

Blueprint for Returners and Movers- A Guide to Best Practice for Chambers

Introduction

The Talent Retention Scheme provides support to Middle Temple barristers who are either returning from time out of practice (a “returner”) or switching practice areas (a “mover”).

The scheme is open to men and women, and all barristers, employed and self-employed.

Time out of practice may be for any reason including parental leave, adoption leave, caring responsibilities, health reasons, further study, or time-out to pursue other ventures. Movers could be changing discipline because they are excited about a new challenge or because their practice is not compatible with family or caring responsibilities, other commitments, or has become difficult to sustain for various reasons. For example, criminal barristers moving to family or regulatory work; self-employed barristers becoming employed, or vice versa.

Supporting returners and movers is a concrete way of encouraging diversity, equality and inclusion. We know from BSB statistics that women and those from minority ethnic backgrounds leave the profession in higher numbers than that of their white male counterparts, particularly around the 10-year call level. This is a problem.

Returners and movers offer cognitive diversity and will bring different approaches, skills and experience to enrich the offer of the organisation that takes them on. A mindset that encourages long-term thinking within chambers is to be encouraged.

In order to support movers and returners Middle Temple have produced a set of guidelines which will be published on its website. We would ask chambers to consider them and whether they could adopt these practices so as to support those returning to self-employed Bar.

Middle Temple Returners and Movers Guide

The Bar has a problem around the retention of women and those from minority ethnic backgrounds. The representation of both drops off at around 10 years call.

The reasons behind this are multi-faceted, systemic, and complex.

As a profession we are losing talent and we risk becoming less representative of the public that we serve. A Bar that does not represent fully the society which it serves risks being perceived as out of touch, which, in turn, undermines the general public’s confidence in our judicial system.

As a profession we wish to play our part in reversing the attrition rates that we see today. At the self-employed Bar we recognise that chambers play a crucial role in doing so.

What can chambers do?

We would encourage all chambers to adopt the above commitment by means of implementing practical changes. It is important to emphasise that the onus should be on chambers to be proactive and supportive of those who have/need to take time out from practice.

A chambers-wide approach is crucial to successful implementation of this initiative and members (of all levels of seniority) will need to buy in and support potential colleagues who are returning or moving practice areas.

One of the most important ways we can do this is by the tone and culture we create within chambers. Actively look at how as a set you are encouraging returners to the Bar. Considering these guidelines and whether any of them can be implemented is an excellent start.

Chambers needs to address how it will consider applications from those who have had lengthy periods of time away from the Bar. Are such applications even considered? If not, why is this? Is chambers effectively 'pricing people out' due to rent structures?

Below are ideas chambers could adopt to: a) avoid people leaving in the first place; and b) encourage returners.

1. Within chambers, to prevent people leaving, when special arrangements are requested, consider positively and ask, is there any reason why this cannot be allowed? What can we do to make this happen?
2. Consider allowing up to a minimum of 5 years away from chambers with a 'right of return'

For returners

3. Be positive and openly encourage those who have had long periods of time away to apply.
4. Consider a rent-free period in order to make the transition easier. For some tenants, this may already be captured in their parental leave policies. For others returning after long periods of time away parental leave or other policies will not be of application.
5. Therefore, chambers ought to think about adopting a policy specifically for returners to include:
 - Not charging up front rent for as a minimum the first 6 months of return
 - Making contribution reductions for as a minimum the first 6 months of return
 - Interest free loans for new returners to ensure there is an income coming in.
 - Introductions to key chamber's clients- e.g., arranging secondments in firms
 - Ensure the returner is actively clerked and full practice reviews take place before commencing and every 3 months within the first year.
 - Be transparent about work allocation and work opportunities (using LEX or other such systems) and include this within your practice reviews.
 - Arrange for mentors for the returnee within chambers and/or outside of chambers (Middle Templars can become involved as coaches or coachees)
 - Adapting and replicating existing policies for pupils/3rd sixers/junior tenants around work allocation e.g., placements in solicitor's firms.

Practice Management

Arrange a practice review with the member of chambers in advance of any period of leave and agree between you a structured plan for their departure which includes notifying colleagues and clients and establishing what level (and type) of contact chambers will have with the member of chambers. Everyone's experience will be unique and therefore all parties should keep lines of communication open.

Clerks and members should maintain the agreed level of contact during the period of leave and the member of chambers should be included in invitations to chambers wide events (assuming no agreement to the contrary has been made). It is important for those on leave to remain connected and part of the chambers community, if they want to.

Periods of leave take many different forms, but where there is a planned absence and return then around halfway through the period of leave, it would be wise for the MoC to speak to their clerk about when they will return and what form it will take.

This information can then be filtered through to the whole clerks' room and as their return date draws nearer, then all of chambers should be notified of the MoCs return. There should be a collective desire throughout all of chambers (staff and members) to invest time and energy to initiate the MoCs practice:

- The MoC should reconnect with previous clients (the clerks' room can of course do this too)
- Leaders should be encouraged to consider returners for new opportunities on cases they are currently working on (this is mutually beneficial because the returner is likely to have good availability)
- Clerks can use this time as an opportunity to re-introduce the returner to the market, therefore allowing fresh introductions to new clients
- Marketing departments can also carefully seek out events which might broaden the exposure of the MoC (and this may also assist with CPD requirements), whilst also keeping in mind that time for such activities may be less than pre-leave
- Greater assistance may be required from marketing departments and clerks for directory submissions, so a good understanding of how periods of leave are dealt with by Chambers and Partners and Legal 500 should be encouraged