

# reaching OUT

Lay clients can now get advice direct from barristers. The Bar Council is reviewing the progress of the scheme launched on 6 July 2004. *COUNSEL* is ahead of the game: [Chris Frazer](#) talks to three experienced practitioners about the benefits for the modern Bar

**M**arc Beaumont, Stephen Twist and Andrew Veen practise in different fields in different parts of the country. Each, however, has developed Direct Public Access ["DPA"] to his own personal and professional satisfaction, and to the good of the lay clients.

Marc Beaumont was called in 1985. As a member of the Bar Council, he played a leading part in introducing the DPA model. In 2004, he established a new practice in Windsor, positioned to offer a DPA service, particularly in property, commercial and public law. He was *THE TIMES* Lawyer of the Week in January 2004.

Stephen Twist is in practice at York Chambers, Newcastle and York. He has been in the vanguard of developing DPA from the outset.

Andrew Veen is a member of Simeon Throver's Chambers at 11,

Old Square, Lincoln's Inn, and has been certified for DPA since 2004. His work is largely Chancery, Commercial, Civil and Family.

#### How it all began

Stephen Twist reminded me of the history. The notorious 1987 Green Papers questioned our working practices. Why should it take two lawyers to do one job? Why should legally sophisticated clients not go direct to counsel for advice?

The first response from the Bar was Direct Professional Access, which allowed certain professionals – accountants, architects and the like – to come straight to a barrister without the intervention of a solicitor. Specialists seeking specialist advice from specialist practitioners were able to by-pass the old rules which restricted lay contact.

Then came BarDIRECT, launched when a police authority found itself in conflict with its Chief Constable, and both shared the same solicitor! The Bar Council set up a pilot and granted its first provisional licence to North Yorkshire police on 1 June 1999. Within months, the North Yorkshire Probation service followed suit.

#### DPA - vital statistics

Barristers who have undertaken the DPA course:	680
Barristers registered for DPA:	577
DPA barristers listed on the Bar Council website:	483





The lessons from BarDIRECT were that clients could be trusted to instruct the Bar, and barristers could be trusted to handle the clients without the cushion of a solicitor. It increased the flow of work to the Bar, and created collaborative working practices. As Stephen says, once the licence was granted, “corporate and institutional clients settled quickly and easily to the task of sending to their trusted counsel what they knew they would need, and if a problem cropped up, counsel would resolve it by returning a quick phone call to the client”.

#### Open Sesame

So the genie was out of the bottle, and five years later, the DPA scheme was born. The Bar Council decided that, with care, and appropriate guidance (about, for example, handling clients’ money, investigating evidence and taking proofs), barristers could readily put in place systems of working and professional protections which would ensure that lay clients could receive the advice that they sought and needed. Boundaries were set to avoid disciplinary and statutory breaches. The Bar Council’s Access to the Bar Committee (chaired by Anthony Speaight QC) now takes the lead on these issues, and you can find out the details on [www.barcouncil.org.uk](http://www.barcouncil.org.uk).

Training is provided by the College of Law, whose website is [www.college-of-law.co.uk](http://www.college-of-law.co.uk).

#### New markets for the Bar

Marc Beaumont considers that the most revolutionary aspect of DPA work is that virtually everyone becomes a potential client or a potential source of recommendation. His scheme offers high-class premises and meeting facilities in Windsor. He also uses the opportunity gained from being the first point of contact to promote Mediation. Sometimes, of course, cases do need a solicitor – to collect evidence, for example, or correspond with the other side – and he is able to provide work to solicitors as well as being a service used by them, which means that he is able to engage with solicitors in a far more business-like manner and on a basis of commercial reciprocity.

Andrew Veen agrees: “I am instructed on DPA alongside solicitors instructed by the client. This in turn has led to me developing new solicitor contacts. When on occasion my clients need a solicitor to undertake work that I am unable to do then I source clients to solicitors who regularly instruct me – in turn, I am sourced clients on DPA by my regular instructing solicitors”.

#### Marketing the Bar

Andrew was called in 1993. Before coming to the Bar, he had worked in three solicitors’ firms. He says: “It is my experience of dealing with the public direct over a 12-year period that while our sister profession has struggled to maintain its reputation with the public, the Bar on the other hand has been successful in maintaining a reputation for respectability and excellence with the public. This reputation extends not just to our abilities as skilled advocates but also to our abili-

ties as negotiators, draftsmen and as legal experts in all legal fields, whether contentious or non-contentious. This reputation is a powerful marketing tool in DPA”.

Marc points out that “the old restrictions made it pointless for a barrister to market himself to anyone other than professional clients. This has now changed completely. The new market place is more disparate and less defined. The best form of marketing is personal contact. In a sense, DPA is far more democratic than the old ways: in-

*“Barristers who are familiar with DPA enjoy enhanced working relationships with clients and higher job satisfaction.”*

struction and the development of a practice is not dependent on the preferences and predilections of a solicitor or a clerk, but on market forces alone: so this makes for a profession in which everyone has an equal chance of gaining good work”.

**Plus points for the public**

■ **Cutting the costs of litigation:** Stephen Twist told me about the Scarth Report (13 January 2000), commissioned by the Chief Constable of North Yorkshire Police, which showed that legal costs under a licensed access scheme were halved when contrasted with instruction through a solicitor. Marc Beaumont’s fees, on DPA, in *GE Capital Bank v Rushton and Jenking* (Court of Appeal, 14 December

2005), were many times less than those of the Bank, which had solicitors and counsel.

■ **Cutting to the chase:** an example from the North Yorkshire Police, who sought and obtained overnight specialist advice from the Bar on a critically urgent issue – how long would it have taken for the solicitor to take instructions, negotiate the fee and instruct counsel? As Stephen says: “members of the public are quick to realise that getting early advice from the expert lawyer of their choice results in better savings than juggling their credit cards and mortgages as litigation costs start to mount. Importantly, they trust the Bar to give impartial advice. They realise that the Bar has no direct interest in writing letters or prolonging a case, but is simply there to suggest practical steps to help their case and manage litigation risk”.

**Plus points for the Bar**

Marc Beaumont has noticed that haggling about fees does not bother lay clients as much as the former systems: “DPA seems to have eliminated one of the less pleasant features of traditional Bar life. It can also increase cash-flow: whilst a fixed fee has a down-side, it enables the DPA barrister to be paid the fee in advance and not have to worry about the collection of small sums of money”.

Andrew Veen highlights the advantage of the client-care letter which is signed by the client and DPA counsel: “this represents an agreement between the parties,

and, if necessary, can be sued on if a client fails to pay for the work undertaken by the barrister”.

Stephen Twist reports that “barristers who are familiar with DPA enjoy enhanced working relationships with clients and higher job satisfaction; they feel comfortable about the Bar being in the market place”. Marc and Andrew share his enthusiasm. As Andrew puts it: “DPA opens up new legal markets to the Bar which utilise our traditional skill sets”.

**In a nutshell**

Anthony Speaight QC, Chairman of the Bar Council’s Access to the Bar Committee, says: “The experiences of the three barristers reported in this article point a way for the modern Bar. One typical public access client may be a small or medium-sized business. The typical work may be advice at an early stage. Saving in fees to clients should be the typical benefit”

**Why not try DPA?**

So... Are you content to meet the client for the first time at Court? Or will you roll up your sleeves and try DPA! Clients are reporting the benefits of choice and cost. Have you undertaken the training yet? If not, why? The last word to Stephen Twist: “Maybe through accessibility we lose some of the mystique of the Bar, but in times when inclusion is a key concept for us all, why not make it more of a reality for your practice?” ❖

*Chris Frazer practises from Harcourt Chambers, London and Oxford*

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