



Protecting your assets

Keith Plowman, senior clerk at Ten Old Square Chambers, discusses the modern barristers' clerk's role in promoting good mental health in chambers

Modern barristers' clerks are not a 'new breed' but the evolutionary result of the shifting forum in which they operate. Their history may hark back to harsher and more subservient times, but their current expertise is recognised by successful sets of chambers who require effective management of individual barristers' practices and chambers' business. The poet, Charles Lamb (1775–1834), whose father had been a barristers' clerk, wrote of him: 'He was at once his clerk, his good servant, his dresser, his friend, his "flapper", his guide, stopwatch, auditor, treasurer.'

Most clerks of a certain era, including me, can probably identify with the duties expected of Charles Lamb's father 250 years ago and can easily add to them, in spades. But fortunately the servile, sometimes degrading duties of yesteryear, including archaic customs like renaming the junior clerk simply to suit the set they worked in, 'dressing' silks in the robing room, and carrying dozens of heavy, dusty books using only a canvas strap through rainy London streets have died out. Fortunately modern clerks bear little or no resemblance to the caricatures epitomised in literature by John Mortimer's Albert Handyside, the clerk to Horace

Rumpole (succeeded by the harried Henry Trench). On TV we've seen the humble yet super-rich Tom, the clerk to John Thaw's Kavanagh QC and Peter Moffat's grotesque creations – including the Machiavellian Peter MacLeish in North Square and latterly the conniving Billy Lamb in Silk. These fictional clerks were all loosely based on real clerks, their real-life counterparts perhaps even more bombastic and more colourful. There is, of course, no longer a place at the table for these brutes in a client-focused, professional services industry like the modern Bar.

Clerks – many of whom bulldozed their way to the top job in chambers whilst learning critical business skills dealing and negotiating with barristers, solicitors, judges, and civil servants – will claim to having a unique, deep understanding of the machinery and psychology of practice at the Bar; a conceit that many would excuse them not least because of the pioneering role that many clerks have played when driving their businesses forward. However, eliminating the burden of administration from the 'talent'; seeking-out and securing new work and providing technical and logistical support so that barristers can concentrate exclusively on their clients' cases all remain fundamental to the smooth running of a successful set of barristers' chambers.

In the behemoth 'mega-sets' a traditional clerk may not necessarily sit at the top of the corporate ladder (but 'a rose by any other name'), however, there is always a cabal of clerks – sometimes labelled

otherwise – carrying out the essential role of clerking the barristers; re-labelling the role of clerk hasn't changed its necessity to chambers.

Modern senior clerks earned their spurs transitioning from junior clerks and, along the way, garnered knowledge of the ingredients of running a modern business, such as a solid understanding of regulation, equality, wellbeing, and technology, as well as the value of providing a premium, bespoke service. They have adapted, through necessity, to all the challenges and modifications that have taxed the legal profession at the behest of legislators and regulators and have seen them as opportunities to engage with work providers.

Clerks have been at the forefront of the implementation of the digital modernisation of the legal marketplace. Indeed, many have insisted on pioneering and developing the systems currently in use and will no doubt be demanding further, constant review and enhancements to keep their chambers and barristers ahead of the curve.

Perhaps the most important, client-facing function of any clerk has always been the ability to place particular cases confidently with the best choice of barrister based on the clerk's instinctive and informed understanding of the skills and the abilities of the stable of barristers available in their set of chambers. In a modern set all such referrals must be recorded and fairly distributed by the clerk with due consideration given to a client's own expectations.

Growth in any business is essential; if your business isn't growing its dying. There is a need for progress, perhaps not necessarily in terms of sheer numbers, but progression in terms of the quality of work attracted, undertaken, and completed. In a market saturated with clever lawyers all vying for the same finite amount of cases, successful clerks know that their barristers' and chambers' offering must add significant value to the advice and representation that their clients will already be receiving from those instructing them. Given that most senior clerks' remuneration is, in some way, linked to the overall financial success of chambers, clerks have a fiscal interest in the welfare of the talent they administer.

Wellbeing in chambers

Any team, whether sporting or legal, needs to protect its assets. In an industry which relies heavily on the capacity and abilities of the human mind, modern clerks know they must ensure that good mental health and wellbeing is at the forefront of their strategies for chambers. Outdated, unhealthy working practices must be replaced with a respect for individual mental health to ensure optimum performance from the entire workforce. Balancing the wellbeing of everyone in chambers with the need for economic success is a skill that requires a sophisticated understanding of modern business methods.

A bigger picture view is helpful. Collectively small businesses make up a significant proportion of the UK

workforce and nearly all barristers' chambers could be categorised as SMEs. The professional services sector (which includes legal services) is the second-highest category for work-related mental ill health ("*Thriving at Work*" – *Stevenson/Farmer Review 2019*). Huge strides have been taken in recent times towards providing better support for those who perform highly pressured, 'knowledge leadership' roles along with those who manage them.

The website www.mentalhealthatwork.org.uk provides useful guidance and toolkits to help SMEs (such as barristers' chambers) learn and implement plans for good mental health. The stigma relating to mental ill-health remains but there is now a much more open forum for discussion. The effective implementation of policies to ensure good mental health in chambers will help eradicate the damaging, sometime catastrophic effects that mental ill-health has on individuals within chambers, both personal and professional.

Focusing on the welfare of the workforce and its effect on the bottom line, a keen sense to spot opportunities as they arise, and an innate duty to deflect the non-profitable drudgery of the mundane and workaday away from their principals, will keep the tradition of the old-style 'king-maker' alive among the ranks of the modern clerk; entrusted to administer the business of barristers and their chambers, they are still clerks through-and-through, however they might be labelled. ●