Time to adjust our working lives

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Patrick Cannon considers the opportunities and challenges facing the Tax Bar in the aftermath of a global pandemic, and how culture has impacted the level of success in digital adoption

Covid-19 has, without doubt, shone a light on some of the deeply entrenched traditional values and behavioural constraints of the legal profession – and especially the Bar. The seismic shift of the global pandemic left us with no choice but to adapt into ‘new’ ways of doing things. Now, however, one year down the line since Covid-19 forced the adoption of video hearings, we are left asking questions. Why didn’t we take up the available technologies at a speedier pace?

In truth, the stubbornly slow uptake – particularly at the Bar – is largely due to culture. With hundreds of years of heritage, the culture of the British legal establishment is not easily altered, and has seemed to resist attempts at modernisation of its business model, communication and working methods. It is almost certain that the Bar will never fully return to its previous ways of working,

meaning that legal leaders will have to pave the way for the next generation.

The short, sharp shock of the March 2020 lockdown meant that in-person court and tribunal appearances were no longer permitted. Online working became commonplace, and, in many cases, surprisingly seamlessly. It quickly became apparent that Zoom and other software systems were not only adequate, but were also driving efficiencies. Travel time, and costs, were dramatically slashed. Rapid technical advances were embraced, particularly by the Tax Bar, resulting in a number of productivity benefits:

- There has been a rapid shift by the courts and tribunals to online hearings. The use of electronic document bundles with such virtual hearings has been suggested by the First-tier Tax Tribunal as the default format for the future.
- Video conferences have taken place with clients, using screen share to review documents instead of traditional meetings.
- Mediations have been conducted seamlessly online with secure virtual break out rooms, avoiding the tension that can arise at in-person mediations.

I must pay tribute to the President of the First-tier Tax Tribunal, Judge Sinfield, for successfully arranging the smooth and rapid switch to online video hearings in the tax tribunals. Software providers have also rapidly developed their online offerings, supporting remote working and the UK broadband network has largely held up well.

There are also the human benefits: work-life balance is an obvious one. The specialised bars – particularly in areas such as tax and family law – have embraced virtual court and tribunal hearings, and these areas have not suffered nearly so much during the lockdowns.

Other areas have struggled, though. The Bar Council, which represents more than 16,500 barristers in England and Wales, acknowledged that many members of the profession had ‘suffered a substantial drop in earnings’ since the start of the pandemic, with 72% experiencing a significant reduction in new fee income.

Derek Sweeting QC, chair of the council, told the House of Commons Justice select committee in January 2021 that the criminal bar was being ‘hollowed out’, with mid-career barristers leaving after 10 years or so because it had become ‘a low-paid job for many people now’. The question now is how, as a profession, we can leverage the changes that have been forced upon us, where rent has been our largest expense.

In January 2021, I founded Cannon Chambers as the first proper ‘work from anywhere’ (WFA) set of tax chambers. I believe the future of the Bar is one that is largely WFA and, whenever viable, tribunals, court hearings and client conferences will be attended by video. Extensive paper hearing bundles are being replaced by electronic versions. Intelligent and engaging websites, which showcase the talents of the members involved and are interactive in allowing clients to engage with barristers directly, will become prevalent. In short, the Bar will no longer have to pay for expensive real estate to house chambers and clerks and will be content with much-reduced physical hubs with a few meeting rooms in city centres.

When the first telephone lines were being installed in Central London, the Lord Chancellor’s department asked the judges in the Royal Courts of Justice in the Strand if they would like telephones installed in their chambers. The judges replied that they did not require these new devices, as they already had messenger boys. I fear that those members of chambers resisting the move online will come to be seen as unrealistic as those judges were.