

'A torrent' of criminal barristers could leave profession, Suffolk QC warns

Michael Steward October 19, 2021 East Anglian Daily Times

The number of barristers leaving the criminal courts is in danger of "turning into a torrent" unless the government changes its attitude towards the justice system, a Suffolk QC has warned. Simon Spence QC, who prosecutes and defends across Suffolk, Essex, Norfolk and London, said "unprecedented funding cuts" and court delays, which have been exacerbated by Covid-19, have led to many junior barristers quitting the profession.

The Criminal Bar Association said 11% of junior criminal barristers stopped working pure crime in the three years to 2019, and it is thought that rate has continued over the past two years – resulting in one fifth fewer practising pure crime than five years ago. Attrition levels among QCs have been similar, with up to a half fewer than five years ago.

Mr Spence, who was the prosecution junior in the trial of 'Suffolk Strangler' Steve Wright in 2008 and lives in the county, said the departure of good quality advocates could have "devastating long-term consequences".

"For years now, the criminal justice system has been subjected to unprecedented funding cuts, cutting it to the bone and, many would say, beyond," he said. "These cuts have applied across the board – the police, the Crown Prosecution Service, the court service and legal aid fees paid to defence lawyers; both solicitors and barristers. The arrival of Covid and the closure of the courts from March until June or later added to the pressure under which the system was working. As a result, the trickle of those leaving the profession, which became a stream is in serious danger of turning into a torrent. The gradual re-opening of the courts and the huge backlog caused by their closure has meant, inevitably, that the more serious cases with defendants on remand in custody have been given priority. These cases are almost always dealt with by more senior practitioners and QCs. As a result, the junior end of the profession has been faced with unprecedented difficulties and no assistance from government. There was no furlough scheme for the self-employed and many did not qualify for the government's self-employed help scheme. The upshot is some of the brightest and best of the junior bar are leaving the profession because they see no viable future for them. While Covid has undoubtedly exacerbated the situation, it should not be thought for a moment that it is the sole cause of it. The system was on its knees long before Covid arrived on our shores and it merely proved the lack of resilience in the system.

"The government must change its attitude if it is to prevent further advocates from leaving," Mr Spence added. "The long-term consequences are very serious. It means that the quality of advocacy will diminish. The pool of able lawyers to provide the judges of the future is drying up. Defence solicitors, paid a pittance for turning out in the middle of the night to a police station to represent a suspect, are giving up and either joining the CPS, where anti-social hours are less of an issue, or going to work for local authorities. The only answer is a major change in attitude towards the justice system by government. How often have we heard the complaint from a minister that we have one of the most expensive justice systems in the world - not in any event true. It should not be a complaint; it should be something we are proud of, just as we should be of our NHS and education systems. Teaching our children and caring for the sick in society are recognised as essentials in a civilised society. Protecting victims, prosecuting the guilty and defending the innocent somehow seems an optional extra. Unless and until that attitude changes, the departure of good quality advocates from independent practice will continue and increase, with devastating long term consequences."

A Ministry of Justice (MoJ) spokesman said: "Dedicated staff and professionals have kept justice moving during the pandemic and our current data does not indicate that barrister numbers are affecting this. However, challenges remain, which is why we continue to support legal professionals through the pandemic and are spending millions to deliver speedier justice."