

Challenges facing the Junior Bar

By Christopher Wood & Kylie Day

In the early years of practice, barristers face a variety of practical challenges and decisions. Foremost among these are acquiring good accommodation, building good relationships and a self-sufficient practice, and managing one's practice effectively and efficiently. At a time when the number of practising barristers is in flux, with some reassessing or reinventing their practices in light of the effect of recent legislative reform, what has been the perceived wisdom on some of these matters in the past may be ripe for review.

A room of one's own

The question whether to license or purchase a room on a floor, and if so, where and when, can be a vexed one. Moreover, it may need to be answered swiftly when an opportunity presents itself. And how does one find out about such opportunities, if one is interested? Although the Bar Association web site includes a page listing chambers for sale or license, and sometimes flyers are sent to members directly, it seems that many opportunities to license or buy a room arise by word of mouth or invitation only. So, should one take the initiative and express interest in a particular room or floor? And if so, how?

If there is a particular floor you are interested in joining, you can approach the clerk. There is no reason not to express an interest in a floor, and ask to be notified if a room is likely to become available.

Whether any particular choice of accommodation is a long term one or a short term one, what the nature of the barrister's commitment is, and what the implications may be for a barrister's practice, are also matters of speculation and concern. In particular, you need to decide whether the arrangement being offered, be it leasing, buying, licensing or floating, meets the current needs of your practice and that what is on offer (including non-obvious costs) meets your budget.

Understandably, there is a desire among new barristers to be as informed as possible about the range of accommodation options, and their advantages and disadvantages. The New Barristers Committee recently organised an evening seminar, in which Mary Walker SC and Geoff Hull, the clerk of 8th Floor Wentworth Chambers, addressed frequently asked questions in relation to licensing and purchasing chambers. One of the key points that emerged from this seminar is the need to research the right questions to ask, and the factors that will affect the level of overheads in the short and medium term.

Building relationships in and out of court

One of the challenges in the early years of practice is to move from devilling for others, to having an independent practice supported by relationships with solicitors, barristers, clerks and others, from whom work flows to the barrister in his or her own right. Many of the contacts a barrister will initially have are with regional practitioners and small firms. One of the toughest challenges facing young barristers is developing a relationship with the larger or specialist firms. These contacts may be sought after for a number of reasons, including access to larger and more lucrative cases, and an improved ability to build a practice in a specialised area.

Equally important to a new barrister's practice is getting into court regularly, so as to become comfortable in the role of advocate, and to learn those things only experience can teach. It is also the best way to develop relationships of trust with the Bench and court staff, and with practitioners acting for other parties.

At a recent CPD seminar on 'Marketing your practice', Paul Daley, the clerk of Eleventh Floor Wentworth/Selborne Chambers and Fifth Floor St James' Hall Chambers, commented that one source of new work may well be those on the other side of a matter. So getting into court regularly may also be one way of meeting the challenge of expanding and improving sources of work.

Practice management

For many, commencing practice at the Bar coincides with a transition from being an employee to running one's own practice. That may involve dealing directly with matters such as accounting, billing, GST, professional liability insurance, and recovery of fees, for the first time. While presentations are given on some of those topics to readers during the Bar Practice Course, and there are now available software packages tailored specifically to barristers, matters relating to practice management remain of concern to new barristers, as is reflected in some of the projects being undertaken by the New Barristers Committee.

Other challenges

Like any other modern workplace, the junior bar faces the challenge of balancing work and family commitments, while maintaining one's health. Being in control of your diary and the work you accept (to some extent), has the potential to allow greater flexibility in this regard than many other fields of work.

Taking up the challenge

By Louise Byrne

The challenges faced by women coming to the Bar are to a large extent the same challenges faced by men coming to the Bar. Those challenges were aptly summed up by Christine Adamson SC in her address to the 2004 Bench and Bar dinner:

I regard the Bar as a good place to practice law, whether one is male or female, if one has a certain temperament and intellect, and doesn't mind anxiety attacks, insomnia, working on Sundays and irregular cashflow.¹

It is salutary for new barristers to bear in mind the downsides while not being discouraged, because, on balance, the Bar is to be highly recommended as a good place to practice law. It can even be fun at times.

However, I can't escape the fact that I am a woman and I have been asked to provide specific advice to new female barristers and, let's face it, as Justice Michael Kirby has said, 'women are not just men who wear skirts... women bring a different perspective to the practice and content of the law'.²

In the same paper Justice Kirby reproduces – from the records kept by the High Court Registry – what can only be described as dismal figures on female appearances in the High Court in 2004 and 2005. I note that I am a statistic as I appeared in an appeal in 2004 and was accordingly one of only seven women (out of a total of 161 = 4.3 per cent) who appeared in appeals in 2004. The figures were somewhat better for 2005 as 70 women (out of a total of 547 = 12.8 per cent) appeared in appeals. As his Honour comments, the figures remain low and the statistics do not reflect 'speaking parts'.

I venture to add that throughout the judicial hierarchy of courts and tribunals in NSW women are not getting the 'speaking parts' that they not just deserve, but need, to develop themselves fully as good advocates and barristers. Until this has been redressed, gender issues will remain on the agenda because the flow on effect is that the Bar has not been able to deliver equal numbers of suitably qualified and experienced men and women for judicial appointment to the intermediate and superior courts.³ The Bar risks being further sidelined by attorneys-general when judicial vacancies arise.

My advice to new women barristers therefore focuses on, not surprisingly, getting themselves into court. If you don't like advocacy then the Bar is not for you. It is important to take every opportunity to get yourself on your feet. Sometimes you will feel somewhat beyond your depth, but seek advice from someone more senior and don't be afraid to take the challenge. Courage is a fundamental quality of a barrister and preparation is the cure for nerves.

Foster contacts with a good silk or senior junior who practices in your area of interest. Bear in mind that the good silks usually have no shortage of people wishing to be their junior. It is highly

competitive but the Bar is highly competitive. If you are willing to make yourself available at short notice, work long hours, and prove to the silk or senior junior that your research and submission writing skills are good and can be relied on, you will be remembered. The silk or senior junior will expose you to good solicitors who may then give you other work either with that silk or junior work that does not need a silk's attention.

Most importantly the silk or senior junior will expose you to interesting cases, exposure which if you have a genuine interest in the law – and I would suggest that if you don't the Bar is not for you – gives you the necessary professional development to transcend to the next level from being a new barrister.

As to personal qualities, I agree with Adamson SC that a certain temperament helps and I would add that you need to have a thick hide to be a barrister, to roll with the punches and not be too sensitive to criticism, but take criticism on board if it is warranted and constructive. I perceive that women often let themselves down in this regard.

Hopefully if you work hard, keep your instructing solicitors and their clients happy, dress appropriately and don't upset the bench too much with your skilful argument, you will then be eligible to apply for silk in about 14 years time, and the appointment of a woman as silk will be so commonplace as to not make a story in the legal affairs sections of the newspapers.

¹ Taken from edited version of speech by Adamson SC 'Equity is equality', *Bar News*, Winter 2004, NSW Bar Association, 2004, Sydney, pages 33-34.

² The Hon Justice Michael Kirby AC CMG, The Dame Ann Ebsworth Memorial Lecture, 'Appellate advocacy – new challenges', delivered in London, 21 February 2006, available at [HYPERLINK "http://www.hcourt.gov.au/"](http://www.hcourt.gov.au/) www.hcourt.gov.au/

³ On the need for greater diversity on the Bench see the speech by Judge Gay Murrell SC 'Judicial appointments – diversity, transparency and quality' delivered to NSW Young Lawyers and NSW WLA, 13 October 2005, available at www.womenlawyersnsw.org.au/

Questions answered – A clerk's perspective

By Paul Daley & Geoff Hull

A key factor to being a good junior barrister is reliability. As a clerk you must know that junior barristers and readers will be there when you need them to be. First thing in the morning before court, you need to see their faces. Last thing in the afternoon after court, they need to at least be contactable. Being contactable is an important part of being able to be briefed. There are generally numerous barristers in chambers practising in the same or similar jurisdictions and those who are contactable at the point in time required will be briefed.

Aside from callovers, mentions and directions, a portion of work that is able to be allocated happens when another barrister becomes jammed. Accepting briefs from the clerk in any jurisdiction and getting on top of the matter in short order is a healthy practice to adopt in one's early years at the Bar. These situations generally occur during the afternoon, when a barrister realises his or her current matter is not going to finish and will run over to the following day. On occasion, a solicitor may overlook a court commitment that will require a barrister to attend on short notice.