

IWD 2022 - Inspiring Women – Inspiring Change: Break the Bias at the Bar

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International Women's Day 2022 – Break the Bias

Most of us have experienced bias and prejudice in our lives and as a woman unfortunately this is still a feature. By shining a light on such behaviour and recognising bias on IWD 2022 we can try to break the bias together.

Inspiring Women – Inspiring Change: Break the Bias at the Bar

Vivian Walters – *Barrister at 5SAH, specialising in prosecuting and defending serious crime:*

“My route to the Bar was pretty unconventional, especially for 30 years ago. The only contact I had with the criminal justice system before I started to work in it was the policeman I met after I crashed a car as a teenager. I didn’t have a law degree, or even a very good mark in the degree I had managed. At 22 I answered a job advert and found myself working as a paralegal in what was then the newly formed Crown Prosecution Service. After a couple of years, I applied for the in-house sponsorship scheme, did the CPE and Bar Finals and in 1991 was called to the Bar. I’ve been in criminal practice ever since, at first in the CPS, and then from 1996 at the independent Bar.

At the time I was called, the majority of women at the Bar went into family work, while those in criminal practice were most often given endless briefs defending rape and domestic violence cases. Why? In part because it was thought by some, that this would make a male defendant seem somehow more sympathetic, but also because they are often the most difficult and demanding cases on all sorts of levels, and many men shied away from taking them. Women often did not have that luxury. It happened because junior barristers were at the mercy of the clerks’ room and that could often be brutal. And very male. It created a segregation within the criminal Bar. Many of the most senior women at the criminal Bar and on the bench today started their careers in this way.

I did my share of those cases, but I also joined the Attorney General’s list, working extensively for Revenue and Customs. During that time, I prosecuted fraud and organised crime cases for both the Revenue, and the NCA and its predecessors. I was reasonably good at that kind of work; I like a schedule, and I did very nicely out of it thank you, but I was generally instructed as a junior and it was obvious there was a stark contrast in the number of women at the top of that (much better paid at the time) kind of work with those doing sex cases, in large part because of the divisions at that early stage.

Attitudes to women have changed since I started. I recall a conversation with a female silk who told me that, for a substantial part of her career, women were not allowed to attend the Circuit mess. It wasn't quite that extreme for me. However, there were no networks for women lawyers. Women were not allowed to wear trousers in court, and sexual harassment was common and unchecked. Marriage and motherhood often meant the end of a career, or a very substantial setback to it.

A great deal of work has been done by some superb women (and men) to advance equality since I started, and progress has been made. However, there is still a long way to go. Many of the challenges faced by women coming to the Bar today are different from the ones I encountered, but just as tough.

Some are the same; the effects that motherhood, career breaks or the menopause have on a practice at the Bar have always been present. We talk about them more now, they are less of a shameful secret than they were for previous generations and we understand now that the healthiest workforce is a diverse one. We need to keep those conversations front and centre and IWD is a good time to reflect on that.”

Maria Scotland – Barrister at 5SAH specialising in family law and Joint Head of the Family Team:

“I have been at the Bar for 27 years, having been called in 1995. I undertook my pupillage at a Chambers where all the pupils were women, and I had a male pupil master and a strong female pupil mistress during my 12-months before being taken on as a tenant. I never felt any bias due to gender in my entry to and start of my practice.

I attended an event in 2019 to celebrate the passage of 100 years since the introduction of the Sex Disqualification (Removal) Act 1919, which first allowed women to practise as lawyers and I was struck by how far women have come, but I feel there is still some progress on

gender equality to be made, which is apparent when you look beyond pupillage and junior tenants to the upper echelons and realise that the Bar either has a retention (of women) problem or else those at the upper echelons are suffering discrimination when rising to the upper tiers of the judiciary and into positions of power in (Heads of Chambers). All that said, I wish to celebrate that I am in a privileged job where I do not have to worry, like my employed peers, about a pay gap or different treatment by the judiciary.

I feel whilst we look to the future for women at the Bar we should use our sisterly concern to equally ensure that we consider and watch out not just for those born female but for all those who identify as women, for those who do not identify with either gender, for those who are neuro atypical, for all those disabled (both visible and non-visible), to take care with our pronouns and finally to also ensure that we throw light on the huge disparity in representation of black women at the Bar.

Wishing everyone a happy day and may we keep changing the face of the bar for the good of all.”

Rebecca Hill – Barrister at 5SAH, specialising in extradition and international crime:

“I would like to think that my experiences of sexism at the Bar have been few and far between, but I suspect that is because the overt, outrageous examples of old are now thankfully rare. That doesn’t mean that more subtle but equally pernicious prejudices don’t exist and manifest themselves in our daily working lives.

I can think of three particular examples of what I felt to be sexism in my career to date. The first, interestingly enough, came from a woman. I was relatively junior and was instructed in a long and complex multi-handed trial. Myself and another young, female barrister were the most junior on the defence team by some significant way. Nonetheless, we were capable, sufficiently experienced and were doing a good job for our clients. Somehow this fellow defence counsel found every opportunity to seek to exclude us from defence team discussions and to diminish us when we sought to speak up.

We both felt that had we been young men she would not have treated us in that way. That sort of bias is very difficult to call-out as it is so subtle and I regret to say that neither of us challenged it. Instead, we fought back (in our own way) by achieving excellent results for our clients that spoke for themselves.

My second experience of prejudice at the Bar was from a prosecutor, who I can only describe as utterly patronising. He never used the words 'little girl' (a wise choice) but he may as well have, given his tone and demeanour towards me which was utterly disrespectful. Once again, this was subtle, however by this time I had gained sufficient confidence to directly address his asides, and by doing so, I think, to leave him feeling a degree of caution about continuing to use them.

My final experience has been with a particular judge, who without fail would be rude to female counsel in a way he was not to their male colleagues. Where the power balance is so uneven this is a difficult issue to address however in this instance the negative had a positive outcome. Where once these sorts of issues would have been ignored for fear of the impact they might have on careers, female counsel are increasingly willing to complain of unsatisfactory treatment and their male colleagues, to support them. Not only this, but complaints are listened to by the senior judiciary and actioned (which is exactly what happened in this case). This is a significant and positive development, although it is regrettable that complaints still need be made at all.

Overall my experience at the Bar has been extremely positive. The above occasions are not indicative of my wider experience, in which I have been fortunate to find a collegiate and supportive environment amongst both my male and female peers. I have just completed a week of judicial training and was gratified to observe that the intake of 25, included more than 50% women, of diverse ethnicities and backgrounds, including many with responsibilities as primary carers. This gave me optimism for the future.

That does not mean that we should be complacent. Beating the bias means being conscious of it and addressing it wherever it is found. For those more junior, that is not always easy, so it is important for more experienced practitioners to be allies to our junior colleagues and to challenge prejudices whenever we encounter them."

Tessa Nejranowski – Marketing & BD Manager 5SAH:

"I am acutely aware of the gender bias and stereotypes from my own experience at the Bar and now in a position on the other side of the fence as a marketing and business manager within 5SAH Chambers. I have worked at the independent Bar as an employed Barrister and now looking after the marketing side of life in Chambers. I have certainly experienced sexism and bias when I was a young female barrister, practising within criminal law. I have also felt the treatment of an older male trying to bully me into a decision outside the doors of court, feeling that if I were male, the treatment would have been different.

I was sacked by a male client, simply after I turned up at Court, because I was junior and female. It was a relief at the time, but the judgement and bias sticks. Am I good enough? Would that have happened to one of my male barrister friends? What will the instructing solicitor think about me now...? And so on.

Now, when I look on junior members and junior female members, I see the level of support and openness that is now on offer. We have so many Whatsapp groups within Chambers to support our members, that no question is off-limits and support is there, whenever it is needed and required. As Vivian has pointed out, there are so many groups and forums, to find mentors and people who are doing the same role as you, which is important to find that support network.

As a Chambers, I think we are having difficult conversations about bias and what we can do to improve this. As individual female members and staff, I feel that opening up the dialogue promotes understanding and can hopefully break the bias. I would like to make a pledge to break the bias by playing my own small part and challenging it when I do see it.”