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This way out: the barristers who become solicitors, and the solicitors who head to the Bar. Why do they do it?

Solicitor to barrister

*Rupert Butler is a barrister practicing from 3 Hare Court*

Five years ago I was diagnosed with a life-threatening illness and so retired from practice after 12 years at the common law Bar. Happily, the diagnosis was wrong, but, by then, I was out of work and with a retirement to plan for

I could not face the slog of being a barrister and so joined an old university chum who had set up a successful firm of solicitors specialising in media law.

For two years I had worked as an employed barrister and earned the right to conduct litigation. The culture shock was tough. I found the rigours of attendance notes and time-recording for six-minute billing both frustrating and tedious. Working under the direction and for their profit was a novelty.

However, there were aspects I warmed to immediately. In particular, I enjoyed the direct contact with clients, who, given the firm's specialisation, had interesting stories. As a barrister in private practice you meet a client who has a developed

relationship with a solicitor, and so you look in on their case once it has taken a shape and direction over which you have limited influence. If cases settle or go away, you rarely find out what happened. Learning how to develop a rapport with clients, manage their cases and see them through to a conclusion was immensely satisfying.

Also, having secretarial and paralegal back-up made it easy to spend my time more efficiently, although learning how to delegate tasks to others with confidence was difficult.

An alarming discovery was the level at which legal fees are incurred to represent clients competently. At the Bar, you have little concept of how fees grow even though you justify or attract charges at assessments without any true understanding. As barristers have lower overheads, all solicitor fees are exorbitant! 30 years' time!

The biggest lesson was the realisation that barristers in private practice live in a quirky and rarified world where the informality of the chambers system and the lack of office hierarchy allow idiosyncratic egos to thrive despite the demands of the modern office. Personally, I think it is time for change.

I have now returned to the Bar because I missed having autonomy, as well as the cut and thrust of court appearances. However, I hope I have returned a much better practitioner for my insights into a solicitor's office and both sides of the profession would learn from spending time on each other.

Now I understand how, why and by whom decisions are made in cases before they reach me and the critical importance of

customer relations. My personal organisation is now excellent, so that my time is maximised and good record-keeping is so much a habit that it has become constitutional.

As the independent direct contact with the public develops, albeit timidly, so barristers must learn solicitors' core administration and client-care if they are ever going to park their lawns. However, these skills cannot be taught from text books, so unless and until barristers are willing to spend a reasonable amount of offices, as they must do in Scotland, it is hard to see the face of litigation changing dramatically.

*Michael Conlon QC is a barrister practicing from Pump Court Tax Chambers*

People at dinner parties often politely enquire what I do for a living. Some are shocked to hear that I am a tax lawyer who has been both disbarred and struck off. This was not, I hastily assure them, for some tax scam or incompetence. Rather, it results from changes of direction in my career and the peculiarities of the English legal system.

From time immemorial we have had a split profession: barristers, who are called to the bar by an Inn of Court and are sole practitioners; and solicitors who are on the roll of solicitors and generally practice in partnerships. For most of my career, the two branches have remained separate and distinct. You cannot simultaneously practise as both. Many of these traditional distinctions are being eroded. But, as yet, fusion has not happened. When I recall my career to date, I consider myself fortunate to have gained so much from both branches.

From an early age I was attracted to the glamour and theatricality of the courtroom. After Cambridge I was called to the Bar in 1974. My early years were spent in mixed common law, but rising inflation made life difficult. I joined the governmental legal service, with HM

Customs & Excise, where I had statutory rights of audience in the lower courts and tribunals. My work gave me invaluable insight into government and the legislative process.

The mid-1980s were the heyday of the tax headhunter. I joined KPMG and then Coopers & Lybrand. Coopers pioneered the multi-disciplinary partnership. My fellow partners included solicitors, actuaries and management consultants. Rules of conduct, however, always precluded me from holding myself out as a practicing barrister or appearing in the higher courts.

The late 1980s were the period of merger mania. I decided to return to mainstream legal practice. In order to progress in a law firm, it was necessary to re-qualify. I took the transfer test, became voluntarily disbarred and was admitted as a solicitor, subsequently becoming a tax partner at Allen & Overy. My work there involved the VAT implications of huge corporate, capital markets and banking transactions.

It was always my hope that one day I might return to the courtroom. This I did with the help and encouragement of Graham Aaronson QC in September 1997, having been removed from the roll and restored to the bar. I moved to Pump Court Tax Chambers in 2000. I was fortunate enough to take silk in 2002. This has undoubtedly given me the greatest personal satisfaction of my career.

Since returning to the Bar my practice has flourished. I suspect that I am a person by temperament. I love the freedom and independence that the Bar can still offer. Although long hours are inevitable, there is a degree of choice. It is still possible to pursue other professional interests in the City, enjoy cultural activities and see my children. I find it stimulating to be brought in as a specialist to help in solving difficult problems. Sometimes it is the smaller clients who produce the fascinating cases. Some flexibility on fees is possible where appropriate. This is difficult in a big firm where progression brings less involvement with client work and an increased management role. The Bar is a friendly profession and life in chambers is always good humored and convivial. In many ways I have squared my professional circle, or perhaps ended up as a Rubik's cube aligned.

*Jeannie Mackie is a barrister practicing from Doughty Street Chambers*

Ten years ago after being a solicitor for 15 years I transferred to the Bar. At the time I was a freelance solicitor-advocate working the magistrates courts of South East England and London with a small group of colleagues, all of us a little dispirited by endlessly explaining the more obvious points of PACE to lay benches in Essex whose belief in the virtues of saintly police officers was unshakeable. So we moved on – one colleague to full time family law work, another to higher court rights and a successful practice in Yorkshire. One emigrated, and I got myself a wig and gown.

The decision to be a full time advocate was easy: the difficult choice was between obtaining higher court rights or

abandoning my rather loved profession through a mixture of pragmatism and what I suspect may have been idealism. Pragmatism operated because at that time enormous and discriminatory obstacles were set up before solicitors were allowed into the lush pastures of the Crown Courts: getting higher court rights involved not only doing a tough academic course but paying handsomely for the privilege.

Because of my previous experience, transfer to the Bar was easy: references to certify that I was not particularly likely to steal the spoons in my new Inn, a three-month pupillage, purchase of a hank of horse hair, and I was in. Idealism operated because after starting my legal career being snooty about hidebound white upper class male barristers with hopeless dress sense both in and out of court, I had begun to value the independence of the Bar, and to appreciate the chambers system. Of course independence and resources are not confined to barristers: trailblazing Crown Court solicitor advocates are out there, doing as good a job as anyone, but for me, the benefits I saw 10 years ago still exist.

The Bar as an organisation, beleaguered as it is by funding issues and the distaste of government for stropky civil libertarians, at its best is a positive force in the preservation of rights. It is large enough, cross enough, and committed enough to protect not only the interests of its members, but the principles of justice, independence and rights on which we operate. And the chambers system, if decently run, provides not only back-up resources, but an intellectual and ethical framework essential for training new entrants and keeping the rest of us going. Modern business methods may be making

us, unhappily, a little too corporate, but habits of camaraderie, generous mutual assistance and shared aspirations are strong.

There are irritants of course: the ex-solicitors called with me in my Inn were hissed by barristers as we trotted up to join the club, and I have seen too much rudeness to and about solicitors in court by judge and Bar to be entirely happy with my choice. But times are changing: in a glorious moment recently a barrister sneering comfortably about the deficiencies of his instructing solicitor was nicely slapped down – ex-solicitor judge! And the wig? Expensive and scratchy as it is, overall a benefit for women: it does very nicely on bad hair days.

#### Barrister to solicitors

*Deborah Hely became a barrister in 1988. Today, she is a partner in Beachcroft*

*Manchester office*

I was called to the bar in 1988, but finally decided to convert to become a solicitor when I realised that I simply could not afford to practise at the bar. At that time, there was no financial support available at all – including salary – for at least the first six months. In fact, it was entirely possible for newly qualified barristers to be without a regular income for the first few years. For some reason, these harsh realities had not really occurred to me while I was studying.

Post-qualification, I decided that a better alternative for me was the promise of varied and interesting training, plus the promise of a decent and regular income, so I decided to become a solicitor.

In a legal practice, I can be part of a team and capitalise on the individual strengths, experiences and expertise of my colleagues. There is always someone available as a sounding board, adviser or mentor on all aspects of my work, from legal issues, business development to administration, IT and finance.

As an employment specialist, I can combine the aspects of a barrister that attracted me to the bar in the first place (eg, advocacy and legal analysis), with the very varied role of a solicitor, including training lawyers and clients, managing a team/business and providing advice for clients. The training I had as a barrister gave me the skills of legal analysis and provided me with the confidence to present cases before a tribunal.

The most satisfying part of my role is assisting clients to develop people strategies and to feel that I am making a very real and positive contribution to the growth and development of their business. This is very different to the role that I would have fulfilled at the bar.

*Rachael Heenan qualified as a barrister in 1995, but after a short period of time decided to leave the bar. She is a partner*

*employment group and is based in Leeds*

I always wanted to be a barrister when I was growing up. Or at least, I thought I did. The reality of the situation as it turned out was that I didn't really know what it entailed in practice.

After qualifying, I was lucky enough to get a funded place so my reasons for leaving the bar were not purely financial. In the end, I just felt that I needed to work in a more supportive team environment.

Working as a solicitor offers me a collegiate environment and this suits my personality. I get the back-up of a multi-disciplinary team and the reputation of a national firm behind me. The advantages of the route I took include a really in-depth education in the law (which never leaves you) and the development of advocacy skills, which I still use today. At my firm, we have our own internal advocacy scheme and as employment specialists often act as advocates at employment tribunals. Ultimately, a solicitor can often act in place of a barrister these days, giving us the best of both worlds, as far

Despite the hard work that I put in to get there in the first place, leaving the Bar is the best decision I ever made. I get a far broader range of experience and really enjoy developing long-term client relationships and adding value to their businesses.

*Mark Clough QC*

Mark Clough QC was barrister with Brick Court Chambers for 15 years before making the move across to join City law firm Ashurst. A specialist in competition law and originally based in chambers in Brussels, Clough called himself a 'beneficial' as it allowed him to work near the European Court of Justice (ECJ) – working out of Ashurst and gave the firm a unique capability at the time. When Clough joined in 1995, Ashurst could boast of being the first firm that had a partner with rights to appear in all courts in the UK and in the ECJ. Thus, they could offer as full service – from first client contact to advocacy on issue of competition and EC law.

Clough says he would describe himself now as an "own file

representing his own clients throughout the court process where possible. He also says he has been luckier than most barristers choosing to swap professions in that his working practice on their head immediately. One of the biggest differences would be working in a large firm as opposed to working on your own," he says. Fortunately that the Ashurst office was quite small, about the same size as my chambers, so I had a slightly gentler cultural change

For the last few years, Clough has been based in the Ashurst London office, while continuing to practise out of Brussels as well. His return to London coincided with his taking silk in 1999 and the entry into force of the UK Competition Act 1998 on 1 March 2000. At that time the new Competition Appeal Tribunal began its ever increasing workload. Ashurst has been involved in several of the leading cases including the first claim for damages following on from the European Commission Cartel decision.

Since his return, he has renewed his earlier acquaintance with the English courts. Again he was involved in the first cartel damages case in the Commercial Court. Recently he appeared in the Court of Appeal in the *United Kingdom v. British Airways* case, a landmark case in European customs law. Having become a solicitor advocate when he joined Ashurst as a solicitor 10 years ago, Clough has been the chairman of the Solicitors' Association of Advocates for the last two years.

In that context he has participated in the review of the legal profession by Sir David Clementi at a time when interchange between the Bar and City law firms has become everyday news.

advocate",

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