



WELLBEING

Chancery Bar Association (ChBA) and Institute of Barristers Clerks (IBC)

Best Practice Policy

The aim of this policy is to improve the way that barristers and their staff manage their relationships and consequently improve their health and productivity. This policy is not intended to be exhaustive but is designed to assist barristers and staff (who for the purposes of this policy include both clerks and other members of staff who are not clerks) to achieve best practice in this regard. It has been drafted by members of the Chancery Bar Association's Wellbeing and CSR Sub-Committee, with input from the Institute of Barristers' Clerks.

Members of the ChBA and their staff spend many hours working. Following the increase in working from home during the Covid-19 pandemic, for some people this will involve many days working at home. For others, chambers remains an important work setting. The changes to work patterns owing to the impact of the pandemic will have wellbeing ramifications which are still being worked through, but can include the following:

- For barristers and staff who have young families or caring responsibilities, the increased ability to work flexibly can help them to spend time with their families in a way which would not have been possible for parents or carers in the profession in the past.
- For barristers and staff generally, the ability to work from home can free up valuable free time owing to the need not to commute to and from chambers. This can in turn result in an increase in productivity where barristers and staff are able to work well from home.
- However, increased working from home can result in less face-to-face support being available where barristers and staff encounter wellbeing problems, and can result in work creeping into home life due to work being conducted at home.
- The decreased number of barristers and staff in the office can undermine the sense of chambers as a place where people gather together and help each other with daily or ongoing issues. Barristers and staff who regularly attend chambers may feel that the concept of chambers as a community may have changed for the worse.

The work which barristers and staff do, whilst it is stimulating, is also often demanding and pressured and can be isolating. There can be a heavy weight of responsibility involved, particularly for junior barristers who are only just entering the profession and may very quickly have sole conduct of cases which have significant ramifications for their clients.

Despite the changes in working patterns, the community which a chambers represents remains important to barristers and staff in maintaining health and wellbeing. It is possible for any barrister or member of staff, no matter how resilient they may seem to others, to suffer from wellbeing problems, leading to ill-health, days absent through sickness, lost productivity and reduced ability to concentrate, work or even remain in the profession. Colleagues who understand the pressures that they are under can be a vital source of support in this scenario.

Policy Statement

The ChBA and the IBC believe in the following principles in relation to wellbeing:

- The ChBA and IBC believe that wellbeing is an important issue which requires concerted action by their members and their chambers. The wellbeing of barristers and staff is of equal importance.
- The ChBA and IBC recognise the importance of supporting their members in preventing poor health and lifestyle-related issues caused by the pressures of work.
- The ChBA and IBC are committed to encouraging their members and chambers to create a working environment that supports and encourages a healthy, balanced lifestyle and better wellbeing for all barristers and staff. They wish to particularly concentrate on how the wellbeing of their members can be supported following the recent changes to working patterns.

Chambers are encouraged to adopt this policy, with their own additions if thought appropriate.

This policy is deliberately not intended to cover pupils as their position is likely to be covered by chambers' pupillage policies.

Objectives and Strategies

Chambers are encouraged to adopt the following objectives and strategies as part of everyday practice:

1. Recognise the importance of and raise awareness of the need for a healthy lifestyle:

- a. A balance between work and personal life is important and it should be agreed that taking time for personal matters is not a sign of not being committed to work.
- b. Flexible working, where barristers and members of staff are able to work for some of the days during the week at home, was demonstrated to be effective during the pandemic. Flexible working can have many benefits, examples of which are set out above, and should not be dismissed as ineffective. That said, it is important both to wellbeing and effective working that barristers and staff continue to attend chambers at times, to support each other and exchange ideas. Chambers are encouraged to adopt flexible working policies which seek to strike this difficult balance, and to support flexible working by provision of technological systems which allow barristers and staff to work as effectively at home as they can in the office.
- c. Barristers often work long hours and chambers should accept that people will need to take time out away from work on a regular basis, including with their families, to have recreational time and to take exercise. Chambers should not expect barristers, as a matter of course, to be on-call 24/7, to answer emails out of normal working hours or to work weekends.
- d. Holidays are important and chambers should:
 - i. encourage barristers to take sufficient periods of time for holiday.
 - ii. encourage barristers to adopt the approach that holidays should be free from any interruption from work; and
 - iii. facilitate, as far as possible, that those holidays are free from any interruption from work.
 - iv. Similar considerations apply in respect of staff, whose position will be covered by their terms of employment. Barristers should respect the periods of time which staff take away from work and avoid contacting them at that time; this applies also to weekends, when emails and other communications should not be sent to staff unless absolutely necessary.
 - v. The Wellbeing at the Bar (WATB) website is an important resource specifically designed for barristers and staff to explain the importance of, and how to deal with, wellbeing issues. It explains how barristers and staff can seek help or obtain help for others. Chambers should make members and staff aware of the WATB website.

2. Improve wellbeing in chambers through 2-way communication and an appropriate workload:
 - a. Barristers and clerks are encouraged to hold regular practice review meetings to discuss any areas of concern and to keep an open dialogue. Keeping an open dialogue is even more important where the barrister concerned frequently works away from chambers and/or works in chambers but does not physically enter the clerks' room or speak to clerks/ staff often. These meetings can be conducted remotely if that will assist in maintaining the dialogue.
 - b. Ongoing discussions relating to workload are important and will help keep barristers and clerks aware of workload between practice reviews. There are benefits to systems under which clerks and barristers work together to exchange information about the barrister's workload regularly, for example on a weekly basis. For example, chambers could consider scheduling short weekly meetings between clerk and barrister to discuss workload, or forms could be sent out which ask the barrister to set out their current workload, upcoming deadlines and capacity for taking on new work (including urgent work). Chambers should bear in mind that those who are suffering from wellbeing problems may not always raise issues about their workload of their own accord. Therefore, putting in place such systems can help to ensure that problems are raised before issues become more serious.
 - c. At the time of accepting new instructions consideration should be given to the barrister's existing workload to ensure that the work required can comfortably be accommodated. Particular consideration should be given to the needs of junior practitioners, whose knowledge of the law and procedure is likely to be narrower, meaning that they will require more time to complete tasks.
 - d. Clerks are encouraged to consult barristers before making significant new entries to their diary or otherwise committing barristers to significant professional engagements (including hearings and conferences). This particularly applies where the barrister is to be expected to carry out a professional engagement at short notice or at a time when they are likely to be busy with other work or otherwise may be unable to carry out the

engagement. Clerks are encouraged to consult barristers about proposed deadlines for written work.

- e. Subject to the cab-rank rule, barristers should be allowed to have control over the amount, nature and type of work that they do and clerks are encouraged to have this in mind when working with their barristers; the result is that it may not always be possible for clerks to accept work that is offered without consultation with the barrister.
 - f. It should be recognised that members of staff often have a heavy workload too and barristers and senior staff should be aware of this when delegating and allocating work, particularly work which needs to be done at short notice. There should be an open dialogue between senior staff members and barristers responsible for staffing issues within chambers in relation to both workload and, where appropriate, the need for increased staffing levels.
 - g. Barristers and clerks are on the same side, and should develop an open, respectful relationship with each other. They should work together to achieve the workload and practice barristers wish to have and to ensure the smooth functioning of staff support within chambers.
 - h. It is recognised that clerks are often in the best position to notice if a barrister's ability to cope with the demands of professional life is impaired, and that clerks therefore play a vital role in identifying whether a barrister's wellbeing is being compromised. It is also important that adequate support structures are put in place for staff.
3. Improve relationships and encourage discussion of work and personal issues, in order to improve wellbeing:
 - a. A good and open communication between barrister and clerk will mean that both are comfortable in raising (in confidence) personal issues that may affect their ability to work or result in the need for time away from chambers, without fear or stigma.
 - b. Given the high levels of perfectionism in the profession, barristers should be encouraged to have a culture whereby mistakes made in work are openly

discussed, both so that barristers can be supported where things go wrong, and so that other barristers can avoid such issues in the future.

- c. Barristers and staff are entitled to parental leave; in the case of barristers, sensible diary planning and regular review meetings can make this a smooth process without a negative effect on practice. The Bar Council offers a specific training course for this.
 - d. The competition for Silk or other posts (including judicial posts) can be a particularly difficult time for applicants and a professional and open relationship between barrister and clerks should be encouraged to allow a supportive process.
 - e. Relationships between staff and members of chambers are important and consideration should be given to making opportunities to socialise away from chambers. This is especially important given the lack of social contact during the worst parts of the pandemic, the fact that very junior members of chambers may not have had the opportunity to integrate well as a result, and given the increased prevalence of working from home. It is important that barristers and staff gather together socially, rather than only gathering separately.
 - f. Chambers should consider the assistance that internal mentoring schemes may provide in allowing barristers and staff to raise personal or work issues. The ChBA has a mentoring scheme for barristers, details of which can be found on the ChBA website.
4. Provide support for barristers and staff who may experience a wellbeing issue:
- a. Barristers and staff who encounter a wellbeing issue should be treated fairly and supportively, without fear of stigma. Concerns expressed by them should be kept confidential unless:
 - i. They consent to others being told.
 - ii. It is necessary to prevent serious harm to the barrister, staff member or others (including clients) for the confidence to be broken; or
 - iii. It would be a breach of the barrister's professional obligations not to break the confidence (where it is a barrister who is informed about the issue).

- b. Chambers should encourage barristers and staff to make use of the Assistance Programme established by the Bar Council, Institute of Barristers' Clerks and the Legal Practice Managers' Association where the person concerned is suffering from a wellbeing issue. Chambers should offer to assist any individual in organising professional help (including medical assistance) if required.
- c. Chambers should consider changes to working environment and / or working hours for any barrister or member of staff who experiences a wellbeing issue.
- d. Chambers should consider providing training for those in senior positions who may need to deal with wellbeing situations. The WATB website is a primary source of information in this regard.
- e. Chambers should consider appointing wellbeing officers or otherwise nominating people to be the principal contacts for wellbeing issues. It is suggested that more than one person should act in this capacity, in case the person raising the issue is uncomfortable with raising it with one of those nominated for the purpose. The IBC has a mentoring scheme for its members.

Responsibilities

The ChBA and IBC encourage all members and chambers to adopt this policy. To achieve this, chambers are encouraged to:

- a. Provide copies to their members and staff and to ask them to read and discuss the policy and seek clarification where required.
- b. Generally, seek to ensure that barristers and staff are aware of the policy on an ongoing basis.
- c. Consider what additional objectives and strategies they ought to adopt (if any) to secure the wellbeing of their members and staff. If they wish to adopt any additional objectives and strategies, these should be incorporated into an adapted version of this policy which is available to all members and staff.

- d. Consider and apply this policy whilst taking decisions and completing duties.
- e. Support and contribute to the ChBA's and the IBC's aim of providing a healthy and supportive working environment for all in chambers, for example by seeking from the Bar Council the Wellbeing at the Bar Certificate of Recognition.
- f. Put in place procedures to ensure that this policy is followed and to allow issues to be raised if it is not.

The ChBA and IBC encourage senior members of chambers and senior staff to be responsible for:

- a. Ensuring all members and staff have access to this policy.
- b. Actively supporting and contributing to the implementation of the policy.
- c. Monitoring compliance of the policy and taking action in the event of non-compliance.
- d. Regularly reviewing and updating any policy statements including additional wellbeing objectives and strategies which have been adopted by their individual chambers.
- e. Setting up a wellbeing committee and/or appointing wellbeing officers to achieve these aims.

Review

The ChBA and IBC will aim to review this policy on an annual basis, to include:

- a. Assessing the impact and adherence to the current policy.
- b. Providing all members of both organisations with opportunities to give feedback and make changes as required.
- c. Communicating the reviewed policy to all members.

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