

Report of the Marre Committee on the Future of the Legal Profession in the United Kingdom

In 1986 the Bar Council and Law Society of England and Wales established a committee chaired by Lady Marre CBE to review the way the legal profession met the needs and demands of the public for legal services.

In July 1988 the Committee made the following recommendations in relation to the structure and practices of the legal profession:

1. Rights of audience in all courts other than Crown Court should remain unchanged.
 2. Solicitors who have been recommended by the Rights of Audience Advisory Board and licensed by the Law Society should have extended rights of audience for all cases in the Crown Court (by majority).
 3. A Rights of Audience Advisory Board should be established for each circuit to make recommendations as to which solicitors meet an appropriate standard for rights of audience in a Crown Court. (by majority).
 4. The Advisory Board should notify the Law Society which solicitors should be licensed to appear in the Crown Court and should also have the right to notify the Law Society which licences should be withdrawn.
 5. Professions other than solicitors should be permitted direct access to counsel.
 6. Where counsel is instructed by a professional client (other than a solicitor) he should be entitled to negotiate fees for work done direct with a professional client and, if necessary, take such steps as might be available to enforce payment.
 7. Access by professional clients should not be restricted to those professions which make it a disciplinary offence not to pay counsel's fees.
 8. The General Counsel of the Bar and Law Society should explore the practicalities of promoting an amendment of the law to enable barristers to enter into contractual relationships with solicitors and/or lay clients and sue for non-payment of fees; and should also explore whether non-payment of counsel's fees should any longer be treated as professional misconduct.
 9. There should be no change in the present rule which gives an advocate (barrister or solicitor) immunity from an action for negligence in respect of the conduct and management of a case in court.
 10. Employed barristers who have completed their pupillages should have the same rights of audience in the Magistrates Courts and the County Court as are enjoyed by employed solicitors.
 11. Employed barristers should have direct access on behalf of their employers, to practising barristers.
 12. A barrister employed at a law centre should, where the centre is organised on appropriate lines, be able to work at such a centre whether a solicitor is employed there or not; such a barrister should have direct access to counsel and be able to appear in court for clients of the law centre.
 13. Employed barristers and solicitors (other than those employed by the Crown Prosecution Service) who have been licensed by the Rights of Audience Advisory Board should have rights of audience if their employers face prosecution in the Crown Court.
 14. Rights of audience in the Crown Court should not, at present, be extended to lawyers employed by the Crown Prosecution Service.
 15. Solicitors should be eligible for appointment as High Court Judges.
 16. Any action relating to multi-disciplinary practices and multi-capacity practices should await the completion of the Law Society's examination of the issues.
 17. No change should be made in the present rule which prohibits a barrister from practising in partnership.
 18. The Bar should continue to encourage chambers to adapt and develop their support services and management so as fully to meet the needs of a modern profession. Every encouragement should be given to the steps being taken to improve the educational and professional qualifications of barristers' clerks. The practice of many sets of chambers in negotiating new contracts with their clerks on the basis of a salary with an incentive to reward effort and efficiency should be adopted by all sets of chambers.
- The Committee rejected the proposition that there should be fusion of the Bar and the solicitors' branch of the profession. All the Bar members on the Committee and one of the independent lay members, Lady Elizabeth Cavendish, also opposed the majority recommendations on rights of audience, principally because they saw that any significant extension of solicitors' rights of audience in the higher courts, (including the Crown Court) carried a very high risk of bringing about fusion. They saw the process being brought about by:
- * Reorganisation of solicitors' firms to establish or expand advocacy departments;
 - * recruitment of barristers to become advocates within solicitors' firms;
 - * continued pressure for further extension of solicitors' rights of audience with consequent damage to recruitment to the Bar; and
 - * the eventual concentration of advocacy resources within the larger solicitors' firms.
- Following the publication of the report, the Bar Council of the Bar of England and Wales re-affirmed its view that any significant extension of rights of audience to solicitors was against the public interest and should be resisted. □