

## Nigel Lithman QC

We are at crisis point. The situation is intolerable. A line must be drawn behind which we cannot retreat.

During the 15 years that I have been in silk, life at the Bar has become unrecognisable. For my generation life was straightforward. Hard work, excellence and integrity were rewarded with handsome fees and respect .

We continue to uphold our standards but in return the bar is shown utter contempt with derisory fees, unfairly weighted competition and a reduced pool of work. The Junior Bar are struggling to meet basic needs : mortgages and adequate child care. Some have been declared bankrupt . Hence the determination of the profession to open its doors to those who do not come from a background of privilege has been totally undermined. These are the harsh realities that are never acknowledged in the media or by the politicians as it doesn't suit their agendas to do so.

Meanwhile we watch as the LSC say they will not honour our debts for bills submitted later than 3 months after the end of a case ( has anyone tried telling their dentist they won't pay a bill as it is more than 3 months old ) , whilst the same bodies think nothing of meeting those same bills 6-9 months later.

The 3 month rule must go. If the bill has to be rendered within 3 months, it must be paid within 3 months.

I have watched this uneven struggle taking place from a privileged position. It has made me angry and I am no longer prepared to do nothing about it.

The Criminal Bar needs heavyweight leadership. I have served as Junior and then Chairman of the Essex Bar Mess which took me onto the South East Circuit committee. I have been on the chambers management committee for many years, where necessary I have expressed forthright and uncompromising views . I like to think I have built a reputation for fearless and where necessary aggressive advocacy. I abhor injustice and unfairness.

I have worked all over the country. The issues faced are common to us all. The CBA must continue to embrace and travel between the circuits. I commit to visiting all the circuits to help Mike Turner take on board the issues faced by the local Bars and their constructive suggestions for overcoming them.

We all know the issues.

- a. Another decline in defence fees between 10% and 25% since the 3<sup>rd</sup> October 2011

- b. The decline of prosecution fees by 13%.

These cannot be allowed to be reduced further.

- c. The wrong people in court. Higher Rights Advocates sent by solicitors firms, regardless of their ability to do jobs they are not competent to do. I have watched this both as a Recorder and a leader. I have reported to a senior partner of a solicitors' firm that the person I was allocated to lead was not up to the job.
- d. Solicitors seeking to have appointed "Plea only advocates ", means solicitors are aware of the inadequacy of the service they often provide. Either an advocate can do the job or they cannot." Plea only advocates" must be prevented.
- e. Trainers for QASA are about to be trained. Next will come the Judges. Self assessment as proposed by solicitors i.e. dropping in for an "M.O.T." should be resisted. If it is apparent that QASA can root out those we know cannot do the job, then we should embrace it to perform that task; if it cannot, we should have nothing to do with it. No single Judge should be able to blight the career of an advocate.
- f. Referral Arrangements. Kick backs to solicitors, on the occasions given, simply further divvy up the advocate's fee. It is also being done with state paid fees and hence cannot be permitted.
- g. One Case One Fee. This represents the end of the Criminal Bar as we know it. Whilst there are those that welcome new business models, the majority do not and our attitude should be entrenched against it.

The next two years require firm but considered leadership for the Criminal Bar. It may be that extreme action will become unavoidable; however the time for it, the battleground, must be chosen with the greatest care.

We must pursue and win a vigorous PR campaign to raise public awareness of the justness of what we say . As shown by the recent strike action taken by doctors, this is an absolute must before any industrial action is taken.

We need the support of the Judiciary for whatever steps we need to take. As a Recorder and Bencher, I believe my currency with them is high.

An ability to present views that are listened to with respect is just as important as muscle-flexing. A well established standing at the Bar is vital to be able to perform that task, to command attention and not be walked over.

I have neither eye on personal preferment, but resolve to dedicate the next two years to fighting our corner. I believe I have the respect and confidence of both Mike Turner and Max Hill to support and continue their initiatives and the hard work they have already undertaken on our behalf.