

Research Summary

Trends in retention and demographics at the Bar



Research Background

The Bar Standards Board (BSB) has a statutory duty to encourage an independent, strong, diverse, and effective legal profession. Patterns of retention at the Bar relate directly to this commitment and are of significant policy interest to the BSB. The BSB has a number of initiatives to improve retention and wellbeing, and to encourage a profession that is more diverse and inclusive at all levels. In addition, the BSB Handbook includes Equality Rules introduced in 2012 - these rules are partly aimed towards improving retention.

By better understanding trends in the profile of the Bar over time, we can better understand some of the issues faced by those in practice, and identify particular areas that may be of concern.

This research was undertaken to address evidence gaps around how previous trends in recruitment into the Bar have influenced the current profile of the practising Bar, and how the profile of practising barristers in each year, and how patterns of retention at the Bar, have changed over time.

Key Findings

The report details trends seen in the retention of practising barristers (employed and self-employed) in England and Wales covering the 30-year period from 1990/91 to 2019/20. It also contains information on trends in recruitment into the Bar, as well as the cohort of practising barristers in each financial year over the same timeframe. The research focuses on age, ethnicity, and gender – analysis of other protected characteristics, or of barristers by practice area, was not possible due to the limitations of historical data.

- In particular, the research looked at trends over time in terms of:
- Pupils and those in their first year of practice
- The practising Bar as a whole
- Those leaving the Bar each year
- The retention over time of cohorts who started practice each year

Pupillage Numbers - Throughout the 1990s, particularly the first half of the decade, there was a far higher number of pupils in comparison to the numbers seen during the 2000s and 2010s. From a peak of 882 pupils in 1992/93, the number decreased year on year until it plateaued at around 450 pupils each year from 2008/09 until 2014/15. It then increased from this point to over 500 during the latter half of the 2010s

Profile of Pupils - The proportion of pupils who were female increased from around 40 per cent in the early 1990s to around 50 per cent in 1999/00 and then remained at around that level through to 2019/20. The proportion of pupils from minority ethnic backgrounds overall has increased by around five percentage points from 1990/91 to 2019/20, but with varying trends for ethnic groups within this broader category. The proportion of Black/Black British pupils over time has remained at around the same level, whilst the proportion of those from Asian/Asian British backgrounds and Mixed/Multiple ethnic group backgrounds has increased overall. In addition, the average age of pupils, and those in their first year of practice has increased over time.

Profile of the practising Bar - The number of practising barristers each year has grown substantially from 1990/91 to 2019/20, and the proportion of practising barristers who are female and the proportion from a minority ethnic background has almost doubled. The average age of practising barristers also increased substantially during the period, rising from 38.5 years in 1990/91 to 46.5 in 2019/20. In 1990/91 around 13.1 per cent of barristers were aged over 50: In 2019/20 the comparative proportion was 39.3 per cent. In contrast, the proportion of those aged 35 and under has gone from 40.3 per cent of practising barristers in 1990/91 to 18.4 per cent in 2019/20.

Overall Retention – Retention at the Bar appears to have improved substantially on several measures over time. The number of those leaving practice and having time away from practice has not shown an increase alongside the aging of the Bar, and the proportion of a cohort leaving in the early stages of a career also appears to have decreased substantially, particularly when comparing with those that started practising in the 1990s. This was true across gender and ethnicity. The progression of pupils also appears to have improved over time. The proportion of pupils who did not go on to practise for at least three years is around twice as high for those started pupillage during the 1990s compared to those that started pupillage from 2000/01 onwards.

Retention by Gender - A consistent trend of female barristers leaving practice indefinitely after the early stages of their career in greater proportions than male barristers was found. Although the size of the relative difference has decreased over time, this difference between male and female barristers still exists. The average age of both male and female barristers leaving practice has increased markedly over time. In the first half of the 1990s the average age of female barristers that left practice indefinitely was around 37 and the figure was 48 for male barristers. For the 2014/15-2019/20 period the comparative figures were 48 for female barristers and 57 for male barristers.

Retention by Ethnicity - Minority ethnic barristers were not found to be more likely to leave practice indefinitely than White barristers during the period analysed. However, barristers from minority ethnic backgrounds were found to be more likely to spend periods out of practice during the earlier stages of their career than White barristers.

How will the BSB use these findings?

- The research findings will be used to inform the BSB's three-year strategy, and shape recommendations about our approach to retention at the Bar.
- The research findings will contribute to the review of the BSB's Equality Rules. Since May 2019, we have already engaged over 80 stakeholders to review the impact of the Rules. We will develop and consult on options to reform the Rules. This consultation will engage the BSB's Race Equality Taskforce to consider the discrepancies highlighted regarding minority ethnic barristers.
- As a risk and evidence-based regulator, the research will inform the BSB's wider work to identify and address risks at the Bar in relation to retention.
- The changing profile of pupils indicates that diversity has improved in terms of access to the profession. However, the lack of change in terms of the recruitment of pupils who are from Black or Black British backgrounds is noteworthy. There may be more that can be done to target support in terms of access to the profession to help address this issue.
- Although retention at the Bar has improved, it is notable that female barristers are still more likely to leave after the early stages of their career. This suggests that more can be done to support the retention of women in the early and mid stages of their careers, in particular a focus on encouraging and supporting women back into work after any time out of practice.
- The research suggests that barristers from minority ethnic backgrounds are more likely to have difficulty in the early years to establish themselves professionally. There may be more that can be done by the BSB or others to provide early career support to barristers from minority ethnic backgrounds.

The main report can be found at <https://www.barstandardsboard.org.uk/media-centre/research-and-statistics/research-reports/>