings, directors disqualification proceedings or have entered into voluntary arrangements with creditors. A spokesperson confirmed the numbers of notifications are steadily rising, with 48 cases in 2011 and 45 in 2010, up from 37 in 2009. As the government attempts to slash £350m from the £2bn annual legal aid budget, publicly funded criminal law barristers have been particularly vulnerable, with more than half reporting a decrease in income, according to a recent industry survey.

However, barristers claim the legal aid cuts are being exacerbated by delays in

receiving payment from the Legal Services Commission, which pays fees on completion of legal proceedings.

The Criminal Bar Association, which has 3,500 members, confirmed it is taking advice on a legal action to enforce payment or a judicial review of the LSC's payment procedures. Max Hill QC, CBA chairman, said that in an unpublished survey of 1,685 criminal barristers it carried out this spring, 87 per cent reported delays of nine weeks or more before LSC payment.

"We have taken our share of the pain," said Mr Hill. "Yes, there are criminal barristers who are paid

very well in comparison with other public servants, but we've got people who are the ablest young lawyers who simply can't go on much longer. We are suffering a brain drain."

The LSC would not comment on the possible legal action. But a spokesman, while acknowledging there had been a problem in the past, said the average payment turnaround time was now little more than five weeks.

The spokesman added that the backlog was being tackled and there were now 450 claims which were more than five weeks old, of which 27 dated back to January, he said.

"These can take longer... because either the court record is missing, or incomplete, or the advocate has got something wrong – a lot of which happens where the case is more complex," the LSC spokesman said, adding that because it was dealing with public money, it had a duty to obtain detailed evidence to support payments.

Last month, barristers threatened to strike over the legal aid cuts, which a parliamentary report forecast will lead to 45,000 fewer instances of representation.

Criminal law barristers interviewed by the Financial Times said there was

less work around because solicitors, also hit by the cuts, were briefing counsel less than before. "We're not on a level playing field. The people who we relied on for centuries for our work are now doing our work themselves," said one barrister.

Publicly funded barristers have had a pay freeze since 1994. The Labour government also cut their fees by 13.5 per cent and the coalition government has cut them a further 11 per cent.

A Ministry of Justice spokesperson said: "We believe the [legal aid] rates we pay on behalf of taxpayers are fair."

A difficult case Problems confronted by criminal counsel



Lower rates

The cuts to legal aid have meant that publicly funded criminal barristers are getting paid about 25 per cent less than they were in 1994. The most recent cut of 11 per cent was in October last year. But the government says legal aid rates are fair in the current climate.

Less work

There is less work available because the cuts have also affected solicitors, who are now keeping much of the work in house. The Barrister's Working Lives survey says 40 per cent of self-employed criminal law barristers would not opt for the bar if they could start their career again.

Late payment

Publicly funded barristers complain of the long delays in payment by the Legal Services Commission. However, the LSC says the problem is being addressed, with a five-week turnaround time for payment.

Words: Franny Rabkin; Picture: Charlie Bibby

'You are ruining people... breaking up families'

Financial plight

Experienced legal representatives say they are on the headline and losing their homes, writes Franny Rabkin

Catherine Richards (not her real name) has not yet notified the Bar Standards Board that she is facing bankruptcy. But she says she might have to in the next couple of months.

The idea of "fat cat lawyers" is so firmly fixed in the public mind that the laments of the publicly funded criminal bar – about legal aid funding cuts and long delays in fee payment – seem largely to have fallen on deaf ears.

For Ms Richards, the issue is real and urgent. "I had the bailiff come to my door yesterday morning for non-payment of council tax. This is what

I've got to deal with before I step out of the front door," she says.

With a bankruptcy petition pending, her phone never stops ringing. "I've got the electricity board threatening to disconnect my supply because I can't afford to pay my bills."

It seems unthinkable that a criminal barrister with 15 years' experience, such as Ms Richards, is on the headline. When a bank took a possession order on her home last year, she owed less than £15,000 on her mortgage.

Yet the government owed her four times that sum in unpaid fees from legal aid cases. Now, there are days when she walks into the supermarket with £3 to her name, wondering how she will feed her family.

MPs on the justice select committee say vulnerable people could be "disproportionately hit" by plans to cut £350m from the annual £2bn legal aid budget. But the financial

plight of their legal representatives has been less well documented.

Last year, Ms Richards "grossed" £25,000 – before paying chambers' rent and tax – a 75 per cent drop from the year before.

Sophie Hutchinson (not her real name), a barrister for six years, did better. Her taxable income last year was £42,000, but 60 per cent of that came from regulatory work. She has had to diversify – "so I know I can pay my tax bill", she says. "I want to do crime. If I had a choice,

I would just focus on that. But it doesn't really feel like it's a viable option."

Ms Hutchinson says barristers start "far below zero" because of all the debt incurred in getting qualified. Then begins a long cycle of "chasing your tail" – paying off old debt with money earned, but accumulating more debt in the process. She says managing finances is "the most stressful part of the job", and feels that the experiences of more senior colleagues suggest that the problems will continue.

The Barristers' Benevolent Association reports a rise in requests for help in the past two years. "We've had more people coming and for larger amounts of money," says Susan Eldridge, its secretary. Many requests are "because of non-payment by the Legal Services Commission", which has been criticised by barristers for delays in paying legal aid fees.

The LSC has told the Financial Times it is now on top of the payments, but barristers say this may be too late for some. "It only takes one year to go out of business," says Max Hill QC, chairman of the Criminal Bar Association, which is considering taking legal action.

Ms Richards was refused a mortgage payment plan because she does not have a regular monthly income. A guaranteed fee payment within a month of a case finishing would "make all the difference," she says.

Instead, she has taken in a lodger to acquire a regular income, but still fears having to tell her teenage child that they will have to move into temporary council accommodation.

She says: "This is what the government does not realise: you are literally ruining people. You are putting people out of their homes. You are disrupting their children's education... You are breaking up families."

An LSC spokesman said it had "hardship resources" for barristers facing financial crisis, and would "pull out and expedite" claims if there were a genuine urgency. "We are not deaf to people who have problems," he said.

Ms Hutchinson, the first in her family to go to university, fears that the criminal bar will go back to being a "white, rich profession, where people do it as a pastime – not because it's a job they love and think is important".

Case notes

130

Barristers warning of financial crisis since 2009

87%

Barristers reporting fee delays of over nine weeks

£350m

Sum ministers want to cut from £2bn legal aid budget

45,000

Forecast drop in cases of representation after cuts

MPs highlight flaws in financial services bill

Committee report

The government's plan to revamp financial regulation has come under fresh attack from parliament's Treasury committee, which says the governance and accountability of the Bank of England must be improved before it is handed broad new powers.

The committee will today take the unusual step of issuing a 37-page report highlighting the flaws in the proposed financial services bill. It is hoping to spark changes when the bill is scrutinised next week in the House of Lords.

The MPs do not quarrel with the main purposes of the bill – which will split the Financial Services Authority, hand prudential regulation of banks and insurers back to the BoE and create a new Financial Conduct Author-

ity to protect investors and supervise markets.

Rather, they want the new bodies to be more accountable to parliament and for the court of the BoE to be replaced by a stronger oversight body with the power to undertake reviews of the BoE's performance and policy decisions.

It also wants the BoE's new supervisory arm, the Prudential Regulatory Authority, to include enhanced competition as one of its objectives.

"The bill is the most important overhaul of financial regulation in this country," said Andrew Tyrie, committee chairman. "Better to get it right than rush it."

The committee is pushing for more changes, including a clause giving the chancellor powers to direct the BoE when taxpayer funds are at stake.

Brooke Masters

Malaysians move closer to £400m Battersea deal

Power station site

A consortium of Malaysian property developers has moved a step closer to taking control of Battersea power station.

Developers SP Setia and Sime Darby Property yesterday entered exclusive talks with Ernst & Young, the administrator conducting the sale of the historic building and surrounding land.

The £400m bid from the consortium has sidelined efforts by Roman Abramovich, the Chelsea football club owner, to secure the 38-acre site to build a new stadium.

In a statement, the Malaysian consortium, which is being advised by RREEF, Deutsche Bank's real estate arm, said that it planned to "preserve the facade of the historical power plant with its iconic chimney

stacks". The consortium also confirmed that it would press ahead with the plans to extend London Underground's Northern line to connect to the power station site.

The 1930s power station, which is among the largest brick buildings in Europe, was closed in 1983. The landmark on the London skyline has notably been used in Alfred Hitchcock's 1936 film *Saboteur* and the music album artwork for Pink Floyd's "Animals".

In recent years, its prospects have fallen foul of the downturn in the property market.

Treasury Holdings, the previous owner, was forced to hand over the site to Ireland's National Asset Management Agency and Lloyds bank after the two enforced the company's loan in December.

Ed Hammond

Thames Water hints at lifting of hosepipe ban

Supply shortages

Thames Water has signalled that it might drop its hosepipe ban within weeks after an exceptionally wet spring that has returned water levels in reservoirs and rivers to normal levels.

The water supplier to 8.8m people was one of seven companies to impose restrictions on April 5 amid drought conditions in south-east and central England.

Thames Water said yesterday that heavy spring rain had eased concerns about water sources.

It said Anglian Water and Southern Water, which supply 5m customers, had also seen a sharp recovery in resources. But conditions had not improved in areas served by South East Water, Sutton and East Surrey Water

and Veolia Water. Richard Aylard, sustainability director for Thames Water, said: "We need a little longer to be sure we will have enough water to get us through the summer and autumn." Customers would be updated "towards the end of June".

The Environment Agency said underground water levels were still low in some areas, though it said the wettest April on record and further rain in May had significantly reduced the risks of widespread restrictions this summer.

Trevor Bishop, head of water resources at the agency, said: "While the risk of drought with further water restrictions and associated environmental impacts this summer has reduced, the situation could deteriorate again next year if there is not enough rain this winter."

Michael Kavanagh

Retirement income gender gap narrowing, study finds

Pensions

The gap between men's and women's retirement incomes has narrowed – but this is more an effect of male incomes falling than of women boosting their pension pots, a study has found.

The typical sum that men and women expect to retire on in 2012 including their private, company, and state pensions has reached a five-year low of £15,500 annually – compared with £16,600 in 2011, Prudential said.

Women retiring this year expect to typically have an annual income of £12,250, about £5,750 less than the £18,000-a-year for a man retiring in 2012, the research suggests.

The gender gap has been narrowing since 2010, when it stood at £7,400 – which the study attributed

mainly to falling male incomes. Men retiring two years ago had an expected annual income of £19,600, while women were retiring on about £12,200 a year.

Nearly half – 49 per cent – of women surveyed believed they would not have enough income for comfort, compared with 40 per cent of men.

Low interest rates and quantitative easing (QE) have hit annuity rates, which analysts say has meant more than a million pensioners buying an annuity which will pay less for the rest of their lives. Workers use their pension pot to buy an annuity from an insurer, a decision which sets their pension size for life.

Annuity rates are linked to yields on government bonds – or gilts – which have been dramatically reduced by QE.

Press Association

Cumbria nuclear plant to shut after world demand falls

Cheap uranium hits reprocessing facility

By Rebecca Bream

One of the more problematic facilities in Britain's nuclear industry, the Thorp reprocessing plant at Sellafeld in Cumbria, is to close after a worldwide drop in demand for its services.

The Nuclear Decommissioning Authority, responsible for cleaning up Britain's nuclear reactor sites and dealing with radioactive waste, said yesterday that Thorp would close in 2018, when its existing reprocess-

ing contracts end. Thorp, which stands for thermal oxide reprocessing plant, was opened in 1997 and reprocesses spent fuel from nuclear reactors in Britain and countries which include Japan, Germany, Italy, Switzerland and Belgium. It separates off uranium and plutonium, which can both be reused, to leave radioactive waste, which is treated and stored at Sellafeld.

But demand for reprocessing has been hit by the relatively low cost of newly mined uranium, the price of which rose sharply in 2007 but fell again during the financial crisis.

Thorp's profitability has also been hampered by its patchy performance, notably its three-year closure after a leak in 2005 of radioactive acid from a holding tank into the surrounding concrete containment shell. British Nuclear Group, then running Sellafeld, said the incident posed no danger to the public but admitted the leak had remained undetected for months.

Extending Thorp's life would require investment "well in excess of £1bn", the NDA said, including the £600m construction of storage tanks for the highly radioactive "liquor" that is

produced by reprocessing. "It would be very expensive to carry on much longer," said Bill Hamilton of the NDA. "If there was a market out there, there would be a reason to invest but there is no major appetite."

As well as its high cost, reprocessing is controversial because the plutonium produced could be used to make nuclear weapons and the waste is much more radioactive than spent fuel.

Mike Graham, national secretary of Prospect, the union that represents many Sellafeld workers, said: "Today's announcement comes as a great disappoint-

ment to our members at Thorp who believe firmly that the plant has a future."

The government's plan to build new nuclear reactors does not include reprocessing spent fuel.

It proposes to create an underground repository for the permanent storage of existing and future nuclear waste, most likely in Cumbria, but this is not expected to be built until 2075.

Thorp employs 800 staff out of Sellafeld's total workforce of 12,000. For a few years after reprocessing stops in 2018, several hundred staff will be needed to

manage the winding-up of the plant. The NDA said it was confident "the majority of the workforce can be redeployed elsewhere" at Sellafeld.

Last year, the NDA decided to close Sellafeld's Mox plant, which recycles plutonium into mixed oxide fuel, after doubts over orders from Japan after the Fukushima nuclear crisis.

Mr Hamilton said reprocessing in Britain could be revived in the future but would require a more modern plant. "Thorp's not the answer, it has done its job, but not as well as its designers planned."