

From the President

Excellence.

We are not loved. Shakespeare said "first thing, let's kill all the lawyers". Many would agree and many of those members of the public who know the difference between barristers and solicitors would substitute "barristers" for "lawyers". To some extent this is inevitable. Half our clients lose their cases. Many of those blame their barrister or the opposing barrister and many of the remainder blame the judge or the system. We are perceived as elitist and expensive, overwhelmingly the produce of privileged WASP parents and male private schools. We know that these images are false, and given an appropriate tribunal we could prove them to be false, but there is no natural justice given in the courtroom of public opinion.

There is one thing we can do. We must pursue excellence not only in the skill with which we perform our professional duties but also in our client PR. We must demonstrate to our clients that we perform a socially useful role and we must deal with them in a manner which engenders respect rather than contempt for our profession.

Having put the proposition at this high level, let me descend to the particular.

The first impression most clients have of a barrister is of a waiting room. The barrister who is late, the barrister who keeps the client waiting without comment until the delayed solicitor arrives and, worse still, the barrister who always sees the solicitor in private before inviting the client in all give to the client an impression that the Bar is pompous, aloof and unconcerned with the welfare of its clients. Being late can usually be avoided and can always be apologised for. If the solicitor is late, it is an easy matter to go outside, introduce oneself to the client, apologise for the solicitor's lateness and offer a cup of tea or coffee. In most cases this would completely eliminate feelings of the type which I have described. Seeing the solicitor in private before the client is simply bad practice. In the very rare case where one does

need to discuss something in the absence of the client, this should be done in a separate conference or over the telephone. One need only ask oneself what the client thinks is being discussed at the private confabulation to appreciate this point.

A second area is the importance of involving the client with the tactics of the litigation and the decision-making process. As with most professions, there are some decisions

to which few clients can usefully contribute. One does not clear every question in cross-examination with one's client before asking it. On the other hand, many of us are too unwilling to explain to clients why one is calling or not calling a particular witness, what risks attach to the calling of a particular witness or the asking of a particular line of questions, the tactics of interlocutory motions and the like. Most clients appreciate being taken into the barrister's confidence in this way and their opinions should be given appropriate weight.

A third area is handling defeat. On average, most of us lose about half of our cases. The client who has lost his or her case is the client most likely to turn on the barrister or on barristers in general. It is important in this situation to be able to offer words of comfort to the client without putting down the solicitor, the opponent, the judge or the legal system.

If the client has been properly advised in advance, the client will be prepared for the possibility of defeat and will appreciate that no legal system and no lawyer can guarantee that the right person is believed in every case. It is after a defeat that one really feels thankful for laying the ground in this way at an early stage.

None of the examples I have given are particularly controversial or particularly onerous. What is important is that if we all observed these simple approaches the community attitude towards barristers would be significantly more friendly than it is. We will not create a community in which everyone loves us, but we may create a community in which fewer people despise us. □

