

A New Clerk and a Pandemic

By Jackie Charles



Commencing a new job at Level 22 Chambers in mid-February¹ I was thrust into the frenetic and exciting world of being a barristers' clerk. A combination of business manager, accountant, paralegal, coach and counsellor – the work of a clerk is diverse and never dull.

'In the 14th century, a lawyer would employ an individual known as a 'manciple' to look after his house, in return for 'a bed and a reasonable dinner'².

Clerking in New South Wales is a diverse profession which has evolved to reflect the demands of the Bar in 21st century and I was excited about joining the ranks of such an old profession even if a 'bed and a reasonable dinner' were no longer on offer.

As a new clerk I found life in chambers to be exciting and challenging but the COVID-19 pandemic announcement³ after one month on the floor created its own challenges.

These could be divided into four key domains: technology, logistics, finance, and soap products. Over a 10-day period in early March, decisions needed to be triaged with the constant escalation of the COVID-19 crisis all while supporting the barristers and staff of the floor. From mid-March with limited preparation time, most barristers and support staff were working remotely. The challenge of taking a chambers entirely online and adapting to virtual court hearings required keeping abreast of daily announcements from government and the courts. This was assisted greatly by the work of the Bar Association and the NSW Barristers' Clerk's Association in particular.

Virtual court and the reliance on computers, webcams and microphones required many barristers to learn to embrace technology.

Clerks, including the author have had to answer many queries, including:

Q: *How do you bow when the judge enters virtual court?*

A: Carefully and always wearing pants.

Q: *What if you are stuck in a long telephone queue while waiting for a directions hearing?*

A: Be patient, don't put the court on hold and force all the counsel on the phone queue and the judge to listen to the hold music.

Q: *When is the right time to mute and unmute your microphone?*

A: Mute when entering the hearing, when anyone else is talking and/or when you want to share your views on the evidence or opposing counsel's strategy with your solicitor.

Q: *How do you effectively cross-examine someone when you can't use your barrister spidey sense to know when they are vulnerable to your line of questioning?*

A: Barrister spidey senses can reach through cyber space and seeing the expression on someone's face when they are in their own space and being questioned can be more revealing than 'usual' court.

Q: *To robe or not to robe?*

A: I'll just email the associate.

In the flurry of activity, long hours and at times genuine worry about the duration of the crisis there have been some wonderful moments.

Floor staff going above and beyond to source soap and hand sanitiser, deliver briefs and robes to barristers. Board members prioritising chambers meetings over their court preparation work, so as to keep chambers running smoothly. Fellow clerks sharing books and expertise, chambers collegiality preserved by the use of Zoom for events such as trivia and even a baby shower are just a few I could mention.

Humour has frequently made stressful days bearable. A barrister wearing robes, bar jacket with jabot on the top of a rock band t-shirt for a short video court appearance, laughter at the variation of backgrounds chosen for chambers Zoom meetings along with the humorous

awkwardness of virtual court hearings and non-muted microphones has replaced the buzz of a chambers usually filled with the clank of full trollies and hurrying juniors.

I have found myself frequently responding to logistical challenges with a refrain of, 'well this is our first pandemic, so we'll give it a go and see what happens'.

The impact of the last few months on the legal system and profession has been considerable requiring rapid change in an uncertain operating environment. Clerks have had to make difficult financial decisions, barristers have found themselves suddenly without matters to appear in, judicial officers have had to adapt to a very different way of conducting hearings. Throughout this upheaval, the collegiality of the Bar with its focus on ensuring that the administration of justice continues despite the pandemic has galvanised all of the profession from new clerks such as the author to experienced counsel and the judiciary.

I feel honoured to be part of such a dynamic and adaptive profession. To quote Lucy Barbet of the Institute of Barristers' Clerks in the UK

'keep calm and carry on clerking'.⁴

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ENDNOTES

- 1 Jackie Charles is the Clerk of Chambers for Level 22 Chambers. She is a recipient of a 2019 Churchill Fellowship. She is grateful for the support of the barristers and floor staff of Level 22 Chambers, her fellow Clerks, the NSW Barristers' Clerks Association, and the denizens of #auslaw on Twitter, all of whom have assisted in the preparation of this article.
- 2 Simon Akam, 'The Exquisitely English (and Amazingly Lucrative) World of London Clerks', *Bloomberg Business Week* (Article, 23 May 2017) < <https://www.bloomberg.com/news/features/2017-05-23/the-exquisitely-english-and-amazingly-lucrative-world-of-london-clerks> >.
- 3 World Health Organisation Regional Office for Europe 'WHO announces COVID-19 outbreak a pandemic', *Coronavirus disease (COVID-19) outbreak* (Announcement, 12 March 2020) < <http://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-COVID-19/news/news/2020/3/who-announces-COVID-19-outbreak-a-pandemic> >
- 4 Lucy Barbet, 'News', *Note to the Membership from the Chair* (Webpage, 19 March 2020) < <https://ibc.org.uk/news/note-to-the-membership-from-the-chair/> >