

Bar chair: Separation remains for a reason

By **Max Walters** 15 January 2018 *The Law Society Gazette*

'I'm sure every chair for the last several years has been asked to comment on a forthcoming fusion of professions,' said Andrew Walker QC when asked whether the solicitor and barrister professions will maintain their separate status in years to come.

Walker is just a few weeks into his job as chair of the Bar Council for 2018 and, while he sees plenty of concerns for the bar during his term of office, he is clear that fusion is not one of them. 'The separation remains for a reason,' he told the *Gazette*. 'The bar's focus is on advocacy and on the expertise of running trials, whereas, although there is a litigation element for solicitors, their work is primarily focused on the transactional work, which generates so much of our earnings.'

'These are the services we offer to the domestic and international market, and they are seen as highly valued services which people do not want to change. I don't perceive it as being hot topic, if anything I see things moving back to where we were before the Courts and Legal Services 1990 Act,' he said.

Those who have called for a fusion of professions include former Law Society president John Wotton, who in 2012 said barristers and solicitors will increasingly work together in the same practices. At the end of last year, England and Wales' first female solicitor advocate QC went one step further and called on the professions to merge in order to 'make the best of their shared skills'.

But Walker said he sees nothing to be gained from fusion. Rather, the logical step is for solicitor advocates to switch to the bar and the chambers model. 'The fact remains that most solicitors don't want to do advocacy work. But if they do we are now seeing them converting to bar and moving into chambers. The chambers set-up provides a forum for them to develop their skills and they come from a place where they see that as the next logical step.'

It is here that Walker rebutted another long-standing prediction, the death of the traditional chambers model. 'In answer to people who say the chambers model is old fashioned, I'd say it's clearly remained strong and remained strong for a reason.'

He went on: 'If you have two professions, with one focused on advocacy, you want and need a structure to identify that advocate. The moment you do anything corporate you take away a huge part of that because of potential conflicts. There's no easy way around that and its why the chambers model has remained the model of choice.'

That said, Walker does accept the need for chambers to adapt to more modern methods, such as getting better at marketing. 'Of course, there is a need to increase market penetration, get more visibility, and push the identity, but we are still not law firms. We compete against each other. In fact, the person you want to lose against least is a chambers colleague.'

He added: 'The bar remains the repository of where most expertise in advocacy is and the option to be able to choose the specific advocate rather than the firm is crucial.'

Confidence in the chambers model is also apparent from the seeming lack of interest from the bar in setting up alternative business structures (ABS). A handful of ABSs have been set up since the Bar Standards Board began authorising them last year but the numbers do not point to a significant shift in how the profession operates.

Walker said that alternative business structures were something the BSB 'felt it was required to enable' rather than a case of responding to a surge of lawyers keen to restructure their business model. 'It comes back to advocacy being a personal choice,' he said. 'You don't instruct a set of chambers, you instruct the advocate. You can't do that in an ABS without there being all sorts of problems. I think the BSB has accepted that people prefer the chambers model. The structure [for ABSs] is there, but if no one is taking it up it raises questions why. It strikes me there are good reasons for not taking it up.'