

EDI Forum (Fair Allocation of Work) - Transcript

18:07:41 For me, I think the allocation of work underpins the essential element of trust in a relationship between a barrister and a clock. And when properly recorded and monitored it can offer a valuable insight into the purposes of individual practice development,

18:07:56 and provide reassurance to members of chambers and also a mark of quality to our professional clients.

18:08:14 Thanks very much, Catherine. Next we have Elaine Bunton from seven Bedford ro Elaine is a specialist employment equality and discrimination barrister of excellent standing, and she's a member of the bar councils equality and diversity and social mobility

18:08:19 Committee, which is where I became aware of her.

18:08:22 Excellent work on fair allocation of work, and she's a member of the bar councils GMC again Elena wonder if you could tell us a bit more about yourself and your involvement with verification of work.

18:08:34 That's actually becoming co chair of the positive assessment mobility committee of the bar Council in 2019, and I've had the pleasure of working on a working group with Rachel crease who's present tonight I think I saw a name, which actually put forward

18:08:50 the monitoring tool kit that you've referred to say it's certainly something that falls within the remit of our committee, and they also hold similar responsibility in chambers.

18:09:03 And also, middle temple as well.

18:09:06 Should I say why. Well, I think it's incredibly important to been following on from what was said earlier, the bulk counselors perspective is quite firmly that in terms of work ethic work allocation.

18:09:22 And third is fair distribution of work is one of the main factors that will help retention and progression at the bar of underrepresented groups and equality issues generally so it's a fundamental importance we say thanks very much lane and last but by

18:09:37 by certainly no means least, we've got piano Fitzgerald, who is the chief executive at Radcliffe chambers. Prior to joining reckless chambers. She was an equity partner as a top 200 Law Firm, and she served as chair of the Association of Women solicitors,

18:09:53 as well as that she's a member of the executive committee of the legal practice Management Association and the bar council Legal Services Committee so we hope between our speakers are all able to give different perspectives on fair allocation of work,

18:10:07 but could you tell us a little bit more about your involvement on a day to day basis with verification of work and a bit more about yourself.

18:10:14 Yes, I mean my, my job really is to oversee the strategy of chambers and really to implemented. And part of that strategy is to ensure that we keep our customers happy.

18:10:26 And, and in order to keep our viruses happy we need to ensure that they have a fair allocation of work, it's very very simple, but but the other side of that really is more of a business case.

18:10:38 And the business cases is that the more people are happy, better profitable We are the better people do.

18:10:44 And so that's why it's fundamental to what we do and has been for good number of years.

18:10:50 Fantastic, thank you very much to know well I'll hand back to Liz to pick up with the first question.

18:10:58 Misha just amazed at the moment, by the pound for every time that's happened.

18:11:04 Thanks, Laura. So the first question is for you, Elaine.

18:11:10 What are the legal requirements about discrimination and protected characteristics as they apply to barristers and two chambers, and in particular, what are the other relevant concepts to be aware of in real that are relevant fair allocation of work.

18:11:30 And what protected characteristics should be monitored.

18:11:34 Wait. Well, a lot of people might not be aware but the bar barristers as a group are actually covered by section 47 of the course yet. So that means that the duty not to discriminate that we see in the best the rules and code of conduct, is, is really

18:11:56 thought trust by the Equality Act. And so, matters such of discrimination in terms of the protected characteristics that we're familiar with race, sex, disability, sexual orientation, etc.

18:12:13 Apply to the bowl, and will apply in terms of work allocation. Many years ago I was involved in a, in a big case that was brought by a barrister against a very successful set of chambers and part of her case was about allocation of work so this is something

18:12:29 that is very important, as we say in terms of fairness and equality, but also in terms of risk and compliance.

18:12:37 So yes, the in terms of the types of discrimination that apply. It's as we see in the Policy Act, their direct, indirect and also we have seen a lot of interest and and really response from the bar over the past 18 months in terms of positive action.

18:12:56 So, that is where you can take positive steps, which are proportionate to ameliorate disadvantaged groups in nutshell. And so you can see schemes that changes are doing such as assisted and supported.

18:13:12 Many people edges or mentorship schemes. Many chambers actually doing schemes like this, where they are actively encouraging underrepresented groups to apply to schemes, and then potentially assess them as a people as potential people candidate, etc.

18:13:30 So, there are many aspects in terms of the Equality Act that apply to the bar, and that works in tandem with the BSP rules, as well.

18:13:43 So in terms of monitoring protective characteristics, the bar counts at the moment has focused on on sex, because that is the biggest group, where there isn't an issue.

18:13:56 It's still is clearly, obviously the biggest group, and it's not a minority. It's really vitally important that added that is improved on in terms of retention and progression.

18:14:09 But, potentially, we want to be in a position where all the protected characteristics can be monitored within chambers as well. Now, it's not the same approach one size does not fit all.

18:14:20 The monitoring tool kit doesn't present you with one type of allocation either, but it relies on statistics and averages. And that doesn't work for smaller groups so for example if you're looking at, ethnicity, you're looking at race.

18:14:35 You could have very small groups that will distort to give you a distorted picture with with averages and so we need to have a different methodology and the bar council at the moment is drilling down and devising.

18:14:51 The best way to actually put that forward and it may be that we need to have a competitor group and then you compare the individuals with that particular competitor group, but in terms of areas where you're going to have smaller numbers such as your light

18:15:06 have smaller numbers such as race, disability, or sexual orientation, hopefully the next, the next tool kit that's going to be produced will be far better equipped to deal with those smaller numbers in terms of monitoring of pay.

18:15:22 So that's what I think on that for now.

18:15:24 Thank you very much, Elaine and I think will come on Charlie to ask you to talk about the new tool Pat and Fiona. Can you talk us through what the actual regulatory requirements are for verification of work and I think what we're really trying to understand

18:15:37 to understand here is practically what is it that changes need to be doing.

18:15:41 Yeah, I think there's the regulatory aspect but there's also good practice and initially what chambers has to look at is, right from day one to look at people edge.

18:15:52 So, every year, we are obliged to monitor the number of applications.

18:16:02 And through our various stages of the pupillage process right the way through to the offer, and we have to analyze that broken down by race disability and gender.

18:16:12 The second part is, we also have to regularly review, and this is once every three years currently Actually, we have to review all the barristers and staff.

18:16:25 And on top of that, we also have to provide a method that the public can see that most chambers actually have this information on their website.

18:16:35 And then the third aspect of what we're obliged to do is we are obliged to look at the allocation of unassigned work.

18:16:45 Now, what is on assigned work, its work that doesn't that comes into chambers and it's not necessarily allocated to a particular person. So a solicitor will ring a chambers and say, I would like such a such a barrister, what would normally happen is they

18:17:00 will ring and they will say I would like a virus to between certain years of coal or in a certain area or who's available tomorrow.

18:17:08 So there's three sides. What do those reviews mean well really, we're looking at collecting and analyzing that data. We're looking then, at the reasons behind any of the disparity in the data.

18:17:22 And then we should look at taking the appropriate remedial action. So that's really there's there's two ways to look at this as the top down, and then there's the bottom up.

18:17:32 So the top down is, we need to look at this as a whole. And we need to look at what remedial action we can take. But if you look at it from the bottom up, we should also be having these discussions on an individual basis with each barrister in relation

18:17:47 to their opportunities, the conversion of those opportunities, why they didn't get those opportunities, and these are something that should be done on a regular basis, um, I believe, actually, normally practice leaders are taking place once every six

18:18:01 months. Some chambers actually do it once a year and other chambers or once every three months, depending on where you're up to.

18:18:10 So, if you're not. When you're collecting monitoring data, how do you go about that task.

18:18:17 So it really starts from day one, and that is what we call opportunities.

18:18:24 And that is when a solicitor calls to say, I would like to instruct somebody on this. And there are various methods of doing that, I would advise the best method is to use a case management system and there are various case management systems that people

18:18:39 use Lex is probably the most popular one at the moment I think it's something like 70% of the bar, use lacks.

18:18:46 And there are systems within lacks to allow you to to gather that data and and really that's the number one point you have to do that as soon as that enters the talks room, and the information you're looking for there is, you know, who's it come from

18:19:02 the sort of case it is, what are they looking for.

18:19:07 And the point of making changes it's really important that actually, if chambers do have case management systems barristers are able to see those opportunities, and all the systems allow barristers to see those opportunities, so you can see on a daily

18:19:21 weekly basis. How many opportunities you've had, whether they have converted into a case, and why they didn't convert into a case, and the why they didn't is quite important, because you need to understand, Is it because I wasn't available.

18:19:37 Is it because my costs were incorrect. Or is it because they don't know me or whatever those reasons are there quite important to be able to have a discussion about as a practice meeting and thereafter.

18:19:50 We should be preparing and providing reports in relation to those opportunities. Many of the case management systems now can provide those reports, although it does need somebody to do a lot of manipulation of that, and that is to put that report have

18:20:17 against our female bias or male barristers against race against ethnicity, all of these sorts of things. And then to look at where the issues are. And that's effectively, kind of working from the bottom up.

18:20:20 Then when we talk about working from the top down, we are looking at things like the monitoring tool kit.

18:20:26 And that is looking overall at chambers and and looking to see, are we providing this work correctly to a wide variety of people, or is it the same people who are getting certain types of work.

18:20:41 And the bar council prepared a fantastic tool kit, which provides I think it's five methodologies and different ways of looking at that and we as a chambers, I have to say are actually using three of those methodologies at the moment just to balance them

18:20:55 against each other to see what is better for us.

18:20:59 But this takes time, and it really means you really need to have somebody in a position, who has all that information, and you can look at that and then prepare a report so that it can be viewed by closing and diversity committees, or by exact committees

18:21:15 or whatever else it is fantastic. Thanks.

18:21:19 or whatever else it is fantastic thanks Karina Elaine, we'd like you to explain about whether monitoring should be anonymous and if not, why not, but I was wondering if as part of this you could talk to us a bit more about the tool kit that you've been

18:21:31 involved with from the bar council that obviously yourself and Fiona have referenced already, and perhaps we can help people to understand what's out there to assist them in their chambers in collecting this information and trying to put into place some

18:21:43 of that best practice if Eunice talks about

18:21:52 has to happen.

18:21:54 I've seen in the chat that chorus very helpfully, put the bar Council, they put the link to the toolkit, so anyone can access that. And I think as fearless mentioned it already.

18:22:07 As a practical tool. We think it's really helpful because it helps you frame the discussion in chambers as well. It gives you tips as to how you might deal with it, because as we know, not all chambers are the same.

18:22:21 some are more receptive. Some are extremely open for example, there are a number handful of chambers that say four or five every month. Just have a spreadsheet with everybody's names.

18:22:34 And what they've earned, and it shared and that may be extraordinary to some but that works in some chambers the clearly that doesn't work everywhere.

18:22:42 And we do want to encourage people to look at this and look at fair allocation. So that's why we've come up with different methodologies and I was really interested to hear that.

18:22:52 Fiona said that they've utilized a couple two or three of them to compare each other I think that's a really interesting way to approach it, but I think you can see if you look at the toolkit.

18:23:05 There are some models which and don't really give too much detail away. And that could be a starting point. Some are giving a bit more detail, but still without necessarily disclosing who individuals are.

18:23:23 And then some perhaps you might be able to guess some aspects, but generally speaking, you can do a lot what the toolkit shows is that you can actually get a lot of information and compare lots of data without giving away.

18:23:39 And, you know, identity, and so they can, it can be done anonymously and I think that will encourage more people to do it. and also in some chambers.

18:23:49 It's held within various committees, so it's monitored but it's just sort of dealt with by, you know, either equality or finance or combination. So there's different, different ways of dealing with it, but it's really important that chambers do monitor

18:24:06 it, they look at the work, the income, and also the types of work because there's a pipe stream issue as well isn't there because some people have exposure to particular types of big cases or being led, that's an aspect.

18:24:22 Also, and panel work is another area. So I think we have to have an eye to all of those different strands really, and the work that we are doing, as I said, it's really Rachel Chris he's on, he's actually watching so she's been really leading that, and

18:24:41 it's really important work because as I flagged up earlier. It's quite clear that this really underpins who stays at the bar, who gets what work on the pins, who stays at the bar long enough to become senior to become a in a leadership role or senior

18:24:59 judiciary, and also take silk, etc those those types of appointments. So it's crucial if we really want to see equity inequality that we tackle this and monitor this in a fair way.

18:25:13 And so, we will be aiming to, to bring out as a second toolkit that will assist in other protected characteristics in the monitoring of because the same methodologies won't necessarily translate.

18:25:28 We need to properly.

18:25:43 Focus on how we can show any disparity, or trends, amongst groups where the numbers are smaller, in some changes that could be you know one or two ethnic minorities, for example.

18:25:46 So, this kind of approach that we see in the, in the sex toolkit, not translate that easily. So that's really what's happening there. And, quite a lot of work is being done on that I can say the ball Council, and we think it's, it's very, very important.

18:26:05 And just to flag up one thing there was a recent survey, the bar council response to criminal Legal Aid review call for evidence. And there's a recent informal survey of 2016 year criminal barristers from black and minority ethnic backgrounds and it said.

18:26:23 Some have left the criminal bar already. Others are actively trying to leave all reported low rates of pay men that they could not afford to stay and women had even more entrenched issues.

18:26:37 And, and then also there's, I saw I read that there's a report that in terms of being a QC represented a considerable uplift both men and women.

18:26:49 But it was 24,000, pounds or thereabouts, more lucrative for a man and a woman. So quite interesting trends are being spotted in terms of income.

18:27:03 I me.

18:27:07 I'm just staying with unassigned work.

18:27:09 Can I ask first of all Catherine but then Fiona also how in chambers do you go about monitoring on assigned work. So the word that comes in for any barrister.

18:27:22 Absolutely.

18:27:24 Technically, we actually treat unassigned work that comes into chambers without a name on it.

18:27:30 As part of work allocation as a whole. Because, so it's actually easier for me to explain how we monitor work, generally, because at sometimes it pops the bigger picture.

18:27:41 We use a function within our case management system. Also, we use Lex password. But we use quality mark, and how this works is that every time a new case is set up, or a new barrister is added to an existing case quality market creates a record

18:27:59 of the method, and the criteria used to allocate the barrister to that case.

18:28:05 Turning first to the distribution method.

18:28:21 List sort of off the top of my head. It could be that that person was requested by a solicitor or recommended by the practice manager that they speak to allocated by the practice manager and that would be the bit that refer specifically to unassigned

18:28:25 work, or when know preferences expressed by the person making the inquiry.

18:28:35 And then turning to the distribution criteria which is sort of the secondary criteria.

18:28:41 This would record additional data. For example, if a barrister was recommended or requested because of their particular specialism or experience, or as quite often happens if they were already at court anyway.

18:28:55 We run reports to monitor any trends, and more specifically quantity Mart report, and also a PSP monitoring report.

18:29:04 The quality Mart report sets out how many cases have been allocated by each Clark, separated by distribution measurement method and criteria. And you can turn to these reports to sort of drill down into the different categories case types funding types.

18:29:19 And then the BSP monitoring report that we also use drills down further into the diversity data race disability gender, and also shows the financial value of each case, if the fees have been agreed, or the case has already been built.

18:29:38 Alright, so Fiona. Is it any different substantially in your chambers. No, I think actually the, the initial process in the classroom is it is very much exactly the same, but there is a second side to that and that is the individual discussion with, with

18:29:53 the barristers and that takes place at an individual practice meeting where we actually go through every single opportunity that has been put forward about our roster, and we talk about them.

18:30:05 And we allow the virus to talk to us about well, why didn't I get that or why didn't that come through and, and we can go through those and explain them.

18:30:15 And that's really important and has actually brought out some very worthwhile discussions about everything to do with pricing, to do with availability to do with areas of work that they want to work on.

18:30:31 And that's really important. And I would say that actually it's even more important from day one. Following on from what Elaine said, particularly at our junior end, because in order for them to see that.

18:30:45 And, and for an end in order for them to have those opportunities to either be led, which I think most barristers would say the opportunity to be led is one of the best opportunities because the best learning opportunity for them to ensure that everybody

18:30:58 is lead we actually monitor all of our lead opportunities as well, to ensure that every single jr has an opportunity at some point, and not necessarily just with oneself with with, you know, a number of folks.

18:31:13 And that's really important because then each of the individual bars just can understand what's coming in and where the work is going um I think, you know, if you don't understand, if you can't see those opportunities you always think somebody else is

18:31:29 getting more than you are, or is doing better than you.

18:31:32 So it's really important to be really open about it.

18:31:36 But, you know, like Catherine said that does start from day one. and you know, I do know a number of chambers are not doing that. And, and if we can get anything from this and from today, I would just say, Please can we monitor and just record every opportunity

18:31:55 on day one.

18:31:59 Thanks very much.

18:32:01 Laura, over to you.

18:32:03 I think everyone participating would agree that's been phenomenally informative already in terms of how the system works and understanding it from a number of different perspectives, across the bar, and what we'd like to get into now is a bit of a discussion

18:32:17 about how more about how this works in practice, and perhaps any thoughts for ways to improve or different challenges that might face different practice areas for example, and Catherine you're in the chambers that does a number of different types of law.

18:32:33 Do you think there's any kind of different approach that either happens or is needed. When you're looking at fair allocation across different practice areas for example, perhaps, I'm an employment practitioner and lead work is extremely rare.

18:32:49 I don't know if you face any differences between the different areas o'clock to your chambers.

18:32:54 Yes, inevitably, I think one of the main speaking from my own chambers. It very much depends on the size of the team involved in theory, there could be a very large number of barristers available for a new case, for example in our childcare team.

18:33:11 And so as to echo what Fiona said it's very much about the conversation that you have at the initial inquiry point.

18:33:18 So that you go into sufficient detail with the person that you're speaking to about the case about the nature of it, who you're putting forward and making sure everyone's getting a fair shot.

18:33:33 Okay, I'm Elaine. When you've been working on this with bar council I imagine you've looked at a number of different practice areas. Have you had any particular feedback about differences and perhaps maybe some areas of practice and they're a bit further

18:33:45 behind than others.

18:33:49 Oh, Yes, I mean there are

18:33:54 there are some areas to make a difference. And so for example, we can see in the crew in Sorry Sorry to interrupt you there and then if I could just ask everyone to make sure that there are neat, or far apart if you could just check, I think we've got

18:34:10 it sorted. Thank you.

18:34:13 Thank you, slightly.

18:34:16 But yes, in terms of practice areas we know that the publicly funded areas for example, in family and crime or less resilience that private areas of practice like commercial insurance free law.

18:34:32 And you, we can see trends in that in terms of who becomes High Court judges and above, which are basically drawn from the rights of Chancery and commercial practitioners, and you could also see that in some areas, some practice areas.

18:34:53 There's more divergence between men and women. And what they earn on average, quite interestingly so for example in planning areas there's, there's actually quite a significant split, which is, which may be considered surprising, but so yes practice areas

18:35:04 do come into it. And so you probably want to compare the different practice areas within no different cohorts. So compare sort of like for like as well as looking globally or more widely within a set of chambers and feeling you're in what might be considered

18:35:25 to be a Chancery commercial chambers and that might be oversimplifying it.

18:35:32 But is there any way when you're in a sort of a practice area with a small title like that but that's all encompassing that even though the chambers can work together to see if there is best practice in a fair allocation of work or other organizations

18:35:47 perhaps like the Chancery Bar Association.

18:35:50 Yeah, absolutely. And in fact the Chancery Bar Association, have launched report about a year ago. Voices of women at the Chancery bar, which is a fantastic resource quite a long one, I have to say, but really worthwhile to read.

18:36:06 And through that one of the big conversations, for them, were fair allocation of work. And in fact, there is a working group, looking at that currently as to what they can implement to ensure that it is fair across the board.

18:36:20 So watch this space I think it's coming up in a few weeks, actually.

18:36:27 Moving on to a slightly different topic but with this similar sort of point Vader, all these sorts of organizations ones that can help with verification of work across the country.

18:36:36 Have you been aware of any differences between your set in London, and chambers around circuit and, and different challenges that might face them.

18:36:44 Yeah, I actually think.

18:36:49 I think part of the problem is change can be fearful for everybody. And I think if you've been doing the job for a certain number of years, particularly in talking teams or, or a bar sisters who are who are getting involved in the monastery.

18:36:59 It's hard to change, and I think it's very important for organizations to get together to talk about it and what I find actually is by having more conversations about this I get emails, following up saying, Can we have a quick chat.

18:37:13 Can we talk about what you're doing what we're doing, can we share best practice. And actually we all learn from each other you know every time I do something I always learned something from somebody else.

18:37:23 And so I think any and all organizations are incredibly useful and we need to be open to talking about, about, which is why today is very important thing I would say though, I don't see a difference in regions.

18:37:38 As such, where I really see the the distinction is smaller sets. I think they really struggle with doing the monitoring of work, because they don't always have the capacity to have full teams involved and, and people with no the abilities sometimes or,

18:37:56 or the time actually to do the work. So I think they're the ones who struggle more than the larger set to have more professional setups.

18:38:05 And is that where you say piano it's about doing it as soon as the work comes in and capturing that data straight away does it need to be every clock that's involved in this absolutely different chambers though, do different things for some people, everybody

18:38:19 has an obligation to do it for others and some, some sets they asked the juniors to do it.

18:38:24 But the one thing I'd say to you is, whatever case management system you're looking at any of the barristers here if you go and have a look at it, see whether you can see your own opportunities, because that will tell you what you can see what you can

18:38:37 monitor yourself and then you can look to see how good your own chambers are doing with every other bar so let me just go to the next page right now that you're in the chambers on circuit where did you get your training from and your understanding about

18:38:53 verification of work. I'm very much on the job I have to be honest with you just figuring it out as we go along.

18:39:01 Fiona's very helpfully touched on, what a marvelous tool opportunities is and I absolutely 100% agree. However, I have to say from a practical point of view, in our chambers, which is an extremely busy multidisciplinary set on a day to day basis.

18:39:18 It is extremely time consuming.

18:39:21 And so, there are differing views as to how practical it is to apply to every single inquiry that comes in

18:39:31 and Elaine in your work sort of coming up with the toolkits and overseeing some of these areas. Have you noticed any differences between London and the circuits in terms of uptake understanding or again different challenges that might be faced.

18:39:47 I haven't got the detail on that and that's quite interesting there may be some areas, and some difference in terms of regional areas.

18:39:58 I'm not sure if Rachel crease might be aware of that she might put something in the chat because I know that she's spoken on this topic. There is places so she might be aware of anecdotally and I'm not sure if we've got any sort of collective data on

18:40:13 that yet. So it might be anecdotal but there could, I could well imagine that there are some differences and you'll find pockets of excellence in, you know, all over.

18:40:25 I mean, it's just it just depends on individuals really engaging with this issue and pushing for it to get done really that's that's what it takes so yeah i think that's what's so helpful to hear this evening is the reasons why this is important to everybody

18:40:40 and it's not just a women's issue or an ethnic minority issue that actually as you say if it means that the people become the judges. And I think Rachel, very helpful in the chat there about how this is one of the most important things about retention

18:40:54 as a bar at the bar as you said Elaine, which we all know is a huge problem.

18:41:01 And how about this and, and Fiona as you've gone through this process. What have you learned along the way that you think you wish you'd known at the outset, as use in sort of best practice that if maybe someone's not quite as skilled in this area as

18:41:17 they are in your team is what would you want them to know now that you've had to go through the difficult time to learn.

18:41:25 And as Catherine said it is time consuming, but actually there is a time saving in there as well at the same time.

18:41:34 And it's about putting in a process and putting in changes like this a very difficult. So it's sort of firstly looking at a cultural shift within chambers.

18:41:46 In terms of how you implemented and how you can work out the workflow. I mean, I'm very much about the process and putting a workflow in place and looking at the time it takes to get everything done.

18:42:13 And then it's about training, and auditing, so you know getting involved and having a look to see, are we doing it. Are we doing well, monitoring how much we're, we're, we're looking at these opportunities.

18:42:13 And, and if we're not doing some more training.

18:42:16 And then it's about talking to the barristers and and and doing some training with the barristers we recently actually just done a full training session with all of our barristers in how to use our case management system, and what information is available.

18:42:33 And, and really, you know, most people have case management systems available but you know there was a survey done I think was Harvard Business Review a few years back.

18:42:42 And one of the things that came out of it was that all these systems are fantastic, but the vast majority people only use about 20% of them.

18:43:02 So, you know, and we're never going to get to 100%, but if we can give people the tools to actually have a look for themselves or to even have somebody to run a report for them. Then I think that would be very helpful way for everyone to start taking

18:43:08 back some control.

18:43:10 That's quite important I think for people to feel that they're in control of their own practice. And this is a great method of doing so well I think this touches upon a question that's been asked in the chat by Simon Gholston.

18:43:23 He's asked about whether there should be a system implemented in chambers where every member has visibility of every inquiry, and where it was allocated is it the case so that the moment you ought to be able to use the systems to see what inquiries came

18:43:38 in that could have been allocated to you, or is it is you say in terms of our I think a delay mentioning potentially everybody seeing each other's earnings.

18:43:47 Should we all be seeing each other's inquiries and where they've gone.

18:43:55 Shall I answer that Laura. If you wouldn't mind Yes please. Okay. And so, in our chambers know everybody does not see everyone else's opportunities, because there's a confidentiality aspect to that, and occasionally there's, you know, we have to have

18:44:09 Chinese walls or on some occasions we have a member of chambers who is a mediator or a judge on the case and somebody else's. You know, we can have cases where we have somebody on either side.

18:44:21 So no, everybody can only see their own opportunities. But what's quite important is, they can ask questions about those you know what happened to that case I saw a case came in from such a person.

18:44:33 What happened to that. How come that didn't turn into a case.

18:44:40 And, and that's just on the individual basis. We talked about as well at the same time having the top down and that's the overall piece. And we can't list every opportunity but what we do do is we talk about what percentage of work went to what barrister

18:44:55 what the value of that was how many of those cases went to them and we break it down by a number of different areas.

18:45:02 Okay. I'm Catherine. Have you got any top tips that you've learned along the way, perhaps, in terms of it being time consuming, any ways that have helped you that you'd want to share with other Clark's.

18:45:15 Um, I think all that I could say is that it's not one size fits all, and you need to think very carefully about the criteria that you are recording.

18:45:24 In fact, we are partway through the process of reviewing the criteria that we use.

18:45:31 So our Diversity Committee is actually working on a report and an action plan for how to review those criteria, making sure that we are recording the right information.

18:45:40 And what are we missing out on, and trying to identify that, but again I can only echo what Fiona said about keeping an open dialogue. I think that's the most important thing between the Clarkson members about allocation of work, and making sure that

18:45:54 there are discussions about the work that they receive and also the work that they don't receive. She said

18:46:02 that some of the positives, Elaine Is there any particular bad practice that you become aware of and any tips that you might want to give to people on this seminar as to how they might try and combat some of that bad practice.

18:46:15 Well, you know, being able to have been trained for many years. Well, you heard different stories that individual share from different sets and their experiences where the work is allocated in terms of us, and that certainly is a factor.

18:46:32 We also know that there are issues around panels like I mentioned before, such as you know CPS Attorney General's panels that sort of thing. So we know this, a lot of work to do.

18:46:44 But I do think the key area is to discuss it in chambers, to get people on board as to why it's going to actually help chambers to flourish for individuals to reach their full potential for it to be more profitable as well as being more accessible and

18:47:02 more fair. So it's really a win win situation around. So I think it's the starting point is to have that discussion, get people on board, and then find a methodology that works within chambers and and monitor it's.

18:47:19 So it's really important.

18:47:23 Fiona you've mentioned that people get in touch with you with queries after you've been at events and have you got any extra points you might like to add about how we can try and challenge any bad practice that is ongoing in someone's chambers, for example.

18:47:37 Yeah, I think it's really important not to have a blame culture.

18:47:44 I mean, everybody's doing their best, and they're working hard, and I think we have to try and work together to find solutions. And so it's sometimes it's it's really about asking the right question, and, you know, part of today's session is really knowing

18:48:00 the question to ask this.

18:48:04 And so if we can ask the right question about you know what is happening with our opportunities, how are we monitoring this. I understand that it is part of our obligations that barristers.

18:48:15 These are all things that can get chambers talking about it and looking at methods that work for them.

18:48:21 Okay.

18:48:23 Catherine, in terms of the future in your involvement with verification of work. And have you got any ideas of where you would like to see this go how you would like to see it develop more progress.

18:48:36 Yes.

18:48:36 Within our chambers, rather than the deal being dealt with us, lumped into one committee. We have separate subcommittees that deal with each area separately so that we can focus more closely on any issues, and obviously fair allocation of work is the

18:48:51 largest issue that we're dealing with at the moment on our Diversity Committee.

18:48:56 Can I circled back a little bit to some of the bad practice issues because I did have a couple of things to share on that.

18:49:04 Um, The first thing I wanted to talk about from a clocking perspective is obviously one of the pitfalls I think is. Some people may mistakenly view monitoring as a tick box exercise, and that it's just data that sits on a spreadsheet somewhere that nobody

18:49:19 looks at.

18:49:21 And the other thing that I wanted to mention is the worried that some clubs may have that someone is second guessing or criticizing their decision making process.

18:49:30 When in fact monitoring I consider is actually quite the opposite.

18:49:35 Most clocks are so busy that they can't possibly be expected to remember the minute of every single telephone call or inquiry that they deal with so accurately recording the method of the application is really the insurance policy that we hope you will

18:49:48 never need.

18:49:50 And it's really important to remember that monitoring is not really there to catch anyone out, and it's there to help individual barristers in their practices, and the practice groups within chambers and chambers as a whole.

18:50:02 And the other thing that I wanted to say.

18:50:05 From a barrister and possibly sort of speculating why some biases may feel that it's not something that is important or relates to them.

18:50:14 It's my view that our professional clients care about the ethos of those that they do business with. And that championing equality and diversity generally and fair allocation of work specifically forms a large part of this.

18:50:27 And the other final thing that I did want to mention and I will let you move on.

18:50:31 Is the diversity questionnaire. And I would encourage all baristas to get real consideration to completing the questionnaire when it comes around, if they feel comfortable doing so.

18:50:42 I do feel personally that a practice area and changes as a whole can only work with the information that it has, and to identify trends both positive and negative and work allocation is only possible if they have as much diversity data as possible available.

18:50:58 Catherine I wouldn't receive your any of these points is really helpful and I think real positive to hear and for us to be able to pee back into our own clocking means.

18:51:07 Thank you. In terms of the progress and I think it's helpful to understand about how we can help with the diversity monitoring and data, Elaine you've obviously talked about the tool kits that will be coming out from a bar Council in future for different

18:51:23 character characteristics, what are the ways in which would, would you like to see verification of work developing or what might those was this a keen for progress.

18:51:31 Keep in mind to help drive it forward.

18:51:33 Well yes i think i think we want to see it taken up by all chambers really what we want to do is to ensure that all the standards of race so whereas we know there's an obligation responsibility in terms regulatory to monitor unassigned what we want it

18:51:52 to be monitored for all work, and not just on gender, race and disability but also other protected characteristics as well. So we really want to see it being taken up.

18:52:06 And depending on the size of chambers it's that's going to be a factor as well as to how it's done. And I know that there's a comment in the chat from Rachel about that in terms of some sets who are smaller and have less capacity and others, bigger sets

18:52:22 that have more resources and able to really get into this and drill down into it.

18:52:26 But I think it's a process that we really want to see happen across the board. It is so crucially important for everything that we're working for in terms of equality and diversity and having a strong reflective of all the rich diverse talent in society.

18:52:45 It is absolutely fundamental. And so, you know, in terms of in terms of retention regression, it cannot really be emphasized enough that this is, this is one of the most key factors there is to make a difference, and there's very little against it.

18:53:02 Once you explain the realities to individuals there might be some confusion or resistance, but once it's explained.

18:53:15 I really think there's a good buy in and we'd like to see that. I think the bar council would like to see it being applied regularly across all chambers of the bar.

18:53:33 I think that's a really helpful headline for all the points that the three of you have been able to convey about why is we say this isn't just any di tick box but why it actually benefits everybody and Fiona any ways in which you'd like to see is perhaps

18:53:37 refined or widened or progress in it in a different direction.

18:53:45 And I'm not sure that that often enough. I actually think that should be once every year.

18:53:59 And, and I think, you know, certainly it's something we've been thinking about as to whether to increase that and to do it once a year as a matter of course, because really it's very hard to actually do this monitoring correctly and properly.

18:54:12 When you have so many changes you've got you know if you're taking on two people to hear that six new people's over three years. And, you know, your socks may change, and whatever else.

18:54:25 So that would be my first thing. And my second thing is we actually look at it more widely than just the unallocated work.

18:54:31 Because actually, I'm following on conference point, I've had a number of conversations over the summer with partners in law firms mainly city law firms, I have to say, who feel very strongly that they want parked put forward a balanced portfolio of barristers

18:54:50 and it's something that actually is very important. And, and so we're not looking just at the analogous work but at the allocated work as well, because sometimes there can be a blending of that information that you can't always assess something as allocation

18:55:08 allocation so that will be the second point.

18:55:11 And the third point is I think in terms of best practice is to have those sorts of discussions openly about making sure we are putting forward a portfolio of people on each and every case and looking and checking, you know, And I think that would make

18:55:26 a massive difference, actually.

18:55:31 Great, thank you very much for Liz if I can come back to you for a concluding question from our questions for the panel and then we'll move on to some of the audience questions.

18:55:40 I have two questions actually.

18:55:43 One is, I wanted to pick up on that point about allocated work or work that comes in for somebody in their own name or as often happens somebody at court, they do a good job of chatting to an opposing solicitor let's say, or somebody who's on the same

18:56:02 case. And they pick up the work that way, what implications are there for that sort of what I call self parking in terms of the monitoring, so that's my first question.

18:56:15 So that's probably two or three of you in a.

18:56:20 Catherine Do you have.

18:56:28 do you love about yourself clocking. Obviously it's wonderful the baristas are at court or in whatever arena they are making connections building relationships and that's what we absolutely encourage everyone to do.

18:56:39 I think the the slight pitfall there is that not everyone, particularly in a post covert environment has the opportunity to be present at core chatting with people making those connections, and people have different commitments and obligations in their

18:56:57 life that meet them mean they might not be available for networking events or speaking engagements or whatever it happens to be. And I suppose that's where effective clocking is more important than ever really to ensure that yes it's great that people

18:57:15 are sending themselves into work but sometimes that person might not be available so if I was having a conversation with a solicitor in their circumstance, said, Miss x really impressed me It caught up very much like to instruct them for this case well

18:57:27 that's great and they're available, but if I'm not available, who else is available and let's talk about the other members of the team as well.

18:57:34 And making sure that there's a more detailed conversation there about other options.

18:57:40 I suppose that's, that's all I would say there is

18:57:45 anybody else.

18:57:47 Fiona. If you got anything to add.

18:57:52 I think self talk is fantastic. Um, I think it's fantastic barristers have those relationships and I'm I see it quite a lot actually. I'm a solicitor will email somebody and say, Can I just have a quick word about a case or whatever else and it can lead

18:58:04 on to something else it's just important that part is, and then push to the clocks as well so that they can make sure that all the compliance side of things is done directly and following on from Catherine I'm slightly moving away from this but I actually

18:58:20 think it's equally as important, is the allocating of marketing opportunities, is to ensure that actually, everybody in chambers is getting equal opportunities to market our business development or introductions to clients, and that isn't always about

18:58:37 the work itself, sometimes it's about a team, or a little friend might ask for a team of people to go and see them or to have drinks, making sure that we have cross sections of people who go out.

18:59:01 Because, because that's actually that comes before those opportunities in many respects. And so we've got to get that whole process right and Elaine, I just was quite interested in following up from what Catherine said about that in terms of networking

18:59:07 I know historically for myself.

18:59:11 Being a parent, and being older when I came to the bar. I wasn't as able to go to the pub or I tried, but I wasn't as able to go and do, perhaps some of those more traditional things, particularly when I was doing a criminal pupillage.

18:59:28 How does it, how does that sort of networking side of things and the self clocking fit into this new model.

18:59:35 Well, it's quite interesting. Yes,

18:59:40 it's quite interesting I'm really glad that we brought up the issue of marketing opportunities and networking, because there is a degree of the bar having a culture of, you know, procuring type of self generated work, which tends to famous some rather

19:00:00 than others. And so I do think we do need to be conscious of this need to be really Cognizant, and to monitor and marketing opportunities as well, so that we can see who's getting introductions, who's writing articles who's meeting up with solicitors.

19:00:20 And so it's not all weighs only about going to the pub. Yeah, or drink after what because not everyone can do that all the time. Yeah, it doesn't fit everyone that's a particular culture so I think that's really important to and absolutely I think monitoring

19:00:37 of that is important. Another thing that has been flagged up to me and it's something that we do know, in terms of access to the bar as well and particularly the junior years that mentorship is really important.

19:00:54 But also, not to forget that mentorship of more senior and mid ranking barristers middle is also really important too. And that can be done within chambers within certain groups or, you know, externally.

19:01:09 I just think we need to be more creative about how we potentially help and assist others to reach their full potential.

19:01:18 That's really helpful. Thank you. The second question I had is sort of linked to that really, which is about how you bring about the cultural shift, and it strikes me that this is probably all reasonably recent I'm thinking about probably the last decade,

19:01:33 maybe I've picked up wrongly on that but it feels like the balls really sort of picked up.

19:01:40 And I suppose I'm quite interested in ideas about how you start bringing about cultural shift, does it for example, is it better to start with the individual relationship between barrister and Clark.

19:01:52 Is it better that the clocking team per se.

19:01:57 Really is embedded in it, or is it better to start with a whole chambers approach a whole membership approach. So Fiona quite interested to hear how you.

19:02:09 I don't know if you were responsible for initiating it in your chambers, but how has it worked, incrementally Do you think in your chambers. Yeah, I joined chambers, seven years ago from a law firm background.

19:02:22 And what surprised me most was how we didn't talk about things actually, and we weren't so good about things but I think that was of course most chambers actually and and that culture has changed quite a lot.

19:02:36 And I think there's a number of things that can happen.

19:02:39 So firstly, there's the regulatory side of things, and the by Standards Board released, what they called a regulation we return. Last year, and they asked all chambers to complete that and have it and I think it was by early this year.

19:02:54 And within that actually there were questions about fair allocation of work, and that's really important, because by asking those questions. It helps kickstart that conversation.

19:03:05 The second thing that kick starts the conversation is our clients. If our clients are saying to us, you know, we want to see more people put forward we don't know your juniors or we don't know your female silks or we don't know your ethnic minority barristers

19:03:21 that's incredibly helpful because once again, it means we have to do something about it. So, so that's really important. and actually it's interesting.

19:03:30 One of the conversations I had most recently about this area. There were a number of law firms there, and they came to me afterwards and said, Well, a couple of them came to me afterwards and said, What can we do to help.

19:03:43 And, and we have conversations about this and actually it's a fantastic business development opportunity, there's a real business case here, because actually we've been going out to those farms and say, let me introduce you to a wider selection of people,

19:03:59 and we'd really like to get to know your team, and you can get to know our people as well. And that's been incredibly helpful to kick start this process.

19:04:11 I think the second thing is, is you need leadership around this, you definitely need somebody to take hold of this, and and implemented. And it's not easy.

19:04:23 It's not easy to get change across that, that, that line. And so, so you need, whether it's a barrister whether it's a member of staff, whoever it is you need somebody to take ownership and to make sure it's implemented.

19:04:39 And the third thing I would say is we need to talk to each other, we need to learn from each other was it was our systems are capable of what works for us as a chambers.

19:04:49 And then we just need to keep having those conversations because the more we talk about it. And the more we use these tools that we have, the more it becomes embedded within.

19:05:03 And it does, but it does take time and it's never 100% but if we can get it to 95 or 99%, then it's a lot better than zero.

19:05:14 Thank you, Catherine from a marketing perspective, where do you think it's best to diamond.

19:05:21 Absolutely in the relationship between the various during the clock, and that starts from day one of people which fastest need to be, to know and to be reassured that there are lots of different ways that they can form and maintain working relationships.

19:05:35 And that doesn't just mean going to drink. There are lots of different things that can help to form those relationships and develop good work.

19:05:44 So I think I think it does start with the virus around the clock.

19:05:49 Elaine, anything to add to that, I would echo everything that's been said. It's the whole chambers thing baristas and clubs from the top down from the bottom up, culture change you need an awareness and you need intention.

19:06:05 And whatever you can do to maximize those two things will mean that you will get your culture change and it will be embedded throughout every system and chambers, which is what you really need to have to change.

19:06:15 Thank you. So, if I'm wrap up now with our final question for you all and then we'll just look and see what's come up in the chat. So, I'm going in.

19:06:27 I'm trying to think about reverse alphabetical order, that's too complicated my brain, this time of night so I'm going to start with the first person is first of my screen Elaine.

19:06:38 Having spent the last hour discussing fair allocation of work and thinking about it from all different perspectives.

19:06:46 Are you able to sum up, really why you think it matters to everybody at the bar, just in a few words.

19:06:54 I think it goes to the heart of fairness and equality.

19:07:00 And so that, and to maximize potential and thriving at the bar, and I think is as fundamentally as advocates who uphold the rule of law. We also understand about equality and equity, and it should apply to us to, as well as our clients so I think for

19:07:18 so many reasons it's just it's a really vitally important thing.

19:07:22 Thank you, Catherine, you will next.

19:07:39 No, um, I would say that, for me, I think it very much, helps with retention of barristers of all types and ensures growth in all areas. It ensures that the best person for the job is available each and every time.

19:07:43 And that can only help to maintain and strengthen professional relationships.

19:07:48 Changes reputation, and indeed the reputation of the bar itself.

19:07:53 Last but not least, Fiona.

19:07:57 Two things really one, it's the right thing to do.

19:08:00 And, but secondly, you know I come back to the point I made earlier, the business cases there, financially, it makes sense to do that.

19:08:10 It makes sense to ensure that all of our barristers are doing their best, and are their best, and I certainly see that as part of my job to help each of my members to be the best that they can be.

19:08:24 And, and part of that is having the right type of work, enough work, challenging work sometimes easy work if we want an easier day.

19:08:34 But, but, but that's really important. And it seems to me if we get both sides of that right then, not only will chambers be successful. Everybody will share in that success and whether that is reduce contributions, higher salaries, whatever those things

19:08:53 are, it means that everybody shares that.

19:08:57 That's great. Thank you very much indeed. So I think Laura, over to you for just look at any questions that have arisen. Yes, I we've had a couple of questions in the chat which I think would be notices already and one which I'll pick up on and then we

19:09:13 had a few questions sent in advance. If anyone has any questions still arising, that you'd like to put in the chat, please do and I'll try and pick up on these.

19:09:22 So one quick that I think hasn't been quite answered from the chats already is from Dr dunk where I'm pretty sucky, he was asked a couple of questions about the toolkits that have been mentioned and whether they're essential and whether there ought to

19:09:35 be spot checks to make sure that chambers are using them. And it strikes me that this is a comment you made before lane about well why wouldn't you can you really see any good reason why I changed it shouldn't be at least starting with the bar cancel

19:09:52 toolkits that have been created.

19:09:56 No, I can't see why they shouldn't start. There's something in there for everyone from the most basic analysis to some of the most sophisticated models there, but it's absolutely right.

19:10:10 Absolutely agree, you know with your Dunkle what she's saying that it we should really be encouraging all and that is what the bar Council is doing, by putting it out there by sharing the information and giving chambers, a methodology or structure to

19:10:28 go about actually monitoring allocation of work across across the board, in terms of at least with this one. The first one is, is gender comparing gender, but as we say, others are in the pipeline so we think everybody should be doing it, and theatre

19:10:48 I'm Catherine, I'll come to each and turn but you're obviously very familiar with what's required fair allocation of work. And have you found any reason to deviate from what you're aware of as being in the toolkit, and Catherine How about you know, not

19:11:02 No, not at all. It all set out perfectly clearly is extremely helpful and no I can't think of any reason why you would want to deviate again any differently.

19:11:14 And well before the tool case that the toolkit was issued we were actually looking at things quite differently. And so,

19:11:25 I know that bar council are working on other toolkits at the moment. But for us, we're looking at it across a number of areas we're not just working on the gender side.

19:11:39 So, we have we are using it, but we are looking at wider areas which no doubt the bar council will provide further information on in due course. But, you know, for us, there are there are certain other issues that we were working on and that we're aware

19:11:53 of. So I think every chambers will have their own issues that they need to be aware of that they will pick up from their own monitoring.

19:12:00 Okay. And here's a practical question that was said to us in advance anonymously. It was asked all there the burden should not rest solely with the victims of unfair allocation of work.

19:12:10 What steps could these individuals take to ensure fair treatment, perhaps where meetings with clocks and senior staff have not lead to improvements and a complaint to had to change this has been ignored, and how might say, a member go about challenging

19:12:24 that sort of situation. What would you think Fiona from being at the top of the organization where you are.

19:12:33 So, I think every organization is different.

19:12:38 And I don't always feel that challenging works. I think you have to start with helping people to provide solutions. So I think if you

19:12:52 look at it from an individual point of view, it's about asking the question, and that is new stars in the practice meeting, and you ask the question now, how many opportunities have I had.

19:13:05 Why am I got those opportunities, why did they not convert etc. and you take it from there.

19:13:12 You can work alongside that perhaps if there's an equality and diversity committee to say, Did you know we need to be monitoring this, and then work in tandem alongside that so I think that's what individuals could do.

19:13:25 But But ultimately, I suppose, if it's not working, then that's a completely different challenge and you need to consider.

19:13:36 If that is the right chambers for you I suppose, because you can only give people the tools to make those changes.

19:13:45 And, and, and keep trying but there comes a point where perhaps it's not going to work.

19:13:50 La might you have any tips for someone in that kind of difficult situation. Yes, it's quite early on a practical level, it can be really helpful to find an ally in changes that you trust, who can talk to confidential confidential and that could be someone

19:14:05 someone who's only potentially could be on the end committee or an audio chambers are meant to have iOS, so should be someone that you could approach, but also if you're looking for more support because there's been no, Not all chambers of the same not

19:14:22 not all are receptive and the bar councils equality helpline is there, it's open to anyone barristers clubs, etc, who want to have discussions confidentially about these issues they can give you practical advice and support.

19:14:39 And so in the chat we've got the email, and the telephone number.

19:14:44 And I know that some of these issues that are raised are dealt with individual accounts and sometimes they they land on myself as well and I've been involved and so there is quite a lot of support there to help to help get things on track to be improved,

19:15:00 where they can be improved. So, so yes I think there is practical ways forward but there's Fiona said if it's if it's too entrenched in too difficult, then there may be, you know, maybe another solution but I think with, with some goodwill and assistance.

19:15:17 A lot of these situations can be improved, and Catherine Is there anything you would add to that.

19:15:25 Um, no. All I can do is that go to the owner and the lanes comment. Absolutely.

19:15:29 And yes just hope that perhaps with a bit of open communication, it might be possible to resolve the issues, and that would be my hope if somebody came to me with that kind of a concern.

19:15:42 And I'm not suggesting our talk this evening will solve those sorts of entrenched problems but I think it has been phenomenally helpful. How you all have been able to give them a, not only the system but the benefits to everybody at the bar of this system

19:15:55 and as we've said the recording will be made available. I recognize a number of names of attendees and their people who I'm very glad to see, but some of you I'm not surprised to see listening in on a Wednesday evening to an equality and diversity talk

19:16:09 and I've had people get in touch with me and ask what's an easy way to get some CPD before the end of the year. Well this is a way that we can now tell them will help to benefit their own practice, as well as chambers as a whole, if they just want to

19:16:21 listen along to the hour and 20 minutes I think we might be by the end of the recording the cloud has told us the recording and the transcript again to be made available on the website and on the news and media section.

19:16:36 And I think it's fair to say isn't it as Liz highlighted. We all moving in this direction as it becomes more normalized hopefully the anonymous question posed here, won't face the sorts of issues in future.

19:16:52 Now I think we've probably covered all of the other questions that we've probably can under this heading that have been posed in advance. We've not seen any extra ones come in in the chat function.

19:17:02 So we'll start gave her a slightly early finish.

19:17:05 But if I could just thank panel, very much for all the input that they've given us evening all the time they've given in preparation, and also to Rachel, Chris, you I believe as a consultant with bar cancel for equality and diversity matters.

19:17:24 He's been phenomenally helpful in the chat in pointing people in the right direction and answering questions on data and systems and the like. And I will ask klar if she can put those contact details on the website along with the recording and the transcript

19:17:39 for anybody that might want to look for further information in future, but less unless you have any further concluding remarks, just again thank you very much to three excellent panel members.

19:17:51 Absolutely just want to echo everything you've just said Laura, thank you so much to all three of you. I've certainly learned loads, and it just shows you're never too old or senior to learn.

19:18:02 So thank you all. And thank you all for listening and attending spread the word.

19:18:09 Right. And one last Thank you of course to Laura and this brilliantly chairing tonight's event. I'm sure you agree it's been really insightful. And as I say this event will be recorded and uploaded in his website on the news and media section within the

19:18:25 next week with any resources that have been mentioned tonight to.

19:18:31 So that concludes the event and thank you all for coming and good evening.