

## A day in the life of a Commercial (Business and Property) Pupil: Part Three

When I was studying the Bar Practice Course, everything we were taught about conferencing was in the context of criminal law. You learn the differences between trials in the Magistrates' Court and the Crown Court and, on a basic level, when to advise a defendant to plead guilty or not guilty. Yet, as is often the case when your focus is on passing an exam, I never stopped to think what a conference in civil law would involve.

As a first six pupil, I benefit from sitting in on conferences, some with solicitors only and others with lay clients too. Solicitors usually set out the questions that the barrister should address in their instructions. However, it is also an important part of counsel's role to come to the papers with fresh eyes and flag up any potential issues with the case. This is where a barrister can truly add value to proceedings at any stage.

One conference I attended a few weeks ago took place about three years into a long-running dispute. Previously, a worldwide freezing injunction was granted over the defendant's assets. However, it recently came to light that while the order was still in place, the defendant sold a property in his partner's name and presumably dissipated the proceeds, most likely out of the jurisdiction.

In view of this development, the claimant's solicitors sought counsel's advice on what could be done to remedy the apparent breach. The barrister set out a few possible steps the claimant could take, including applying for another freezing injunction or presenting a bankruptcy petition.

In my view, though, his most valuable contribution was underlining two key points: (i) the lack of practical effect these steps would have on the defendant, as the funds were likely long gone, and (ii) the high costs that would be incurred by the claimant for little to no return. The solicitors then relayed the lay client's concerns about 'throwing good money after bad' and, after many years of fighting, it seemed that the claimant was minded to walk away.

Observing this conference reminded me that sometimes counsel has to advise against taking any or further legal action. This is not always easy as it can be difficult for clients to

accept that they will not be compensated for a loss they have suffered. It is a barrister's job to be honest and pragmatic, though, so it is crucial that as pupils we work on getting comfortable with having difficult conversations.

A top tip I was given by a colleague at the start of pupillage was that when you are shadowing barristers, whether in court or in conferences, make a note of turns of phrase that you like the sound of. I am sure that I will refer to my record of short quotes when I am on my feet to help me navigate challenging conferences.

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