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EDITOR'S COLUMN



Leon Kazakos QC

Welcome to what I'll rather grandly call the Autumn Edition of the Circuiteer, out just in time to avoid being named the "Winter Edition". I hope that you've had a good summer; and that you managed to escape thoughts of case preparation and deadlines, whether you made it abroad, braving tests and the possibility of being red-listed while away, or whether you just left home to go somewhere else in the UK. The South Eastern Circuit has managed, in addition to its usual output of training sessions and meetings, to hold a summer party, outdoors but under cover in the gardens of Lincoln's Inn. It was a pleasure to see members of Circuit and Judges in person, rather than over a CVP link. Some of the less camera-shy guests appear in the pages that follow.

CVP has many benefits, enabling trial counsel to attend mentions at short notice when they are mid trial, enabling junior members of the bar to undertake hearings at different court buildings around the country on the same day and sparing the hard-pressed publicly funded Bar the ever-increasing expense of travelling to a court for a 5 minute hearing – the Bar equivalent of a "meeting that should have been an email". That is not to say that conducting hearings online during a pandemic benefits everyone. Those at the Bar who have been affected the most are the pupils and junior tenants who have been unable to attend Court, to watch proceedings and to develop their advocacy by observation of others. The Circuit's observation scheme, developed with the kind assistance of HHJ Cooper at Cambridge Crown Court, appears to have been a great success, you can read the about the experiences of some of those pupils in the articles that follow. We have the benefit of an article by one of the Presiding Judges in this edition, as Mr Justice Cavanagh writes – early on in his tenure – about the challenging work that has faced the Judiciary during the pandemic and what lies ahead when we finally emerge from it. I'm grateful to him for agreeing to write. Staying with the pandemic (as it's proved internationally popular), Dr Julia Shaw studies its effect

on memory, with a particular focus on what may have happened to witness' memories as a result. One does not need to be a scientist of Dr Shaw's calibre to know that delaying a trial is unlikely to improve the recollection of eyewitnesses, and while efforts are being made valiantly across the Circuit to get trials on there is, from the perspective of the Criminal Bar at least, much more that needs to be done. One hopes that the new Lord Chancellor will recognise the support that the Judiciary need, that the Bar needs, to ensure that the general public are best served by the Courts system.

This summer has also seen changes on the Bench across the Circuit. Retirements included HHJ Denniss from Isleworth, HHJ Stephen Warner from St Albans, HHJ Lithman QC from Luton and HHJ Overbury from Ipswich. HHJ Overbury has long been an advocate of bridging the gap between education and business and encouraging diversity in the Judiciary, being appointed diversity and community relations Judge for Suffolk six years ago. You will no doubt have welcomed, across the Circuit, some of the newly appointed Judges this summer none of whom I shall single out for special mention, but who we wish well. I was particularly saddened to hear of Bill Maley's death. Many of you will have known Bill better than me but I will always have fond memories of Bill's destruction of my case when I prosecuted him as a very junior barrister. He was as kind to me outside court as he was uncompromising inside it. Jeremy Dein QC as his head of chambers has kindly written In Memoriam.

The remaining three articles in this edition come from those organisations that surround the Bar, that support it and often show the best of it. Advocate celebrates 25 years of providing charitable assistance to those in need of *pro bono* assistance. If you haven't volunteered for Advocate, please do, the work is rewarding and increasingly necessary. Ishan Kolhatkar has written on behalf of everyone at Bridging the Bar, whose efforts in the last 12 months to develop mentoring and mini-pupillage opportunities have been tireless and have seen a series of

talented young people access the Bar, no doubt to pursue successful careers in the years to come. Finally, if you have not signed up to mentor a school in the Bar Mock Trial competition, may I point you in the direction of their article and strongly encourage you to do so. It's one of the best run programmes in the country and – as well as developing skills in sixth formers – it allows for access to the Bar to schools where there may not be many, or any, barrister parents and where no student has considered that the Bar may be for them. Those are the students who need access and encouragement, if we are to make good on our promises of a diverse Bar.

My thanks to Aaron and to Harriet for their persistence and dedication to getting this magazine out to the Circuit, in addition to all the other demands on their time. I hope to see some of you at the Criminal Bar Association winter conference – <https://www.criminalbar.com/events/the-winter-conference-saturday-27th-november-2021> – where Tracy Ayling QC has designed an excellent looking programme of talks around 'Serious Sexual Offences', one which will be all the better for being in person at the IET. I hope your booster jab comes to you in good time for Christmas and if you have a burning desire to see your name in print, that you get hold of me before the Spring.

Leon Kazakos QC

- 2 Hare Court
- Elected member of the SEC Executive Committee

If you wish to contribute any material to the next issue of The Circuiteer, please contact: LeonKazakosQC@2harecourt.com

LEADER'S REPORT



Christine Agnew QC
**LEADER OF THE SOUTH
EASTERN CIRCUIT**

It is nearly a year since I became the Leader of the South Eastern Circuit and, although it has definitely not been an easy time, it has been a very real privilege to lead what is undoubtedly the best Circuit during these challenging times. Who could have imagined, a year ago, that one of our main concerns would be too much work? There are simply not enough people left at the Criminal Bar to cover the cases being listed. As I have pointed out to several people at HMCTS and the MoJ recently, this is the consequence of treating barristers, especially criminal ones, so badly for so many years. At the time of writing we are awaiting Sir Christopher Bellamy's report on CLAR and hope that he will recognise this fact. Even with improved fees, there are still the persistent problems of uncertainty over dates, cases which have to be returned after hours spent preparing which will never be recompensed, poor (sometimes disgusting) physical work environments and expensive travel for short hearings where CVP would have been more effective. We continue to press for CVP to be more widely used in the criminal courts and for there to be some standardised guidelines regarding its use. CVP is widely and successfully used in both the family court and employment tribunals – why is this not the case in Crown Courts?

Despite these challenges, it has been a pleasure to see how you all unfailingly work to the best of your abilities in demanding circumstances to see that your clients, and the justice system, are well served. I hope you will agree that it is also encouraging and heartening to read the articles in this issue of The Circuiteer and learn more about how people in the profession are doing so much to help others. It is so important, especially after the strange times of the last couple of years, that we nurture and encourage those at the start of their journeys at the Bar. I highly commend those who give up their time, energy and/or money to support the pro bono work of Advocate. In this, their 25th anniversary year, please consider supporting and helping them.

I am grateful to our guest writers for their contributions to this issue – it is always useful for those of us at the Bar to hear the views of those at the Bench and in academia. Our work does not exist in isolation and we can always learn from others. Thank you to Mr Justice John Cavanagh for his informative article. It is good for us all to be reminded of the role of a Presiding Judge and I am delighted he has taken to his new role with such alacrity. We are also extremely grateful to Mrs Justice Philippa Whipple for all of the hard work and enthusiasm she has shown during her time as a Presider. We welcome Mr Justice Ed Murray to his new role and I look forward to meeting and working with him.

I hope to be able to see many of you in person over the coming weeks and months as events start to return to normal. We are planning to run several educational events "in real life" going forward and I look forward to seeing you there [see page 4].

We have our AGM on 18 November and we have several General Committee posts open for election. Please do consider attending (there will be drinks afterwards) and getting involved with the Circuit. Get in touch with Aaron [aaron.dolan@southeastcircuit.org.uk] to find out about the available positions.

I wish you all well. Do stay healthy and please do get in touch if there is anything I can help you with, or if you would like to help the Circuit.

Christine Agnew QC

• 2 Bedford Row
• Leader of the SEC

SOUTH EASTERN CIRCUIT EVENTS



**YOUR CIRCUIT.
YOUR VOICE.**

EVENT	DATE	DETAILS
AGM	Thursday 18th November 2021	18.00 – 20.00 with drinks reception Lincolns Inn All welcome – contact the Circuit Administrator to secure your place
Kindness at the Bar – Wellbeing Event	Monday 22nd November 2021	18.00 – 20.00 Middle Temple Hall In-person event and remote Details on the website
Silk Application Training	February 2022	18.00 – 19.15
Dame Ann Ebsworth Memorial Lecture	February 2022	18.00 – 19.30 and drinks reception
Silk Interview Training	March 2022	18.00 – 19.15
Recorder Application Training	April 2022	18.00 – 19.15
Recorder Interview Training	May 2022	18.00 – 19.15
Week long Florida Civil Course	May 2022	Florida – University of Gainesville
Examining Memory	June 2022	Prof Heather Flowe 18.00 – 19.15
Week long Florida Crime Course	July 2022	Florida – University of Gainesville
CPS Form Filling Training	July 2022	18.00 – 19.00 Two Junior Bar Related talks are being planned for the Spring – details will be released
The International Advanced Advocacy Course	August 2022	Keble College, Oxford

For further information on above events email the SEC Administrator –
aaron.dolan@southeastcircuit.org.uk



The importance of pro bono partnerships

As Advocate celebrates its 25th anniversary, CEO Rebecca Wilkie highlights the advantages of its partner schemes and the importance of innovation for the charity's future.

To be completely honest, the level of need is such that we at Advocate don't really mind how or why people do pro bono work, we just want to make the volunteering process as easy as possible and maximise the number of applicants we can reach.

There are many advantages to volunteering through Advocate, for example, picking precisely the type of work and area of law you want to work on, having had the case reviewed by a senior barrister and the offer of support from mentors and caseworkers. However, we understand that not everyone wants to contribute their skills in this way, which is why we try hard to support a number of different ways to volunteer time.

Taking cases

Most people will be familiar with doing pro bono work through Advocate's casework service (see accompanying article by Helen Moizer). While we authorise work in small chunks so as not to overwhelm our volunteer barristers, it can be tempting to become involved and want to take on more work for an applicant.

So, in recognition of the need to be innovative and support other ways of working, Advocate provides the licence enabling barristers who are not direct access qualified, to volunteer through on-the-day partner schemes like the Chancery Litigant in Person Scheme (CLIPS) and its employment equivalent, ELIPS, the Employment Law Appeal Advice Scheme (ELAAS) and the Personal Insolvency Litigation Advice and Representation Scheme (PILARS).

The schemes

The advantage of on-the-day schemes is that a barrister volunteers for a defined time period (usually a court day or sometimes half), which means they know what they are getting into and can clear their diary appropriately (see box: *Allan Roberts*).

For anyone seeking representation experience and exposure to the judiciary, it is more or less guaranteed and carries with it huge career advantages (see box: *Rahul Varma*).

This type of work can be intimidating for a junior but offers invaluable practical experience that can be difficult to obtain elsewhere. For senior barristers like Andrew de Mestre QC, chair of the Chancery Bar Association's pro bono committee which oversees the CLIPS scheme, it can lead to references on a silk application.

All the on-the-day schemes loop seamlessly back into Advocate's main work as many litigants end up needing further assistance, at which point barristers can help them complete an application form to refer them to our casework service. They also have the option of continuing to work with the applicant if they wish.

How you can help

We find that many barristers come to the Bar with an enormous duty to fairness and access to justice for all and like to use their skills as a way of making a contribution. We encourage this and are always keen to hear more ideas for schemes or partners that we can get involved with, so do please get in touch if you think we can work together.

For those who prefer or are too busy to take on work, a contribution to Advocate is always offered when practising certificates are renewed every March. We are excited about how far Advocate has already travelled and aim to provide even more mutually advantageous ways to help society's most vulnerable people in the next 25 years.

For more information on Advocate's partner schemes, see www.weareadvocate.org.uk/partner-schemes



Rebecca Wilkie

Chief Executive Officer,
Advocate

The life of a caseworker

BY HELEN MOIZER

In late 2019, after being a caseworker at Advocate for some months, I thought I had got to grips with how Advocate operated and understood the importance of pro bono work.



Transport me through three lockdowns and into summer 2021; my knowledge, experience and mindset has developed significantly. The necessity for pro bono work has not diminished, yet the volume of cases, vulnerability of applicants and willingness of barristers to help has considerably increased.

The pandemic has shifted the way I work, think and act as a caseworker. As Advocate dropped the requirement for agencies such as Citizens Advice to refer cases to us, applications increased dramatically. We also encountered a spike in family and employment law cases, more than our usual numbers. In turn we now have more vulnerable applicants in complex situations needing guidance or representation.

So how have we responded?

The casework team rallied together from our improvised desks at home, ensuring each application was processed efficiently, whilst thinking creatively of ways to engage our volunteers in such unusual circumstances. Shifting from physical papers to an online database system was a forced change. Hopefully we executed this well and we managed to become fully digital.

A benefit for Advocate when barristers' paid cases were being vacated, was that we saw a huge increase in the Bar's willingness to assist in the pro bono cases that were still going ahead virtually. Seeing new volunteers sign up to our panel or veterans take on more cases than usual was a cheerful addition to our heavy caseload. The effect was that we could find an applicant representation for a Brighton court hearing with counsel from

Birmingham; and we could help new second six pupils in the North gain court experience in London, all virtually.

To adapt further, we have now introduced individual casework where each caseworker has our own caseload progressing from start to finish, we work more closely with applicants and tailor our support to volunteer barristers. This personal service will strengthen our casework assistance to make it the best it can be for our applicants and volunteers.

We could not operate without the generosity of the Bar. So, for anyone who has made it to the end of this synopsis of life at Advocate, there are many ways you can join. Whether that be a panel member taking on cases, a mentor to juniors on complex pro bono cases or a reviewer assessing which case are eligible for pro bono assistance. Contributing to providing access to justice to our applicants is rewarding, beneficial and needed.

The Advocate process

- An applicant completes an application form and attaches all relevant documentation. Caseworkers are heavily involved here, bundling documents and writing a clear summary of the case.
- The bundle is sent to one of our panel of reviewing barristers. These are barristers of at least ten years' call who examine the case for financial and legal merit.
- If approved, the case is put on the Advocate website and included in an email to panel members who have signed up to take cases. One specific piece of work is authorised (advice/drafting or representation) along with an estimated time commitment for completion.
- Advocate allocates the work to a barrister, who contacts the applicant directly and completes the specified piece of work. Any further work must be authorised by Advocate.



For more information on our process, see weareadvocate.org.uk

ALLAN ROBERTS from Outer Temple on ELIPS

I enjoy volunteering for ELIPS but it's a tough gig and the days are intense due to the time pressures. We need to digest the cases and identify the issues as quickly as possible, but the people are often vulnerable and emotional. While this underscores the work's importance, it can sometimes make it difficult to explain the process and ascertain the necessary information within a short space of time. We cannot always assist the litigants as much as we would like or represent them in their hearing so we must focus on finding the best support we can, which involves guiding the litigants on how best to present their case in person. It is the most intense kind of work I do.

Despite all of this, it's incredibly rewarding. Not only does ELIPS assist those who need it the most, but the volunteers can help several people in a single day. The litigants often express their gratitude not just to the volunteers but to the justice system. For

me, the latter is the single biggest take away. Confidence in the system is vital to perceptions of fairness.

A particular advantage of volunteering with ELIPS is the structure of providing a designated day. It's a defined length of time, with the option at the end to refer a case to Advocate or another organisation for extra assistance. From what I've seen of ELIPS in Bristol, it has been a tremendous success. The scheme has enlisted the support of many local lawyers and received considerable support from the Bristol judiciary. That collaboration is vital and reinforces what the litigants are experiencing, with the justice system striving to help support them as far as possible.



RAHUL VARMA from Selborne Chambers on CLIPS

I started doing CLIPS about four years into tenancy. Like many new practitioners, I neglected pro bono work in my first few years as a tenant because I was worried about booking time out of my diary when trying to develop a practice.

Around four years into practice, I attended Central London County Court for an application hearing. My opponent was a litigant in person, who handed me a wet Tesco bag full of papers relating to the application, none of which had been served. Thankfully, two CLIPS advocates were there to offer her advice and to advance her points with discretion. The result was beneficial for everyone involved; the litigant in person, the Judge, the court staff, my client – and everyone listed after us.

Volunteering has undoubtedly been positive for my career. It requires a barrister to quickly marshal the papers, see the salient points, manage a lay client, and then deliver in court. The relevance of those skills to my own practice is clear. Also, Judges are always highly appreciative of CLIPS volunteers. I have already used CLIPS to obtain judicial references and would hope to do so again in the future.



Case study: Simon's story

Simon's case was very complex but he found help through a variety of different pro bono partnerships, all working seamlessly together.

Simon and his wife Laura equally owned a business (S&L) that ran a pet shop. Laura was in charge of the bookkeeping and Simon dealt with the practical side of the business. They were also jointly involved in two other small businesses owned by other family members.

How the problems started

In 2017, Laura was admitted to hospital with a serious illness. After she hospitalised, Simon realised that Laura had been neglecting the bookkeeping for one of their companies and it faced serious financial difficulties. He found stashes of money hidden around the house and realised that many bills hadn't been paid. This put a huge strain on family relationships and their marriage began to crumble.

After she left hospital, Laura asked Simon to leave the house and refused to keep him up to date on the finances of their joint company, effectively stopping him from being involved. During their divorce proceedings, Simon was prevented by a court order from participating in the business but tried and failed to find out what was going on financially. Later that year, to his complete shock, Simon was told that S&L was in dire financial straits and needed to be wound up. He said: "I couldn't believe it. My family had put money into it and everything. It was built on my inheritance from my mum and I took that very personally. It was a profitable business, but the bills weren't being paid."

In early 2018, Simon appointed a liquidator for S&L and a year later, he received a letter telling him that S&L was intending to bring a £200,000 claim against him personally for alleged breaches of directors' duties, including taking a loan and failing to pay it back, misappropriating money from the business and misusing company money. "I was absolutely furious because I had nothing to do with it and all I was trying to do was get up to date with the bills. I couldn't physically have misappropriated the money because I was prevented from accessing the business." The liquidator who had brought the action against Simon in fact sold the claim to the well-known litigation funder, Manolete Partners. Known for their aggressive prosecution of claims, Manolete pressed forward with trying to recover the alleged debt of around £200,000 through the courts.

Going to court alone

Simon was devastated and denied any wrongdoing. Proceedings were issued against him, under three principal heads of claim, and he failed to understand that he had to provide a defence, explaining that "with everything going on in my life at the time, I did miss things." The claimant tried to get a summary judgment and Simon went to court alone and asked for help from the Chancery Litigant in Person Scheme (CLIPS) which provides free on-the-day representation. Tom Foxton from Brick Court represented him and HHJ Johns granted Simon extra time to file his defence. Simon said: "Tom was fabulous. He was allocated to me through CLIPS and he made contact with me. We spoke several times in the evening until late and then he spoke to the judge for me the following day. The judge understood my position and was very kind."

Tom recommended that Simon apply to Advocate for help and his case was picked up by Edward Armitage from Maitland Chambers.

Edward helped Simon with some advice on the merits of his claim and drafting

for his defence. Edward realised that the claim was complex and valuable, so asked for solicitor assistance through Pro Bono Connect. Dentons volunteered and worked with Edward to achieve the best possible outcome for Simon.

Reaching a settlement

The Dentons' DR Insolvency team was led by senior associate Mark Price, ably supported by trainee Ewan Riddell, working alongside Edward. Dentons had day to day contact with Simon, and matters were complicated when Manolete applied for an interim charging order against Simon's home, which had been on the sales market for some time but was tenanted. Significant efforts were deployed to push back on the final charging order being granted, which would have had a damaging effect on Simon's ability to settle his many other debts, with the proceeds of the sale being earmarked to pay down the multiple charges already registered against the property and other unsecured creditors. Simon's legal team assessed the strength of the claims against him and, in line with points made in his defence and in light of the weaknesses in Manolete's case, effectively resisted Manolete's attempts to pressure Simon into accepting an unfavourable settlement. Simon also effectively resisted the attempts by Manolete to make the interim charging order final.

After a lot of negotiation, the claim was settled with Simon agreeing to pay £30,000 of the £200,000 claim in three £10,000 tranches. While this is still a significant amount of money, the claim was concluded more swiftly than if it had gone to court. Simon agrees and says: "The result would have been significantly worse had I not had assistance. More than anything else, it's for peace of mind. I wouldn't have known what to do or say and I didn't have money for a solicitor. I would have felt very vulnerable without the backing of Edward and Dentons. They were a real emotional, supportive and knowledgeable crutch."



BRIDGING THE BAR

Bridging The Bar is a charity founded to support aspiring barristers from a range of statistically underrepresented groups at the Bar. Formed in the middle of 2020, during the pandemic, it has managed to establish partnerships with more than 70 sets of chambers, to run mini-pupillage and mentoring programmes and to collaborate with the Supreme Court and Law Commission to create internship schemes.

All of this is made more remarkable when you consider that with the exception of two on the committee who are of some vintage, the remaining members of the Executive Committee are in their 20s. Some are studying for the Bar, others are in the infancy of their careers, but all share a goal of widening access to the profession.

They aren't alone of course. BTB don't pretend that they've hit upon a hitherto undiscovered issue. The charity came into being, however, to create real opportunities for those from underrepresented groups to experience working in the law, access members of the profession and receive advice that will help them further their career.

You may be reading this as someone who has generously donated their time to BTB or a similar organisation. You may not have done so but would if the opportunity arose. How then can you help and what have BTB done that would make you give up your time? Time that all acknowledge is precious in a profession where people work long hours and have many other demands on their time. Here are some edited highlights of what BTB achieved in their first year. The intention is for each of these programmes and events to run annually.



Internship at the Supreme Court: 8 candidates will spend five days in the UKSC, working alongside Judicial Assistants. The programme includes pre-training on imposter syndrome and owning one's narrative to facilitate reverse mentoring during the internship.

Law Commission: 4 candidates selected to spend a week as a paid intern at the Law Commission working with their lawyers and research assistants on reform projects.

Mentoring programme: 75 candidates were selected and matched to a mentor at the Bar. The mentors and mentees met over a six month period and completed a personal development plan. The mentees also had access to a series of exclusive events hosted by BTB to improve their skills, knowledge and ultimately their applications for scholarships and pupillage.

Mini-pupillage scheme: By completing one application form, candidates could be considered for a mini-pupillage by multiple chambers. There were 67 in total in our first year of the scheme and candidates were eligible to be considered by any chambers in the practice area that they selected.

Summer School: Held online this year due to circumstances, this was a one day event attended by over 100 aspiring barristers with speakers from across the profession giving their advice on what chambers look for, how to shine on an application form and what stands out at interview. The hope is to run this in person when circumstances permit.

Events: BTB has run events in collaboration with specialist bar associations and the Inns on scholarship applications, pupillage applications, 'What a barrister looks like' and lectures on the law in practice.

There are future plans to run an alternative work experience programme with a vision to provide aspiring barristers with opportunities to enhance their CV and develop a well-rounded profile in relation to legal work experience. Plus further internship opportunities.

We would like to express our gratitude to everyone who has supported Bridging The Bar since its launch. BTB's achievements to date have only been possible due to the generosity of our sponsors and expert volunteers. From mentors to application markers and ambassadors of the charity – all have been integral in allowing BTB to pursue its objectives. Thank you.

How can you help?

We are always looking for volunteers to speak at events, mentor, offer mini-pupillages, help mark application forms and shortly to appear on our podcast. If any (or indeed all) of those sound like something you'd like to do, please email info@bridgingthebar.org and we will be grateful for your time.



Ishan Kolhatkar

Skills and Education Officer,
Bridging The Bar

Court Observation Scheme

The South Eastern Circuit is very grateful to all those who set up and participated in the Court Observation Scheme this year. It provided a fantastic opportunity for pupils and junior tenants to watch proceedings and learn from the advocacy of others at a time when attendance at court was being discouraged except where absolutely necessary. It was rewarding for all those involved and the feedback was excellent. We are hopeful that, as the barriers to attending court are now removed, they will be able to attend court to view hearings in the normal way.

1 Summary

Madeleine Miller | 9 Gough Chambers

In April 2021 the South Eastern Circuit trialed a scheme in which pupils and junior tenants observed a crown court trial remotely via CVP. We were allocated to a rape and sexual assault trial mid-way through the cross-examination of the complainant.

This involved detailed questioning about the exact mechanics of the alleged offences, which was understandably an issue of great sensitivity for the complainant which had to be handled with care. There were questions about finances which required a balance to be struck between going into close detail and giving the complainant the opportunity to respond to allegations being made against her.

After re-examination, we then saw the evidence of the defendant's sister-in-law who gave evidence about her relationship with and understanding of the defendant. The prosecution then read two statements aloud, from the paramedic and from the complainant's daughter.

Over the lunchtime adjournment we were moved into a different virtual room, where the judge spoke to us briefly and took us through the indictment. After lunch the prosecution read through some amended agreed facts about the police investigation and forensic evidence.

The police officer in charge of the case then gave evidence about the defendant's previous convictions, the evidence obtained and examinations undertaken. After his evidence concluded, a recording of the 999 call made on the night of the incident was formally exhibited, along with photographs and video footage.

We then saw the start of the defendant's examination in chief, including questions about the complex history between the defendant and complainant and the events of the night in question.

After court was finished, we were moved into a second virtual room to have a question-and-answer session with the judge. Although he could obviously not answer any questions about the case itself as it was ongoing, we were able to ask more general questions and to flag things about which we needed clarification. The judge was very open and gave us detailed answers, and we had interesting discussions about issues such as special measures and cross-examination techniques.



2 Benefits

Joshua Ellis | Red Lion Chambers

The SEC's scheme had two key benefits. First, it gave pupils the opportunity to observe a trial at a time when the pandemic made in-court attendance difficult. Second, it allowed pupils to hear a judge's perspective and advice on topics such as persuasive advocacy and the role of advocates when dealing with vulnerable witnesses.

One of the most important parts of a pupil's first six-months is shadowing barristers in court. I believe this is fundamental to the learning process and a great way to improve one's advocacy. Unfortunately, the pandemic and social distancing meant there were fewer opportunities to attend court, thereby limiting a pupil's exposure to real-life advocacy. Many chambers compensated with a comprehensive advocacy programme, and whilst useful it could not fully replicate the experience of observing an advocate in court.

By providing pupils with the opportunity to observe a trial, the SEC helped to furnish us with this much-needed experience. It was particularly useful to observe how one of the barristers navigated the challenges of cross-examining a complainant who gave her evidence via live-link.

Another benefit of the day was the opportunity to speak with HHJ Cooper in a relaxed and private environment. He answered questions on a range of topics from advocacy tips to common things to avoid when advocating before a judge. He also shared his views on the impact of COVID on the criminal justice system. This was an invaluable opportunity to learn from an experienced practitioner and judge.

Finally, because of the pandemic, opportunities to meet fellow pupils at other Chambers had been limited. This scheme brought a number of pupils from the circuit together and gave us a chance to get to know one another (albeit virtually).

It was an extremely well-run and well-organised scheme and one which I hope will be repeated in years to come. Even without the pandemic, it provided a useful opportunity to meet fellow pupils, observe advocacy and speak with a Circuit Judge.



3 Future Observation Days

Page Nyame | 2 Harcourt Buildings

From speaking with the other pupils observing, it was clear that we all found the court observation day useful. In terms of future observation days for pupils, there are three key ideas for the future:



(1) More SEC observation days – this April was the first time the observation day had been run, but hopefully not the last. As the other

pupils have explained, remotely observing court proceedings and discussing what we had seen with HHJ Cooper was especially useful given the more limited opportunities to attend court during pupillage in the pandemic and would be helpful for pupils in any event.

(2) A range of proceedings/offences – this year, the SEC Observation Scheme ran for a day's worth of proceedings in the Crown Court, which happened to be a full day's evidence at trial. For the future, as well as offering the opportunity to see trial proceedings for a day, it would be helpful to see a range of proceedings and offences. For example, PTPHs and case management hearings, Newton hearings and trials across a spectrum of offence types such as murder, drugs and fraud.

(3) Discussion sessions – another key feature of the day was the opportunity for discussion with HHJ Cooper and fellow pupils – in future observation schemes, it may be helpful to have a pre-meeting session, a half-time session and an end of the day session for everyone to introduce themselves and share reflections on the day.

The SEC observation day was a valuable experience for learning about advocacy and Crown Court proceedings. Thank you to HHJ Cooper and SEC for organising such a useful event this year. I look forward to hearing about future opportunities available and recommending them to future pupils.

4 Comparisons between crime and commercial

Helena Ifeka | Henderson Chambers

(Third Six at Cloisters from 20 September)

During my first six, I was fortunate enough to attend the TCC several times through the COMBAR pupillage scheme. The trials I observed varied from high-value contract claims to reinsurance disputes arising from the near collapse of Lloyds in



the 90s – mashups of contract, equity, and common law, in which limitation was usually a live issue.

The COMBAR scheme had three benefits. Firstly, each judge spoke with me before, during, and after the trial, sharing their views of each advocate and the merits of their submissions. The conversation usually touched on pupillage and the operation of the court system during the pandemic, before ranging into more personal matters. Secondly, I was able to observe some top silks in action. And thirdly, I was able to read their pleadings and skeleton arguments.

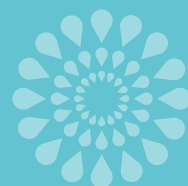
If I compare my experience on the COMBAR scheme to that on the SEC, it was the first of these benefits which was somewhat lacking. At the end of the day, the group was able to ask questions of the

judge in a private video session. That Q & A was enjoyable and useful. But it was necessarily a more inhibited and time-limited forum than an ongoing conversation with a judge in chambers throughout the course of the day.

However, against that, the SEC provided a better opportunity to observe advocates conducting cross-examination (in contrast, I only observed cross once on the COMBAR scheme). Moreover, for pupils whose opportunity to attend court is limited, any chance to observe a trial is useful. I would encourage the SEC to extend the scheme by offering pupils remote dates and in-person dates – understanding, of course, that this may depend upon what is possible in our pandemic future.

SEC Summer Party

On 23 July, on the lawn at Lincoln's Inn, the sun shone and the drinks flowed as guests of the Circuit enjoyed a glorious summer drinks party – our first social occasion for such a long time. It was a wonderful evening and a marvellous time was had by all.



Mrs Justice Whipple, Lead Presider of the SEC, and Christine Agnew QC, Leader of the SEC



Christine Agnew QC with Mrs Justice McGowan and Brian Altman QC



Fiona McAddy, Kevin Molloy, Chair of the Herts and Beds Bar Mess, and Colin Witcher



Sarah Forshaw QC, previous Leader of the SEC, Mr Justice Spencer and Mr Justice Sweeney



His Honour Judge Gratwicke and Don Ramble



His Honour Judge Lodder QC, His Honour Judge Gratwicke, Craig Rush and Mr Justice Spencer



His Honour Judge Lodge and Mark Milliken Smith QC



His Honour Judge Martin Edmunds QC, Her Honour Judge Kaul QC and Gavin Holme



Leon Kazakos QC, Editor of the Circuiteer, with Philippa McAtasney QC, Chair of the Surrey and South London Bar Mess



Azza Brown and Gavin Holme



Philip Misner, Chair of the North London Bar Mess, and His Honour Judge Oscar Del Fabbro



Guests of the Circuit enjoying chatting in person



Sasha Bailey and Donal Lawler, the Recorder of the SEC



Shauna Ritchie, Brian Altman QC and Claire Mawer



The Lawn at Lincoln's Inn

IS THE PANDEMIC IMPAIRING WITNESS' MEMORIES?

Whether our memories have deteriorated since the pandemic started has been a burning question on many peoples' minds. The answer has implications for every one of us, and it carries additional weight in legal settings.

Lockdown forgetfulness

Researchers from around the world have already conducted several studies on whether we *think* our memories have gotten worse. In Brazil, Natan Feter and colleagues found that people reported having a worse memory after social distancing restrictions were imposed than before. In the UK, Professor Catherine Loveday similarly found that people perceived their memories to be worse, with 80% of her participants stating that their memory had deteriorated during the pandemic, often in multiple ways.

Still, not everyone reported a decline in memory, and a few people even reported that their memories had gotten better. When trying to understand these individual differences, both teams of researchers found that the self-reported declines were directly related to a lack of movement during lockdown periods. In the Brazilian study those who kept up, or started, their fitness routines were less likely to report memory declines. For Loveday's sample even minimal movement, like walking from one room to another, mitigated perceived memory decline. These results are consistent with other findings on memory, which show that exercise and getting a change of scenery help to stimulate the brain, and have been linked to preventing cognitive decline and dementia more generally.

Notably, these two studies used self-report designs. So, how can we know whether our memory has *actually* declined or if it just *feels* that way?

In a study involving participants from the UK and the US, Weiwei Zhang had people participate in memory tasks, which involved learning words, during the pandemic. He found that there was an unexpected relationship between memory errors and social distancing – short-term memory for words improved slightly as the amount of time people had been socially distancing



increased, at least for a little while. This memory benefit continued gradually until the 30-day mark, after which it steadily began to decline again.

What made lockdown memories fluctuate like this? The researchers found that this shift mapped almost perfectly onto the participants' mood. For the first few weeks of lockdown many people experienced a decline in negative mood, perhaps because these specific participants were able to feel safer from potentially contracting the virus from others, and some had more time for hobbies. But, after 30 days, mood started to dip and memory performance gradually declined along with it. The researchers identified that the specific mood related to these short-term memory declines was the feeling of loneliness. Again, this work maps onto a larger body of research on memory which has linked depression and loneliness to memory impairment.

Because of the duration of the pandemic there are likely to be permanent consequences for some people, particularly older people, who were particularly isolated and under-stimulated during the pandemic. Still, the researchers of all three of these studies agreed on one thing: although our short-term memories might both feel and be worse right now, for many people these effects are likely to be temporary. For those of us who can resume our exercise and social habits, our short-term memory should bounce back to its normal state. Indeed, it's quite likely that your memory has already been much better since the lockdown restrictions in the UK have eased.

Impaired witnesses

These studies can be helpful for informing legal practice in a number of ways. First, it is likely that witnesses will feel that they have impaired short-term memory because of the pandemic. Particularly if witnesses meet the three risk factors mentioned in these studies – they don't move much, they spend all or most of their time in the same place, and they are lonely – this might even impair their ability to give evidence. Impaired short-term memory makes it harder to encode and recall new information, which makes it harder to concentrate and remember what has happened when being questioned, whether by a police officer or lawyer. This can be a problem for witness coherence, credibility, and stress.

It can also contribute to false memories. When stress is high, and short-term memory is low, there is a risk that people will confabulate more details than normal. Confabulation involves spontaneously creating small false memories, often to fill in narrative or knowledge gaps. This can include witnesses adding incorrect details to an account because they are struggling to concentrate. An initial confabulation can, in a later telling of the account, be mistaken by the witness themselves for a correct memory detail, thereby becoming consolidated. Thus, the witness might be giving evidence which is factually untrue whilst believing it to be true – the hallmark of false memory evidence. This can affect the quality of a witness' evidence, as well as making them seem less credible. Although such impairments to short-term memory that contribute to false memories can have serious implications, in most trials this is not likely to be a major issue.

The bigger threat to memory is time. Many trial dates have been moved – sometimes repeatedly – over the past 18 months. This has always been part of the reality of the legal process due to drastic underfunding of the court system amongst other things, but delays are often longer now for pandemic-related reasons. This is likely to have knock-on effects that will delay many new trials over the next few years. Such delays can be bad news for memory. Generally, the longer you wait after an event has occurred the more gaps there are in memory, particularly for circumstantial details that surrounded the case, but also for central details like what a perpetrator looked like.

Because forgetting is unpleasant, and people like coherent stories, missing gaps in memories are sometimes filled in automatically with assumptions and confabulations. These can grow into what the witness believes to be facts. You might be surprised how quickly people can move from what could have been, to what would have been, to what was. This process of creating false memories, even of complex emotional events, is something that I wrote about at length in my book *The Memory Illusion*.

One thing that can help prevent this from jeopardising a case is to create an extensive account of the event with a witness as soon as possible and create a timestamped document to preserve this. I regularly work as an expert witness on the issue of false memory and I always look for recorded accounts of what happened which can show me whether a memory has changed in important ways over time. Contemporaneous recordings of memory evidence are typically worth a lot more than later accounts because they are comparatively untainted by false memories.

What about the implications of this for crimes committed during the pandemic? We will remember 2020 and 2021 as the years where time and memory melted. For offences over the last 18 months, one issue might be accurately remembering *when* exactly things happened, because time hasn't been broken up

like it normally is. Particularly during lockdowns, there has been an overwhelming sensation of sameness – whole months feel very similar, weekdays and weekends blend into each other, daytime and evening involve doing mostly the same things. This kind of sameness can make it very hard to be precise about when things happened, and to disentangle similar experiences if they happened multiple times.

Luckily, from an evidentiary standpoint, witnesses also spent huge amounts of time online, so accounts of many experiences are likely captured in contemporaneous and timestamped digital records. Whatsapp and other messaging software is going to be a key resource for piecing together what really happened in our lives, and in the lives of witnesses, during this pandemic.

I find some comfort in the fact that while my biological memory for 2020 might be worse than usual, my digital memory has never been so thorough and searchable.

Working with witnesses: 3 practical tips

Comfort witnesses who are feeling more forgetful because of the pandemic. You can make it clear that they are not alone and that initial research has found that declines are often small and temporary, and can be ameliorated by doing some exercise, switching rooms, doing something that improves mood, and socialising online or offline to help combat loneliness.

Remind witnesses that if they can't remember something they should say *I don't remember*. This is important not just in the courtroom, but also in the sharing of a story beforehand to police, lawyers, friends and family. Ideally you should explain the idea of confabulation and that it's easy to accidentally come to create and believe in fictions when we retell accounts.

Encourage witnesses to record a detailed statement of what happened. In addition to police interviews, it is good for the witness to – as early as possible – record as many details as they can that might be important for a case. This is particularly important if the court date is a long time away, or a trial is likely to get postponed – both of which will likely need to be considered more now than before the pandemic.



Dr Julia Shaw

Psychological scientist at UCL, best known for her work in the areas of false memory and criminal psychology. She consults regularly as an expert on legal cases, hosts a podcast and writes articles for the BBC and other outlets, and is the author of two international bestsellers; *The Memory Illusion* and *Making Evil*. Her website is drjuliashaw.com



A Presider writes

I found out on Christmas Eve, 2020, that I was going to be a Presiding Judge of the South Eastern Circuit for the years 2021-2024. It has turned out to be the gift that has kept on giving.

It will come as no surprise to members of the Circuit that the four Presiders (Whipple J, the Lead Presider, Cheema-Grubb J, Bryan J and me) and the three Family Division Liaison Judges (Newton J, Keehan J and Williams J) have been extremely busy since the start of the year. Very ably supported by the Resident Judges, the Designated Civil and Family Judges, the Judicial Secretariat, and the HMCTS staff, we have dealt with Lockdown 2 (or was it 3?), severe shortages of judicial resources and courtrooms, and the poor condition of parts of the Court estate in the South East – much of which pre-dated and was not caused by the Pandemic. The ability to hold meeting via MS Teams enabled us to keep going, but it also meant that there was a great temptation to squeeze just one more meeting into the working day. Most days, we participated in between 3 and 5 Teams meetings on Circuit matters, in addition to continuing with our day jobs.

Contrary to the impression that the last paragraph might have given, this is not a moan. I volunteered to be a South East Presider and I am very glad that I did so. It is a great privilege to be a Presider in London and the South East. The work of a Presider is challenging, but very rewarding. The South East Circuit is by far the largest, the most diverse, the most complex and, we all think, the best, Circuit in England and Wales. It has very many moving parts, and despite the challenges it faces, and against the odds, it does an excellent job because of the hard work, dedication, and commitment of the judiciary, the HMCTS staff, and the barristers and solicitors who work in the Circuit. It has genuinely been humbling to

see how positively and uncomplainingly Circuiteers, judges, and staff have got on with the job in the face of all the difficulties.

So what do the Presiders and the FDLJJ do? Each of the four Presiders has a particular responsibility for one aspect of the Circuit's work: London Crime, SE Crime, London Civil and SE Civil. I am currently responsible for SE Civil. The FDLJJ have primary responsibility for family work. The day to day running of the Courts is, of course, in the hands of MOJ, HMCTS, and the Judicial Secretariat. We have no control over budgets. We have "soft power" in that we are consulted and our views are listened to. When problems arise, we can escalate matters to the Senior Presiding Judge and other members of the senior judiciary. We work closely with the Resident Judges, DCJs and DFJs, and take decisions about deployment of new judges and about judicial transfers, matching judges to demand. This is an important part of our work. We make recommendations for appointments of local leadership judges and deal with expressions of interest for various "tickets", such as the murder ticket. We take decisions about the allocation of murder and other serious crime cases across the Circuit. We are involved in judicial HR matters, such as ill-health, disciplinary, and well-being issues. We have an important pastoral role in support of the judiciary and are also closely involved in the various reform initiatives and technological changes that are being implemented in courts across the Circuit. We liaise with the Presiders on the other Circuits and with the SPJ and DSPJ. In ordinary years, we attend social events across the Circuit, but there has

not been so much of that recently. I hope that will soon change.

I had not been a member of the South Eastern Circuit, or any Circuit, when I was at the Bar. I was based in London, but my practice was nationwide. I had only been in a criminal court as a Recorder. My main field of practice was employment law, and so I had very little experience of the County Courts and none at all of the family courts. All this means that, when I started as a Presider, I felt like the work experience trainee, but I feel much more comfortable now. I was a Recorder for nearly 15 years, and the Joint Head of a large Chambers for a few years, and that has helped, as has the support of my colleagues.

If and when the effects of the Pandemic diminish, we will still be left with daunting challenges in the South Eastern Circuit. The underlying problems, and the long delays, will not suddenly go away. Philippa Whipple will finish her year as Lead Presider slightly early, as she has been promoted to the Court of Appeal. She will be replaced by Bobbie Cheema-Grubb. Mr Justice (Ed) Murray will join us at the end of the year as the fourth Presider. I am confident that, with the support of Circuit members and the local bar messes, there is a lot to look forward to in the South Eastern Circuit.

Mr Justice John Cavanagh

Presiding Judge,
South Eastern Circuit

IN MEMORIAM

Bill Maley



In the spring of 2021, 25 Bedford Row was stunned by the news that our longstanding member, and treasured friend, Bill Maley, had died. This was not just shocking, but deeply saddening. The world, let alone the Criminal Bar, is a lesser place without Bill. That's for sure.

Bill was born in San Francisco in 1952. For the many that knew and loved him, Bill never lost his Californian swagger. The USA was embedded deep in his soul, despite having joined his mother and brothers in the UK in 1975. Although Bill's beloved mum left for Portugal, where she made a new life, Bill stayed in London, determined to pursue a career at the Bar. His "formative years" had been anything but establishment, or studious, but he had reached the point in his life where becoming a lawyer was his dream.

Bill achieved his ambition. He joined our Chambers, then headed by the iconic Rock Tansey QC, back in the 1980s. Bill fitted "hand to glove". We were new breed, and so was he. That thick American accent brought Bill popularity and success. Juries loved him, clients respected him, and the Criminal Bar embraced him. Bill was an ever welcome figure at all crown courts, especially Luton and St Albans, his home court centres. He was always a smiling, positive figure. A ray of light. That's how Bill will be remembered.

Bill married his adoring Dutch wife, Esme, in 1988. His cherished girls, Roxy and Miriam, were born, respectively, in 1992 and 1996. Bill totally, utterly and completely loved his family, and home life. His harmonica, his music and his family were his paradise. He was always the first to congratulate others, but rarely sought acclaim for himself. Bill was modest, but confident. He was simply a great guy, with a fantastic sense of humour.

Bill Maley loved Bruce Springsteen, and Springsteen's brand of American rock captures Bill's zest, energy and love of life. He was a committed defence lawyer, with great charm and sincerity. He gave his cases his all, then, went home, and surrounded himself with Esme and the girls. At 25 Bedford Row, we deeply mourn Bill's death. But he lives on in positive memories, and we are pleased and proud that Bill was a member of our Chambers team for three truly memorable, special decades.

Jeremy Dein QC

Joint Head of Chambers, 25
Bedford Row, London



BAR MESS REPORTS

CAMBRIDGE AND PETERBOROUGH

1) There was a Memorial Service for HHJ Stuart Bridge on Friday 1st October at Great St Mary's Church followed by a reception in Queens' College, which was very well attended by the Bar and academics alike.

2) Charlie Falk from Drystone Chambers has been appointed to sit as a Circuit Judge in Snaresbrook. We all wish him well and look forward to being invited in for coffee!

3) HHJ Farrell QC will be retiring as Resident Judge in November – we await the announcement of his successor. Cambridge is a jewel in the crown of the judicial estate and we are confident that the new Resident Judge will wear the mantle of responsibility as well as their illustrious predecessor. A dinner will be held to mark the changing of the guard.

Karim Khalil QC, Chair of the Cambridge and Peterborough Bar Mess

CENTRAL LONDON

Southwark Crown Court and Inner London Crown Court employed as many Recorders as they could over the summer to keep a full complement of courts running in an attempt to reduce the back-log of trials. Good progress was made and these two courts continue to seek both SE Circuit and National Pool Recorders to keep up the momentum.

Social distancing is observed and masks are politely requested to be worn at both courts. The biggest complaint, particularly at Southwark CC, is the withdrawal of drinking water made available to the Bar in the court room. "Bring, or buy your own" is the policy. Unsurprisingly, rudeness to the court staff who do not make the rules, is unnecessary and inexcusable.

There are also some issues with drinking some of the running water at Inner London Crown Court – due no doubt to the age of the pipes in some parts of the building. It is to be hoped that investment comes from somewhere to keep this beautiful building sufficiently maintained for our continued use – it really is a national treasure. If you have never explored the building fully, next time you have a jury out, do take the chance to look around what must once have been one of the most elegant of courts in the country.

Whatever the building lacks in recent maintenance is compensated for by the atmosphere created by the extremely helpful, eternally cheerful court staff, and happy cohort of judges whose home it is under RJ, HHJ Usha Karu. HHJ Vanessa Baraitser is welcomed as the most recent appointment to ILCC. In her previous appointment as DJ she presided over the extradition proceedings for Julian Assange. <https://www.bbc.co.uk/news/uk-55528241>.

Whilst issues with running water are resolved, there are drinking water fountains well placed around the building, and bottled water can be bought from the extremely well-stocked coffee stand in the foyer. There are also supplies of bottled water made available to jurors and staff, and it is to be noted that the court staff are extremely generous and willing to share their own allocation ... but please bear in mind when you ask for water and get it, that you have reduced what is available for the staff as no extra supplies are ordered for provision to the Bar.

Despite all of the difficulties raised by the pandemic, Southwark CC has continued to try long fixtures, and has not stood out any long trial other than on the application of Counsel. As a result, Counsel are encouraged to recognise the importance of maximising use of court time so that more cases can be heard. That may involve attending in person for meaningful case management.

A sad farewell was bid to HHJ Korner QC at her Valedictory on 30 July 2021. We wish her well at the ICC. No replacement Judge has been appointed as yet.

Woolwich continues to maintain its Gold Standard in how to run s. 28 hearings. There are regular quarterly meetings at which services providers, the Bar, and the LCCSA are represented.

If you have any concerns about how s.28 hearings are being conducted, or have faced difficulty in being released from other professional commitments in order to attend a s.28 hearing from any London Crown Court, please do get in touch and make those issues known to HHJ Mann QC who is the judicial lead at Woolwich, and who regularly liaises with all central London courts to ensure uniformity in the approach to prioritising counsel's release for these hearings.

Woolwich CC is also undergoing works to its "Airhandling" units which involves closure of two courts at a time in rotation during each phase. The work is, so far, on schedule and, given that it never worked properly, the level of extra inconvenience has been small. The RJ would like to thank advocates for their patience and endurance over the years. We hope it will be operational by Feb 2022. We are onto the third phase which means Court 1 is expected to be closed for a short period from 20th September. In the East Wing, first floor public toilets, jury retiring room toilets and judges toilets can be used, but people must not spend excessive time in them as there is insufficient ventilation (!). Other parts of the building will have signs displayed making sure that windows are kept open. e.g. Windows and doors outside courts 4 – 7 must be kept open, and Videolink rooms outside of those courts can't be used in this period 04.10.21 – 29.10.21.

HHJ Kinch QC hopes to engage with the Bar and solicitors and CPS about reviving his anti-warned list pilot in the New Year.

In other news, HHJ Michael Evans QC has moved on from Woolwich to become RJ at Croydon. He quickly became a very popular figure at Woolwich and was highly regarded by all – he will be missed. In recent years, Woolwich has provided two judges to the CCC, two to Southwark and three to become RJs at other courts on the Circuit. The arrival of HHJ Sarah Whitehouse QC, former senior treasury counsel at the CCC, this month will ensure that a very strong panel of judges is maintained.

Finally, another Nightingale court has opened in central London at Monument housing Courts 3 & 4, Courts 1 & 2 being situated in Aldersgate House. These courts will be jointly staffed and administered. HHJ Spiro currently resides in these new very well-serviced premises.

It is intended that this new court will take the overspill of cases primarily from Snaresbrook – although the joint listing office is taking cases from Isleworth, Harrow and Snaresbrook at this new combined Nightingale Court! Do enjoy any opportunity you have to take a case listed at one of these new courts.

Allison Hunter QC, Chair of the Central London Bar Mess

EAST ANGLIA

We are delighted to welcome HHJ Alice Robinson to Norwich as the new Resident Judge, on the retirement of HHJ Holt.

At Ipswich, Resident Judge HHJ David Goodin has retired, as has HHJ Rupert Overbury.

In other news, the East Anglia Bar Mess is presently undergoing restructuring and committee development.

We are planning to hold a dinner in honour of our new and retiring judges in the Spring and hope that all who visit the courts in East Anglia will come along. We will circulate details in the New Year.

Riel Karmy-Jones QC, Chair of the East Anglia Bar Mess

ESSEX

The Mess is delighted to welcome HHJ Shane Coltery QC to Basildon Crown Court. Having practised for many years at Red Lion Chambers, he is well known to local practitioners and is an excellent addition to the Basildon Bench. We also congratulate Noel Casey on his appointment as a Circuit Judge, sitting at Snaresbrook although his presence in the robing rooms of Essex will be much missed.

Derek Sweeting QC, the Chairman of the Bar Council, visited Chelmsford Crown Court, on Tuesday 14 September to meet local practitioners and judges. He was accompanied by Natalie Zara from the Bar Council Executive Office and the visit was a great success.

The first Essex Bar Mess Dinner since lockdown is taking place on Friday 19 November 2021 at the National Liberal Club in London. Our guest speaker will be HHJ Charles Gratwicke, recently retired from his role as Resident Judge at Chelmsford. This is now sold out but if you would like to go on the waiting list for returns, please contact the Mess Junior, Nick Bonehill (nbonehill@2bedfordrow.co.uk).

Finally, the Mess has set up a Twitter account: @EssexBarMess. If you use Twitter, do please follow us!

Simon Spence QC, Chair of the Essex Bar Mess

HERTS & BEDS

I am happy to report that Luton and St Albans Crown Courts have worked wonders in increasing trial capacity despite the continued application of social distancing within the court building.

This issue that puts a cap on the number of trials that can be effective is the apparent continued need for jurors to require large areas for their deliberations. Despite all of this, staff at both courts need to be congratulated for ensuring the courts run as smoothly as possible in these extraordinary times. It is noted that many members of staff at both St Albans and Luton have worked tirelessly throughout the pandemic.

For counsel it is hoped the Perspex screens in some courts in counsel's row do not remain a permanent fixture. Delivering a closing speech to a jury through several layers of Perspex remains a very odd and unwelcome experience!

Listing issues appear to have increased across many courts, however listing officers at St Albans and Luton remain contactable and helpful.

A topic of conversation in the robing rooms surrounds the continued use of CVP for many hearings. The Bar would hope that courts continue to utilise this technology, despite some frustrations over Wi-Fi connections. For some counsel travelling for over an hour (if not two hours) each way for a 10 or 20 minute hearing is hard to justify and, in the current era, environmentally questionable.

HHJ Bishop at Luton informed me that "what has happened is that from 1.8.21 the temporary protocol introduced in January has been withdrawn". This permitted bailed Defendants who intended to plead not guilty not to attend in person for their PTPHs. Timetables were set in their absence. The priority was to reduce footfall at court. However, Luton are now requiring bailed Defendants to attend court in person for their PTPH. The impact on counsel is that they will be required to attend if the Defendant is required to attend. Luton insist this is the only change. It is important to note that each Judge can still decide hearing by hearing, if they can accommodate a CVP request. The frustration for counsel is that sometimes cases get listed late in the day and counsel have no time to request a CVP hearing so planning ahead is important.

In St Albans HHJ Kay QC informed me the default position for non-trial work (Mentions, PTRs etc) is that CVP is suitable. For sentencing and PTPHs, Defendants in custody again should be CVP with counsel on CVP unless there are instructions which need to be taken. Defendants on bail will be in person and counsel should attend court. If that course is not to be followed, then an application can be made for CVP, provided counsel has full instructions. It is expected that when counsel is on CVP that they should

have access to reliable Wi-Fi and be flexible with regards to the time a case is listed as sometime cases can overrun.

It appears therefore that both Luton and St Albans are trying their best to ensure CVP hearings continue as much as possible.

It remains a sad feature of this pandemic that counsel, defendants and their families have no access to refreshments, including water, once they arrive at court. We need our public canteens back.

Finally, the Herts and Beds Bar Mess invites those who regularly attend both courts to join the Bar Mess. It is important that local issues at local courts are fed through the Bar Mess so that they can be channelled through to the SEC leadership. Please contact me at K.Molloy@churchcourtchambers.co.uk for application forms.

Kevin Molloy, Chair of the Herts & Beds Bar Mess

KENT

Since the last edition of the Circuiteer, a valedictory took place at Canterbury Crown Court, wishing HHJ O'Mahony a fond farewell and a happy retirement. If anyone would like the transcript, please just drop me a line. As a taster, it contains references to Royal Ascot, the Krays, Seamus Heaney, Harlequins and The Saracen's Head.

Trial capacity is much improved at both Maidstone and Canterbury. We also have the benefit of bail cases being listed at the Nightingale Court at the Great Danes Hotel.

On 1 October, there was a welcoming ceremony for the new Circuit Judge at Maidstone, HHJ Lazarus. Early signs indicate that HHJ Lazarus will fit in very well.

I am sad to report that Judge Peppitt QC has passed away. For those who did not know him, Judge Peppitt QC was the civil and family Judge for Kent sitting at Canterbury from 1991 to 2000. He was very well-respected as a judge and loved by many.

Finally, we are looking forward to hosting this year's **Kent Bar Mess dinner at Leeds Castle on Friday, 26 November**. The dinner will be a great opportunity to celebrate the tenure of HHJ Williams and to reconnect with those we have not seen in a while.

If you have not already done so, please contact me at donramble@5sah.co.uk to reserve a ticket (£85).

Don Ramble, Junior of the Kent Bar Mess

NORTH LONDON BAR MESS

Wood Green: It is with great sadness that I inform members of the Bar who have had the pleasure of his company, that HHJ Fraser Morrison died some weeks ago. His funeral was held on Monday 25 October 2021.

At Wood Green, life continues as ever. The court remains desperately short of judges and this is limiting its ability to sit more courtrooms.

The Hendon Annexe is likely to gain an additional courtroom. A budget proposal has been put forward to HMCTS to convert Court 4 at Hendon into an operational Crown Court. If this comes to pass, the robing room will be re-located into one of the rooms in the basement.

HHJ Karim Ezzat joined Wood Green a month or so ago. He is an ex-solicitor (TV Edwards) and an ex-DJ (Magistrates' Court).

Mr Hassan Khan will be soon in as a Circuit Judge in early November. Hassan is a family practitioner.

Wood Green is shortly to gain a new colour photocopier!

Harrow: Life carries on as before, with screens and distancing a fact of life for now.

Snaresbrook: HHJs Falk, Casey and Levitt QC have joined the team!

Philip Misner, Chair of the North London Bar Mess

SURREY AND SOUTH LONDON

Isleworth CC: Sadly the Garden Party at Isleworth CC, rescheduled for September, could not in the end go ahead due to concerns over Covid infection rates and HMCTS requirements over service of food. It was a great shame and not through lack of enthusiasm from the Resident Judge and his fellow judges, who had generously offered to fund the party in full, in recognition of the Bar's difficulties during the pandemic.

On 8 October 2021 a well attended Valedictory was held for HHJ John Denniss upon his retirement. Glowing and emotional tributes were paid by HHJ Giles Curtis-Raleigh (one of HHJ Denniss's many former pupils) and Andrew Granville Stafford of 4KBW, of which John Denniss was a loyal and much valued member for his whole career at the Bar. HHJ Denniss (also Isleworth's Head Gardener) will be

sorely missed by the Bar as a very decent man and judge, blessed with empathy and who always ensured there was courtesy in his court. We wish him a long and happy retirement.

Kingston CC: nothing to report save a difficulty over security staff being over-zealous which has caused anxiety to the Bar and has been reported. There should be some leeway for My Bar signees.

Guildford CC: nothing to report. I spoke with Judge Fraser recently and he was in good spirits and hoping we could re-establish social contact soon!!

Croydon CC: the Bar Mess welcomes the new Resident Judge HHJ Michael Evans QC and looks forward to welcoming His Honour in a social setting soon.

Due to my prolonged absence in Coventry we have not had a meeting recently for which I plead guilty!

Pippa McAtasney QC, Chair of the Surrey and South London Bar Mess

SUSSEX BAR MESS REPORT

At the time of writing, Lewes Crown Court is about to issue a new protocol about attendance at hearings, in person or otherwise. By the time the Circuiteer comes out it should be public.

We have welcomed David Rennie back from retirement sitting as a part-time Judge.

Chichester Crown Court, closed to save money by the MoJ, and reopened on a temporary basis in the Covid era, is still being used. There is still no official word about its availability to us past Spring next year. Hopefully it will remain open for some time yet to help clear the backlog of cases and provide proper court coverage for the western end of the County.

The Sussex Bar was delighted by the appointment of HHJ Sarah Earley, from Pallant Chambers in Chichester, to sit as a Circuit Judge in the Family Court in Sussex.

There are still frustrating delays and cancellations in Family cases at both District and Circuit levels. The Judiciary and excellent Court staff are all working hard to try to get things back to normal. There is now a presumption that contested matters will be in person, although parties can make an application to the Judge to appear remotely. Case management hearings currently remain remote.

On a lighter note, Lewes Town Hall echoed to the music of a Legal Divas charity fundraiser. The evening included a piano recital by the event organiser HHJ Laing and performances of song, speech and dance by judges and court staff. The star turn was a very fine clarinet recital by Judge Mooney.

A total of £6,432 was raised for the Alzheimer's Society.

Jeremy Wainwright QC, Chair of the Sussex Bar Mess

THAMES VALLEY BAR MESS

The Thames Valley Bar Mess are delighted to welcome HHJ Nawaz to Reading Crown Court and HHJ Payne to Aylesbury Crown Court.

We are very grateful to the Judiciary at Reading Crown Court for subsidising a party for all Court Users (except defendants of course), which was held on 1 October 2021 with great success.

The annual High Sheriff of Buckinghamshire Parade took place on 3 October 2021 in Aylesbury, with a large number of the Bar attending, for which TVBM are extremely grateful. Judges from the Buckinghamshire area (including Criminal, Civil and Family) and the Presiding Judge of the Circuit were in attendance and grateful to the Bar for our support in the event.

We are still encouraging new members to join and old members to provide their updated contact details to the Mess Junior Adam Williams (aw@4kbw.co.uk).

Finally, the Mess is looking to arrange an informal drinks party, which some members of the Judiciary have indicated they would attend. More details to follow.

Adam Williams, Junior of the Thames Valley Bar Mess



Young Citizens, and its parent charity the Citizenship Foundation, have their roots in the late 1960s, when a young Suffolk solicitor called Andrew Phillips (now Baron Philips of Sudbury) began to worry that young people were not learning enough about the law. These were the first steps taken in creating what would become the Citizenship Foundation in 1989. Andrew, with the invaluable support of citizenship education pioneers Don Rowe and Tony Thorpe set about helping young people gain the knowledge, skills and confidence to become active, engaged motivated citizens.

Each year we help tens of thousands of young people experience what it means to be an active citizen. This could be through taking part in our various educational resources or many citizenship experiences. The Mock Trial Competitions are our longest-running active learning experiences. Since 1991, we've provided unparalleled exposure to the judicial system, its venues and access to senior legal professionals.

We've been supplying our youngest citizens with specially written cases so they can try the law against their peers in courthouses around the UK. It's not just for those interested in studying law – we encourage students of all kinds to engage to build their confidence, understanding and interest in the law.

Society is coming together to educate the pupils on law and the judicial system. It is truly making a difference. Students notice the impact and value they are receiving by participating in the mock trial events. It's an opportunity to build their skills such as critical analysis and teamwork that are useful whether becoming a well-rounded citizen or for their future career.

"I participated in two consecutive years of Young Citizens' Mock Trial competitions. As a result, I gained a lot of confidence, learned how to think on the spot and developed communication skills in how to convince a room full of people that my way of thinking is correct. I have found myself practicing these competencies regularly since my Mock Trial years." – Adam, previous participant

The Bar Mock Trial Competition is open to 15-18 year olds from non-fee paying schools in England, Wales, Northern Ireland and Scotland. The Magistrates' Court Mock Trial competition is for 12-14 year olds from non-fee paying schools in England, Wales and Northern Ireland.

Of course the onset of COVID-19 necessitated a different approach for the 2020/21 Mock Trials, after tweaking behind the scenes we arrived at a virtual

format that worked well for schools, culminating in an online celebration event. There were even silver linings! As one teacher remarked: *"One of the key advantages of a virtual format is that we would be able to work with schools in different parts of the country and also access experts from outside of our locality."*

One of the most common questions we get asked is how all these events-based programmes (particularly the Mock Trial competitions) run with a relatively small staff team. The short answer is they don't! In truth, Young Citizens staff are just a small part of what make our programmes come to life, as we rely on our diverse and ever-evolving network of volunteers to make them happen. From the judges who preside over the trials and score the teams, to the barristers and solicitors who mentor them to help them feel confident in court (and in some cases help us coordinate volunteers at a regional level), the court staff who coordinate with us to use their facilities, right down to the law students who help us run the heat and tally up the scores – we quite simply could not have the Mock Trials without them!

For a bit more of an idea what it's like to volunteer with us, here are some words from a volunteer judge:

"I thoroughly enjoyed the mock trial event. Despite the pandemic, each team had clearly worked hard in their case preparation. They knew their briefs and had a good understanding of the legal concepts involved. The advocates had good question plans and their submissions were clearly focused on the real issues in the case. The witnesses not only knew their parts but did not treat them as a script, adapting their responses appropriately to the questions." – His Honour Judge John Lodge, Presiding Volunteer, 2021

Whilst it is important to recognise resilience in times of crisis – indeed,

our own virtual Mock Trial programme culminated in our *Celebrating Resilience in the Time of COVID* online event (<https://www.youtube.com/watch?v=VCura-BZkpE>) – our immediate focus as an organisation is of course working to build a better society after the pandemic. We were most encouraged by the last issue of the Circuiteer's emphasis on improving the networking function of the Bar, highlighting the work of organisations like Bridging the Bar in putting diversity and inclusion first and forefront as we emerge from social hibernation. It's also really interesting to hear how the judiciary is 'rebooting' after COVID-19, and heart-warming to see the spotlight being shone on BAME, LGBTQ+ and female barristers, as well as those with disabilities, at such a crucial time.

Aligned in this goal to promote inclusion and social mobility, the South Eastern Circuit has been with us on our journey to diversify the Bar for many years, as part of our Bar Mock Trial Steering Group. We are excited to continue this partnership into 2021/22 and beyond, though we do have a favour to ask! Each year we are grateful for the support of over 2,000 people just like you that help Young Citizens achieve our mission. From raising funds by running a marathon to volunteering in a court to help us run the mock trials – there is a role for you!

How you can help

YOU CAN SUPPORT US BY:

- Volunteering as a team mentor – guide teams on their preparation in school
- Volunteering as a Mock Trial judge – preside over a Mock Trial heat, score and feed back to the teams
- Donating to our charity

You can find out more about our impact and our wider work at <https://www.youngcitizens.org/about-us/our-impact>

Wellbeing Event



Kindness – an interactive session

Middle Temple Hall & Remote Viewing

Monday 22nd November 2021, 18.00 – 19.30

Professional Speaker: Professor Robin Banerjee, Sussex University

We plan to run an interactive session where we can develop how Professor Banerjee's work could be taken forward for the Bar and how we can encourage kindness in our workplaces, within the court system whilst still maintaining excellence with our adversarial skills. Professor Banerjee is working with Radio 4 on the Kindness Project.

Please come along and join us – this is for anyone working within the justice system. The session is not just for criminal barristers but is for all those interested in taking this forward on their own circuit or within their own chambers.

- Read more about this initiative via the Director's Blog <https://www.criminalbar.com/wellbeing-at-the-bar-blog-kindness>
- This event is free but must be booked in advance
- Join us in Middle Temple Hall or via remote viewing
- Please contact aaron.dolan@southeastcircuit.org.uk to reserve your place
- Indicating whether you wish to attend in person or remotely
- Drinks and nibbles will follow.
- Open to non-members.



ANNUAL BAR & YOUNG BAR CONFERENCE 2021 Recovery, growth and transformation



**17 – 19 November 2021
Online**

**20 November 2021
In-person, London**

At the Bar Council's Annual Bar and Young Bar Conference this year our expert speakers and panellists will discuss what is needed to overcome the challenges restricting the delivery of justice, which has been exacerbated by the pandemic over the last two years. Join us to hear about the transformations that are needed to take place throughout the justice system and within the profession including the role of technology, access to the Bar, working practices and barristers' individual and collective business development and management.

Programme highlights

- A panel including the Rt Hon Baroness Hale looks at the Rule of Law today
- Senior Bar figures discuss how the justice system can recover from cuts and Covid
- Eminent journalists discuss their profession's role in shaping the justice system
- Experts including the Secret Barrister explain how to use social media effectively
- The Lord Chief Justice shares an overview of his priorities for 2022, and
- The Rt Hon David Lammy chairs a panel discussing how to improve diversity.

Online conference sponsors



Conference bag sponsor



Vector Professions Finance
www.ageddebtfinancing.co.uk

Visit www.barcouncil.org.uk/abc-21 to view the full programme and book your place.