

# 241209 - Sam Townsend - WillEdit-enhanced

[00:00:00] **Sam:** So the Bar Council is roughly 115 representatives of the 18,000 strong, or nearly 18,000 strong bar. So that is all barristers, of whom roughly 15,000 are self [00:00:15] employed, 3,000 are in employed practice, and overall about 2,000 of those are KCs or King's Council. The Bar Council is, acts in the interests of the Bar and in the public interest across a range of [00:00:30] things, everything from quite famously, um, lobbying in respect of remuneration for the publicly funded bar, uh, through to, um, submissions, detailed submissions on legislation. [00:00:45]

[00:00:45] **Sam:** Uh, and, uh, looking at entry, training, a whole host of things. We have 13 committees, uh, and overall, there's about 350 barristers that give their time for free to Yes, one of [00:01:00] them. Yeah, and thank you for that. So my job then is I was elected by, by the Bar Council to be first vice chair and then chair. And, uh, the chair year is a sabbatical year.

[00:01:13] **Sam:** Yep. And, uh, I, I [00:01:15] lead the work as a sort of executive chair along with our excellent staff for, uh, 2024.

[00:01:22] **Sally:** Wow. Well, that's, that's quite a lot there. So let's go back to the beginning then about your own career. I'll come back to some of the [00:01:30] work you're doing at the Bar Council in the moment and what you've been doing in your year.

[00:01:33] **Sally:** But why did you Come to become a barrister. And how did you come? Did you know people in law? What attracted you to becoming a barrister? If we go back to the beginning of your career, if you like. [00:01:45]

[00:01:45] **Sam:** Yeah, of course. So I was brought up in Stanford Hill in Hackney, uh, wholly state educated. I was fortunate to go to Cambridge University to study history, where I was one of the last beneficiaries of a local authority [00:02:00] grant.

[00:02:00] **Sam:** Do you remember those Sally? Yes,

[00:02:01] **Sally:** yes, they were great, yeah.

[00:02:04] **Sam:** So my father was an architectural salvage dealer, my mother stained glass painter, so crafts really, and no lawyers in the family, no [00:02:15] lawyers amongst family friends. So really it was only something I read about or saw on TV. Uh, so I then studied history.

[00:02:24] **Sam:** And then I wasn't really sure what to do. I applied for the [00:02:30] civil service fast track, got through the exams, but then unfortunately failed in the, um, in the board, the civil service fast track board. So I then went on and had a year out, not really knowing what I was going to do. In fact, worked on a [00:02:45] demolition site for about six months, gained a bit of money and, um, uh,

[00:02:51] **Sally:** Hang on, did you know what you were doing?

[00:02:52] **Sally:** I know you're a constr Well, we'll come to your specialist in the moment in construction. That's extraordinary! [00:03:00] Well,

[00:03:00] **Sam:** yeah, history doesn't really set you up for it, but um, it was a good way of earning a bit of money, seeing a bit of, uh, bit of London. And that time I did fit in first a VAC placement [00:03:15] with a famous law firm, city law firm, and a couple of mini pupillages.

[00:03:21] **Sam:** And it was quite clear to me that being a solicitor was not for me. Uh, I mean, it, uh, it was dull as [00:03:30] dishwasher, I have to say. So, uh, whereas the, I think it was to Bedford Rose, the, the first. First one I, I, I went to as mini, uh, and that definitely more suited my interest [00:03:45] and I hope aptitude. So I, I then, um, then joined it in Lincoln's in and, um, and then everything else followed.

[00:03:52] **Sally:** Yes. Yes. I suppose that's the power of work experience, isn't it? For young people listening, you know, actually seeing the job [00:04:00] in real life and then working out which bits attract you and which bits don't and what's for you and what's not. So. Yeah. Yeah. Fortunate, really. And so your specialism there, why did you choose that?

[00:04:11] **Sally:** Why did you go into the areas that you, you practice in? [00:04:15]

[00:04:15] **Sam:** Yeah, well, initially I thought I wanted to do public law planning, that sort of thing.

[00:04:21] **Sally:** Yeah.

[00:04:21] **Sam:** Uh, so through the gateway as it, um, I applied mostly to planning sets, uh, but I wasn't really fixed on [00:04:30] it and, um, applied to some chance resets and then had a spare day while I was doing my law conversion course and Keating Chambers at that point was off the gateway.

[00:04:40] **Sam:** And so, uh, I had the time and filled it in and Ultimately, I [00:04:45] had three offers and it was the best one. So I just went for that luck rather than judgment, to be honest.

[00:04:55] **Sally:** But you you've been there since, because, you know, these days people move about, don't they?

[00:04:59] **Sam:** [00:05:00] Yep. No, since 1999. Yep. With, uh, Lord Justice Coulson, as he now is, is my first pupil master.

[00:05:08] **Sam:** And then Mrs. Justice Jefford as the second. Legal powerhouses.

[00:05:13] **Sally:** Absolutely, and [00:05:15] Lord Justice Coulson is the treasurer of Gray's Inn, in my inn. Yeah, exactly. What an interesting year. Can you give us a taste of what an average day might look like for you in your barrister practice? I'll come back to the Bar Council.

[00:05:29] **Sally:** Of [00:05:30] course.

[00:05:30] **Sam:** So I'm, I'm standing council for a body called the National House Building Council. So they do insurance on all new build residential accommodation here. So I do quite a lot of their work and a lot of it's about [00:05:45] defects, delays in building large onshore and offshore projects going wrong. So I've had some really fun things like the, you know, the land masses off Dubai.

[00:05:59] **Sam:** Um, [00:06:00] the world and all of that, you know, is very understated names. I've been involved with a, um, a offshore dredging company that reclaimed those bits of land. So that's quite interesting seeing all the kit in operation and the cost [00:06:15] associated, you know, the size of these things is extraordinary. And then, uh, unfortunately, you know, quite a lot of the issues around fire safety come to the construction bar at the moment.

[00:06:26] **Sam:** And we've got the new Building Safety Act, which is being [00:06:30] implemented. So it's a whole host of different cases. The average day, uh, I suppose it, it depends really whether I'm in trial or out of trial, out of

trial. It may be pleadings with a, um, with a conference at some point, and then in [00:06:45] trial, the trials tend to be reasonably lengthy between two and four weeks can be longer.

[00:06:51] **Sam:** So yeah, and then I'm obviously full tilt at, uh, working or in court.

[00:06:58] **Sally:** Just whilst we're talking about sort of your [00:07:00] day to day, have you got a case that's memorable to you, um, and, uh, or has meant kind of the most to you. Uh, and for me, it remains some of the first cases I did where, you know, suddenly you're on your [00:07:15] feet and getting results for people, um, who were really impacted.

[00:07:19] **Sally:** Other people say, Oh, it was a case that set me into, um, to think about silk. I think, um, or other people say, you know, it was this case which led to me applying for the bench or [00:07:30] whatever. Have you got a case that's been. Memorable, um, to you?

[00:07:35] **Sam:** Yeah, well, certainly there's one that, that I do remember quite well, because, um, my opponent and I was in the Court of Appeal, case called, [00:07:45] um, Manalit and Hastings Borough Council, and it was the first litigated, um, claim for compensation under the Building Act.

[00:07:55] **Sam:** Uh, section 106 and, um, I was [00:08:00] acting effectively for the creditors of the tenants on this pier. Uh, the pier was, was, uh, burnt down ultimately. Um, and so there was a claim, uh, earlier than that, [00:08:15] they'd stopped. The local authority had exercised its emergency powers to get on the pier, uh, to prevent anyone from going on the pier.

[00:08:24] **Sam:** Anyway, it was, it was, um, fascinating stuff, but, uh, my, my oppo and I thought [00:08:30] we'd done everything we should have. And I can remember Lord Justice Jackson saying, well, this is all very well. We want a, an agreed history of the legislation. So that taught me a lesson actually, that. Uh, you know, when it [00:08:45] comes to appellate advocacy, you really have to cover all grounds.

[00:08:50] **Sam:** But that was, uh, yeah, a surprise, uh, but, um, one that, you know, I still learn, learn from. But it then did, we went [00:09:00] on, had the final hearing. In fact, they didn't refer to the history at all, of course. And, um, Fortunately succeeded, uh, in the, in the, in the further substantive hearing. So that was, uh, but certainly a, uh, a very [00:09:15] memorable experience.

[00:09:16] **Sally:** Yes. Well, I will ask you a bit later on about what makes a good advocate, particularly at your end in Silk, where it's largely appellate advocacy, as opposed to the day in day out, I suppose, trial advocacy. So I'll [00:09:30] come back to that question, but Um, if I may, I wanted to ask you about an average day by comparison as chairman of the Bar Council.

[00:09:39] **Sam:** Wow. Yeah.

[00:09:40] **Sally:** Because that job, I mean, you've been to all sorts of places.

[00:09:44] **Sam:** Yeah, but there's [00:09:45] absolutely no average day, to be honest, Sally. Today is quite different. Um, pleasant because I'm, I'm, I'm sitting here chatting with you in the little chairs room, but it overlooks Lincoln's in field. So that's rather, uh, [00:10:00] Lincoln's in, I should say that's very pleasant, but the one thing about this job as chair is never mundane.

[00:10:06] **Sam:** I mean, it's always very engaging. Uh, the range of people, uh, that, that, that I, that I get to meet, [00:10:15] uh, whether it's the bar people that use the bar, civil servants, ministers, senior judiciary, fantastic, uh, journalists and I dunno whether you'd call yourself that Sally or not, but anyway, podcasters, [00:10:30] yes. Um, and, uh, the range is tremendous.

[00:10:34] **Sam:** And I, you know, I'm quite a sort of, uh. slightly highfalutin construction practitioner, but I've, I've had to spend an awful lot of time and effort getting on top of the [00:10:45] issues that face the family bar, the criminal bar, public law bar, immigration, and so on. Uh, and that's been, that's been great. I mean, I love the mix of legal policy and bar politics and that sort of [00:11:00] mix of the professional with the political has been absolutely fantastic.

[00:11:05] **Sam:** I can't tell you that there is an average day because genuinely there, there isn't.

[00:11:10] **Sally:** Yeah. Yes. And tell me when you thought, ah, [00:11:15] I'm going to put myself up for election and hope people vote for me, um, or whatever. What's kind of, what was the catalyst to that? Um, or did you think you were ready?

[00:11:25] **Sam:** Uh, well, um, I've always, Been [00:11:30] involved in bar politics and politics more generally.

[00:11:32] **Sam:** We could talk about that if you, if you want.

[00:11:34] **Sally:** Yeah.

[00:11:35] **Sam:** And I was, I was in the, uh, I was on the young bar committee with people like Tom Little, who's the treasury devil at the moment.

[00:11:42] **Sally:** Yeah.

[00:11:43] **Sam:** Um, someone called [00:11:45] Sweller Braverman. Do you remember her? She was on the young bar committee with me. Um, and, and, and, and others, Ben Rigby, the journalist.

[00:11:54] **Sam:** Um, and so I've always interested in that. In fact, then I got [00:12:00] slightly distracted from bar politics by real politics, and I, I was for a period a Labour councillor in London Borough of Lambeth, and I stood for Parliament a couple of times latterly in 2010. [00:12:15] Unsuccessful, that wasn't a good Labour year, as you may remember.

[00:12:18] **Sam:** Uh, and then I sort of left that behind really, and back into the Bar Council work, in particular on something called the Legal Services Committee, [00:12:30] which is the court facing committee that looks after the bar's interest in the operations of the courts and more generally in ADR and direct access. Um, and so then, [00:12:45] uh, gradually became Chair, I think I was appointed in, uh, following, uh, Derek Sweeting, uh, and then elected vice chair and so on.

[00:12:56] **Sam:** The rest is history. Yeah. So that's, that's my, uh, [00:13:00] that's my pathway to it.

[00:13:02] **Sally:** Hmm. But did you think, um, you know, there'll be a need for you to be issuing statements so, so often and so, so quickly, you know, suddenly there's a budget and there's no, you know, funding for the criminal justice system. And [00:13:15] so I, you know, in, in my inboxes.

[00:13:18] **Sally:** a message from bar, you know, the bar chairman of the bar, then that, you know, politician calls fat cat lawyers or whatever it is, chairman of the bar has to issue a commentary. To be fair, your, your, [00:13:30] um, counterparts of the law society have to do a lot of this similar work, um, as well. But did you, did you realize that there would be so much blogs, policy, press, You know, an article every month in [00:13:45] Council Magazine, all of that.

[00:13:46] **Sally:** And were you equipped, I suppose you were actually equipped for it, given what you've just said about.

[00:13:51] **Sam:** Well, I also make a, made a deliberate choice early on that. I thought that part of the Bar [00:14:00] Council's way in which it might achieve change is through the media. Now, it's not everyone's favorite thing to do.

[00:14:10] **Sam:** I certainly know one of my predecessors that really didn't like [00:14:15] dealing with the press and the media at all. But for me, We, I knew it was going to be an election year.

[00:14:23] **Sally:** Yeah.

[00:14:24] **Sam:** And also post election, of course, there's the first budget, both of which we've now [00:14:30] had. Yeah. And I felt that it was important to give the Bar Council as high a profile as possible to try and just edge justice up the political and public.

[00:14:42] **Sam:** Policy agenda [00:14:45] because we're competing, frankly, with all the other public services, health, education, and so on, as it happens, there are a number of events, weren't there, which put justice on the map, whether it's to do with prison shortage of [00:15:00] prison places, the early August Riots, uh, and, uh, and, and in particular, also the, the sad, but trading of, um, insults really over Keir Starmer's [00:15:15] professional past.

[00:15:16] **Sally:** Yes.

[00:15:16] **Sam:** Uh, that's where we started off at the beginning of the year with, you know, him being blamed or, um, for taking instructions 30 years ago for, um, his book Torea. Um, and so [00:15:30] you'll recall. All of that and the, so I felt one, it was necessary to correct the record. Barristers should not be associated with the causes or character of their clients, however high or low they may [00:15:45] be, but also to try and push us up the policy agenda so that then there's an increased chance of visibility and therefore funding and policy thought into the justice system, which in many respects.

[00:15:59] **Sam:** [00:16:00] Is very successful, but in so far as the public funded aspects of it are really on its knees.

[00:16:07] **Sally:** Yes, quite. Now, um, Sam, I want to ask you some sort of advice, if you like, for, [00:16:15] um, different parts of our legal community, I suppose. The first is people who are entering the profession currently looking for pupillage or looking for, which is the training aspects of our job.



[00:16:29] **Sally:** Have you got [00:16:30] any kind of advice and guidance for aspiring barristers or aspiring lawyers? Um, And then I'll move on, maybe three quick tips, if you like, of anything you can say, reflecting on your career and otherwise.

[00:16:43] **Sam:** Absolutely. What [00:16:45] the first thing is take heart, because Although people often say one of the reasons that people don't come to the bar and they end up going to down the solicitor route or a different route is that they are concerned about, [00:17:00] uh, the, they see it as very risky.

[00:17:02] **Sam:** In fact, I mean, that no doubt there are absolutely risk and you do get into tremendous debt, albeit that the inns and others can assist in relation to ameliorating that. [00:17:15] But the way that entry has gone is that you now have roughly 94 95 percent chance once you've got pupillage of getting tenancy. And then once you're through that gateway, Really, [00:17:30] uh, the bar is a really good and safe profession.

[00:17:34] **Sam:** So you don't have provided your competent and your, you, you also choose a competent chambers and almost all, all of them are [00:17:45] you, you then actually, in some respects got a job for life, which you can't really say that about any other career. So take heart that if you, if you get through that initial phase, Chances are you're, you're there for as long as you want it.

[00:17:59] **Sam:** [00:18:00] Secondly, my particular tip is try to get as near as you can to doing some advocacy, uh, uh, in some way or another. Now that might be if you have time and you've got the, the, the, the, you, you, [00:18:15] you're able to afford it, but giving advice in law centers. or, or citizens advice. It might also be, and I, I was treasurer of the free representation unit when I was, uh, before peoplage and [00:18:30] during peoplage, it might be through the free representation unit doing some advocacy.

[00:18:35] **Sam:** I mean, there's nothing like, in fact, one of the, one of the times I felt This is definitely what I want to do is when [00:18:45] I appeared in an employment tribunal for instructed through fruit. And, and that had all the, although I don't do any employment now, certainly no one would want to instruct me on an employment case.

[00:18:57] **Sam:** Uh, it, it was at the time I was [00:19:00] obviously helping out the. applicant who, you know, I would, I was many times better than, um, than, uh, he would have been had he just represented himself. Uh, and so that all [00:19:15] that, that, you know, employment tribunal had all the aspects of any other, any other civil trial. So that was, uh, that was terrific.



[00:19:23] **Sam:** Um, so I, I recommend that, but also importantly, it allows you to decide whether it really is the [00:19:30] job that you want to do. And gives you a proper taste for it, but it gives you a point of difference, something to talk about in your interviews. And I, I do think you need some way of bridging that gap between yourself and the [00:19:45] interviewers.

[00:19:45] **Sam:** One of those will be, you know, anecdotes from, from the hearing or what you learned, what you found challenging that they'll understand that those on the panel. So I think some kind of advisory and. Advocacy [00:20:00] experience, if you've got time and can afford it would be invaluable when it comes to trying to get into trying to get a pupillage.

[00:20:09] **Sally:** Yes. Let me just move on then. What about people, I call them the squeezed middle. [00:20:15] I saw it, um, in a conference I was asked to speak at recently. I was talking about recent adjustments in employment law, but, um, the other parts were really interesting. The squeezed middle are kind of the 10 year, 12 years plus call in, [00:20:30] uh, experience, whether it's barrister or solicitor or other professions who are thinking about career progression.

[00:20:36] **Sally:** Yeah, beyond. So in our job, you are in silk. I think you said to me, there is a year between us in our call. You've been at the bar probably [00:20:45] 26 years. I've been a 24 years or 25 years, whatever. Any advice for people, particularly women, because you know, the attrition rates are still not brilliant by that, you know, women just leaving the bar.[00:21:00]

[00:21:00] **Sally:** And leaving the profession and any advice at all you can say about people perhaps like me who might be thinking about applying to be KC or just thinking about regression.

[00:21:10] **Sam:** Look, this is an area which really concerns me. So [00:21:15] we've had a period where one in two criminal barristers at that seniority left crime.

[00:21:22] **Sam:** I mean, that's terrible. That's terrible. We have, we see in that area of [00:21:30] seniority, more women leaving the bar, at least for prolonged periods of time than others. Um, we see it on the attorney general's panel of junior counsel, women falling out and people of color falling out of the, [00:21:45] so that retention and progression piece is.

[00:21:50] **Sam:** Is is probably more of a concern now than entry in terms of diversity and inclusion. It's been a focus of [00:22:00] mine in this year as chair,

and it's something that more work is, of course, required. We've seen just specifically into Silk over the last three years, there have been [00:22:15] some improvement in terms of.

[00:22:18] **Sam:** Asian and mixed race backgrounds, but people getting silk, but not black candidates at the moment. Um, and so that, that really [00:22:30] needs invest careful investigation and, uh, and, and looking up as to why that may be. Tips, I think the thing is to be, try to be, step back and try and [00:22:45] think about what your 12 cases of substance might, might be.

[00:22:51] **Sam:** It may be, and people do this all the time, across the world. uh, commercial law, certainly, and other areas of law, [00:23:00] that to expand your, sort of, offer to KCA, you might want to take on one or two cases pro bono, if you can afford to, again. But hopefully, if you're heading towards Silk, there is time to manage.

[00:23:14] **Sam:** [00:23:15] manage that, I, I hope. So then you would take on cases which you wouldn't perhaps otherwise normally do, that just stretch the range of your practice. And that's something that Advocate, um, can assist with. So I think that is [00:23:30] something you can do. But it's also just, just try to step back and, and be a little strategic.

[00:23:38] **Sam:** Obviously, all consistent with and so on. But are there things that you could do [00:23:45] to Improve the the proverbial CV case CV for applications. The other thing I would say, though, is that there's a confidence issue here [00:24:00] and. There's clearly a gender divide. So men tend to apply. I mean, there are stats on this, about three years earlier than women.

[00:24:09] **Sally:** Yes, I've seen them. It's the same year and year.

[00:24:11] **Sam:** It's same every year. And so I would say [00:24:15] women should be more confident about applying. You see the criteria and you think, well, I haven't ticked off all of these and therefore I won't apply this year. No, go for it. And then perhaps, um, I mean, I didn't get it first time [00:24:30] round, then perhaps go slightly early, perhaps.

[00:24:34] **Sam:** In any event, there are some excellent mentoring schemes around. Um, and, uh, I think, I think people should be particularly [00:24:45] women should be more, more positive about going for it. Um, that's, that's my own view, but on progression, we have some wonderful leaders of the bar, uh, who are representative. So this year, um, [00:25:00] we have, um, and you've

spoken to him already, Jason Pitta, uh, the first black leader of the Northeastern circuit.

[00:25:08] **Sally:** Yes.

[00:25:10] **Sam:** Uh, there's, uh, an Asian leader, um, of the Midland Circuit.

[00:25:15] Obviously, my brilliant vice chair, Barbara Mills KC, will be the first person of color to be chair of the bar next year. Mm. Uh, AMRI Corder is the chair of the young bar, uh, of, um, Asian [00:25:30] extraction. So there's some, there's some, uh, insofar as it's necessary to, uh, to see the change in order to, to.

[00:25:41] **Sam:** I think we're starting to get there, but, um, [00:25:45] uh, in leadership and in progression, but there's plainly a long way to go.

[00:25:51] **Sally:** Yes, and, and one of the few positives are actually your current vice chair is Barbara Mills Casey, who will be, who is the [00:26:00] first black female chair. And when she succeeds you, her chair will be Kirstie Brimlow Casey, Doughty Street, who I've interviewed.

[00:26:08] **Sally:** And the treasurer will be, um, Lucinda Orr, so it'll be an all female team.

[00:26:14] **Sam:** All [00:26:15] female. One of them's an employed barrister. That's uh, that's good too in terms of diversity. So, yeah, that's tremendous. So, um,

[00:26:23] **Sally:** yeah. A lot going on. Yeah. Let me ask you, um, perhaps [00:26:30] maybe a difficult question, um, if you like, which is this that the bar standards, there are several consultations going on at present.

[00:26:39] **Sally:** The Harmon report, which is, uh, looking at harassment of the bar.

[00:26:44] **Sam:** Yeah. [00:26:45]

[00:26:45] **Sally:** Um, and then the BSB, which are a regulator of barristers, um, are, uh, consulting on a positive duty for barristers to ensure there's diversity, equality, and inclusion. I often [00:27:00] say equity and inclusion. And there's a backlash about that positive duty on barristers, if you like.

[00:27:08] **Sally:** Uh, because balancers, um, don't think that that needs to be a compulsion, because it means you can be disciplined effectively [00:27:15] if

one were to fail. Now, it's only a consultation, but I wonder, tell me, why is there such a backlash against it? Because surely it's the same as the public duty on public bodies.

[00:27:27] **Sally:** For example, why are barristers, [00:27:30] some barristers, so disheartened by this attempt to just try and create a more inclusive bar?

[00:27:37] **Sam:** I'll take the second point first, the Bar Standards Board rather than the Harmon Review. The Bar Council has issued a draft, [00:27:45] a proposed response that we'll be lodging Uh, shortly, and by the time this podcast comes out, that will, that will be lodged.

[00:27:55] **Sam:** I'm sure that we are firmly behind [00:28:00] greater diversity, equality, and inclusion at the bar. Um, our issue with the draft, amendments and the change to the core conduct duty is as much as anything [00:28:15] because we think it'll make the position worse, not better. So amongst those proposals is, um, for example, removing the mandate to have equality and diversity offices in chambers.

[00:28:28] **Sally:** Yeah,

[00:28:29] **Sam:** I've seen it. [00:28:30] Um, we think that that is a bad thing to do and that it risks, in fact, rather than Every single barrister, many of whom are extremely hard pressed with work, and you know, Sally, [00:28:45] this as much as I do at the Criminal Bar, how tough day to day life can be, the idea that every single barrister would take responsibility to.

[00:28:56] **Sam:** and there would be no one organizing, corralling, [00:29:00] persuading people in chambers to, for example, undertake some bystander training. We, we think that, that, that has a real chance of a detriment. Uh, so we, we, we oppose that removal of the mandate to [00:29:15] get rid of EDOs. Overall, the duty is, um, uh, uh, unclear as to how it would apply, uh, and how, what the practical consequences of it would [00:29:30] be, whereas the non discrimination provision is, is right.

[00:29:34] **Sam:** We also think that the Bar Council, Specialist Bar Associations, Inns, and so on, are much better placed [00:29:45] to lead the work on equality and diversity than the Bar Standards Board. Who are necessarily have rather blunt instruments of [00:30:00] sanctions and so we think there needs to be a effectively a redoubling of efforts by the bar and we're, you know, we're pleased that they've raised it to that extent and you'll have seen

from our proposal some [00:30:15] of the positive ideas that are raised that we endorse and adopt.

[00:30:19] **Sam:** But at the same time not. pushing everything into the regulatory sphere, uh, where there's a risk of, uh, of one, it [00:30:30] being unenforceable, or two, it being oppressive, uh, and, and therefore I'm persuasive. You need to carry hearts and minds with you. And we just think sadly that the bar standards board simply have not even attempted that.[00:30:45]

[00:30:46] **Sally:** Okay. Okay. Um, and then the, um, Harmon, um, review. Yeah. Is that still necessary?

[00:30:57] **Sam:** We've, we have the working lives [00:31:00] survey every other year.

[00:31:01] **Sally:** Yeah.

[00:31:02] **Sam:** And each year over the last three sets of two years, the reports that we get back on bullying, harassment and discrimination have got Yeah, [00:31:15] and they're roughly of the 3000 or so who responded 1300 that said that they had witnessed or experienced one of those three, at least in the last two years, that is [00:31:30] a large number, which cannot be ignored.

[00:31:33] **Sam:** We also have our excellent anonymous reporting tool called talk to spot, which allows anyone that considers they've been a victim of. Uh, these [00:31:45] behaviors to report independently through the Bar Council their experience and then it's up to you. You control the conversation with our excellent, uh, Equalities team here.[00:32:00]

[00:32:00] **Sam:** Uh, and you can decide whether or not, for example, you wish it anonymously to be passed on to judicial authorities or if there's anything else that can be done. Um, and it's an exception to the requirement for serious [00:32:15] misconduct to, for, for those who administer it to report it to the Bar Standards Board.

[00:32:19] **Sam:** So it gives the victim, the complainant, the control of what happens while acknowledging it is happening. And it also allows the Bar Council then to have some [00:32:30] data about what is happening. And so we've had many years now of seeking to improve the position. We don't think, and I've got. On our EDI committee, we've got some of the country's leading practitioners in [00:32:45] equalities and employment.

[00:32:46] **Sam:** Um, but we collectively thought some outside, uh, input might come up with some new ideas. Uh, and so, um, At the beginning of the year, I asked, uh, Baroness, well, now Baroness Harmon [00:33:00] to lead that review. And it's very much a solutions based review. So it's going to be focused on what can we do to solve these problems or to nip them in the bud.

[00:33:10] **Sam:** It's not going to rake over. the question of [00:33:15] whether there is a problem and the, you know, the details of the problem, save in so far as it's necessary to come up with the solutions. But it's, we accept there's a problem at the bar, as there are in many professional settings. [00:33:30] And to try and move on from that, what can we do to try and reduce that, suppress that, eliminate it from, from our profession?

[00:33:39] **Sally:** Yes. Well, I look forward to the outcome. I've submitted my views. [00:33:45] And so, uh, uh, I, I look forward to it. You've been, um, very good at getting out of the circuits, the legal world or the legal center is very London focused and London centric. Um, and there's [00:34:00] a perception that one can't succeed unless you're in London.

[00:34:03] **Sally:** Uh, and that's something that I've been very keen to dispel, but still there it is. And in your tenure, you've been working quite hard to get out and about. onto the circuit. So firstly, just [00:34:15] explain to, you know, somebody in the Bahamas, what the different circuits are. Why has it been really important in yours?

[00:34:21] **Sally:** Let's say with other, um, chairs, I think that you've been very keen to get out and about, um, and [00:34:30] go on the circuits, beats barristers and actually, you know, go to their messes, have, um, you know, really important, meaningful. I don't say that the others didn't do it. They did, but it feels a bit more meaningful.

[00:34:43] **Sally:** Um, now, why have you [00:34:45] been keen to take that on? And what are the circuits? I know, obviously, but

[00:34:49] **Sam:** it's better, you know, I'm now a Northern circuit here because I've been so often to the Northern circuit.

[00:34:56] **Sally:** You might as well get a chambers there or a flat at the very [00:35:00] least, constantly in Manchester

[00:35:02] **Sam:** and Liverpool.



[00:35:02] **Sam:** Well, it's great, some great courts in both those fantastic cities. Um, I mean, I, I was particularly conscious that I'm a London practitioner. I, while I chaired a bar [00:35:15] council committee, I was never a circuit leader, unlike some previous, uh, chairs of the bar. So I felt it was particularly important for me to get, as you say, out and about.

[00:35:25] **Sam:** uh, to to the circuits to find out really what's going on.  
[00:35:30] Uh, I have a specialist practice, so uh, I really need to get under the skin of what what's life like on circuit, which are the the six regions of England and Wales. Wales is its own circuit and and [00:35:45] how are how are those How are the problems manifest and what what can we do collectively about them?

[00:35:51] **Sam:** And I've seen it as a very significant, I was very familiar with specialist bar associations, um, including my own tech bar, but [00:36:00] also the commercial bar and the professional negligence bar association. Indeed, I was on the executive of What's now called the London Bar Association for some years. So I was very familiar with that cohort.

[00:36:12] **Sam:** And of course the young bar committee and committees [00:36:15] generally. So circuits were the thing that I was less clued into. And then, um, I've been on many two day trips to each circuit meeting with the bar, going to the robing rooms, going to chambers, [00:36:30] meeting with the local judges, the resident judges, and taking from that.

[00:36:35] **Sam:** any, uh, feedback that I could then bring into my discussions with civil servants, ministers, uh, typically in London. So that, that's why, [00:36:45] that's why I was doing it. And yeah, it's been a revelation. And, um, after all, you know, every single member on circuit is a member of the Bar Council. So, yeah.

[00:36:59] **Sally:** paying their [00:37:00] memberships.

[00:37:00] **Sally:** Um, tell me Sam, um, what do you do to relax well being wellness? Do you have a favorite book? Do you have a favorite legal character? Why? And what do you do for your wellness and well being? The Bar Council's been very [00:37:15] keen. for us to improve our wellness and well being.

[00:37:17] **Sam:** Yeah. Well, it is, it's important, particularly given the pressures sometimes in this, in this job that, that we do take a step back.

[00:37:26] **Sam:** I mean, I've always run, so I love running. [00:37:30] I've got over 50 now on the park runs, you know, the Saturday morning runs. Yeah. Which is great. Fantastic. Well, I, the great thing is also, you can get it done by. you know, before 10 o'clock, you're, you're already back at home and [00:37:45] you can, can do the chores and so on.

[00:37:47] **Sam:** So I love doing that. I love watching sport. Uh, my kids both play cricket and football. So I like, I like seeing them to do that. And then as for [00:38:00] books, well, um, Uh, I, I enjoyed the Mandela Brief, Tom Grant's book about, um, Sir Sidney Kentridge. If you want a legal, uh, a legal book, it basically [00:38:15] takes you through all of Sir Sidney's major cases in South Africa before he came to, to, to London to practice from what's now Brick Court.

[00:38:28] **Sam:** I think he's a really [00:38:30] inspiring, I mean, he's, he's still with us, fortunately, and I think now 103 years old.

[00:38:36] **Sally:** I know, I tried to get him on this podcast. Yeah.

[00:38:40] **Sam:** Yeah.

[00:38:40] **Sally:** Wow.

[00:38:41] **Sam:** Yeah. So, so, so that, and [00:38:45] Tom's done a brilliant job speaking with him and many others in order to put that book together. So that would be the legal book, I suppose.

[00:38:54] **Sam:** And then, um, and the legal character, obviously the appealing one that people [00:39:00] often cite is Rumpole. Yeah. Does he appeal to

[00:39:04] **Sally:** you? Does he appeal to your income? He does,

[00:39:06] **Sam:** he does. I think there still are shades of Rumpol in aspects of our work. Now, clearly the TCC is a very modern court, no [00:39:15] wigs and gowns and so on.

[00:39:18] **Sam:** Uh, and you know, everything is backed up. It's all even electronic trial bundles and so on now. But nevertheless, I think the skills of advocacy probably [00:39:30] haven't developed. So much everything around the courts has, if you see what I mean, when it comes to the core of submission and cross examination. Those are skills.

[00:39:43] **Sam:** I think that are [00:39:45] are eternal. Uh, and so, uh, That's one of the reasons I, I rather like it. You know, you can see Rumpolla walking around the inns, can't you? Cause it's so old fashioned, some of the buildings and, and the presence. [00:40:00] So, so I think that, I mean, I also enjoyed Dislife. Do you remember that? Yes.

[00:40:05] **Sally:** Oh yeah.

[00:40:05] **Sally:** It's my absolute, one of my absolute favorite programs.

[00:40:09] **Sam:** Which is a bit of a contrast. Uh, and I can't say that sadly, my, [00:40:15] um, My life is, uh, as racy or exciting as, uh, as was shown in this life. But, uh, we're perhaps a little bit older than that now. Anyway, Sally, why not you?

[00:40:27] **Sally:** Well, I don't look it. I am [00:40:30] older. I just tell myself I don't look it.

[00:40:32] **Sally:** You

[00:40:33] **Sam:** don't. Yeah.

[00:40:34] **Sally:** Um, no, no, no. Excellent. And so, Sam, you touched on advocacy. What, in your view, makes a great advocate? Can you give some guidance there? [00:40:45]

[00:40:45] **Sam:** Yeah.

[00:40:45] **Sally:** Three pips. What makes a great advocate? More if you, if we have time, but what do you think makes a good advocate?

[00:40:52] **Sam:** The best advocacy training I ever had was given by Tim Dutton, who's a former chair of the bar, former [00:41:00] Southeastern Circuit leader, who set up the Keeble Advocacy Course, as you probably know.

[00:41:08] **Sam:** Tim, so I did his course in the relatively early years of the course, and he [00:41:15] spent an hour, I think, lecturing us on how to prepare a half an hour submission and part of that was, well, substantially, it was about preparation and he just [00:41:30] gave enormous amount of confidence. He was already in silk, I think, or not far off it.

[00:41:35] **Sam:** And he was at one of the premier commercial sets. I think Fountain Court still is. Um, and just to [00:41:45] hear him go through the steps, step by step of preparation for half an hour submission. This was in the civil case, obviously, just gave me enormous amounts of confidence because I was even three years in, I was worried I was sort of taking [00:42:00] too long to get to get.

[00:42:02] **Sam:** Prepared and that, you know, that was a deficiency on my part and actually you see these greats and they take a lot of time to prepare. So that's, that's, that's really number one. [00:42:15] Number two is the best bit for me of advocacy is cross examination of experts, partly because there's a tactical advantage.

[00:42:25] **Sam:** You always have, which is that they're paid to give evidence. Factual witnesses are [00:42:30] there as a duty and are not paid. Experts are, if you like, fair game, I always think, uh, cause they like us are just getting paid. And so they start off from a slightly sticky wicket, but the [00:42:45] challenge always is to get on top of the material, even though in my case, a historian and then a, then a lawyer, um, uh, and to try to work through how you're going to try to dissect, try to [00:43:00] bring out the points you You need for your case theory.

[00:43:04] **Sam:** And so that is, that's terrific. And so you, you do inevitably, I think, need help from your own expert, at least even just to test out some of the, [00:43:15] uh, not, not the questions of course, but the, but the, the general, the theory and the approach, and very often they can, they can unravel. Um, finally, I would say, keep an open mind as to new techniques and procedures.[00:43:30]

[00:43:30] **Sam:** I do quite a lot of arbitration and very often in arbitration there'll be presentations, powerpoints and so on by, by the expert. There will also be things, it's commonly called hot tubbing, giving, experts giving [00:43:45] concurrent evidence. While these are both involve us as advocates losing control to some extent, they are also opportunities.

[00:43:58] **Sam:** And I've had very, a [00:44:00] very successful cross examination. Really, by reference to one experts presentation that he only gave us the day before, but I got on top of the material from before [00:44:15] and then. I could use what was actually a pretty poorly put together presentation. He'd obviously left it rather late to do it.

[00:44:25] **Sam:** Uh, and that, that had real impact then on my [00:44:30] arbitrator. So keep an open mind as to different techniques and things. The other

thing is, you know, tribunals do sometimes like these new techniques. I was speaking to a commercial judge the other day who was thinking actually it [00:44:45] might be useful to have a 10 minute presentation in chief, as it were, by the expert.

[00:44:49] **Sam:** It's not something that's typically done. So I think we should all keep open minds on, on, on, on these things.

[00:44:57] **Sally:** And Sam, just explain what is an [00:45:00] arbitrator? People might not know. Okay. Yeah. As I say, you know, what is an arbitrator? How does one become an arbitrator? And how's that different if it is to, um, the legal space.

[00:45:11] **Sam:** Yeah, when it comes to, I mean, you can have arbitrators in all [00:45:15] sorts of fields. In my area of construction, if you have an international construction, engineering, infrastructure project with parties from more than one country, they will often seek to [00:45:30] agree that their disputes are resolved in front of a neutral tribunal.

[00:45:35] **Sam:** They, you know, And so they often, rather than the domestic courts and the domestic law of one party or the other, this gives the parties more [00:45:45] control about the process and, and it also allows for the dispute to be confidential. So it's quite an attractive proposition for major, for big parties. big companies.

[00:45:56] **Sam:** I mean, we're starting now to get arbitration in, uh, [00:46:00] other areas of law, such as family financial disputes, uh, partly actually to, so my, um, my successor, Barbara Mills, uh, sits sometimes as an arbitrator, and that's a way of speeding things [00:46:15] up given the delays in the court. So the parties, if they so mind it, can agree to refer a matter to say, She'll then decide it within four or five months, say.

[00:46:26] **Sam:** So there's a, it's a very flexible [00:46:30] regime governed by the 1996 Arbitration Act, which is currently under review by, in the House of Lords. And there will be some amend, an amendments to it to bring it bang up to date. And actually it's one of the reasons [00:46:45] why England and Wales is one, the second biggest legal market in the world, because we have this very sophisticated alternative to court that people can refer their disputes to.

[00:46:57] **Sally:** Interesting. If you [00:47:00] were to reflect on your year, what would you deem as successes for the year? You know, you've been so involved, for example, in legal policy. What would you deem as One of the

[00:47:10] **Sam:** really positive changes that's happened this year is the end to traditional the [00:47:15] routine producing of lawyers and judges by some in politics, um, wide alive, including by some lawyer ministers who really should know better.

[00:47:25] **Sam:** And so we now do, I think, have a collective government [00:47:30] commitment to upholding the rule of law and respect for the decisions of the court. So that I think is a really good. Change resources and investment in the system. The jury is still out. I mean, the devil is going to be in the detail of the [00:47:45] last budget.

[00:47:46] **Sam:** Um, I don't think it's going to be transformative, but if I can succeed in and I don't know yet whether I will, but in procuring sufficient funds for things like the match funded pupillage scheme, I've got some [00:48:00] increase in in prosecutors fees so that we bear down on the the ineffective trial rate by reason of there being no available barrister.

[00:48:09] **Sam:** Yeah, I actually think another great thing that would, you know, is a long [00:48:15] term solution to this horrendous cycle of fee debates, discontent, strike, and then fee increase in crime in particular, but also to some extent, immigration work would be, um, an independent [00:48:30] fee review body. Rather like judges have another public sector.

[00:48:34] **Sam:** So, um, some of these are longer term things and my success will hopefully take those on, but we mustn't forget that the, the, um, legal [00:48:45] sector brings in really valuable export money into this country. I think 7.6 billion last year. Um, and it contributes more in tax than is paid, the city [00:49:00] UK show this, than is, than it costs to provide the whole of the public justice system.

[00:49:05] **Sam:** So it's different in that respect to any other. Public service and I think therefore it should be treated differently and underpinning it [00:49:15] all is our court service and our judges. So we need to ensure that they plus the professions who service them get proper funding. That would be a longer term aim, but I'm hoping that we'll get something more before the end of [00:49:30] this year.

[00:49:31] **Sally:** Fantastic. Well, I think on behalf of the profession and those, um, who prosecute and defend the criminal bar where there are massive shortages, we hope so too. I mean, thank you for your efforts in trying to get some of those [00:49:45] increases through. Well, Sam, um, uh, talking of, uh, success. I think I've got two more questions for you.



[00:49:53] **Sally:** Uh, the first I want you to think about is, uh, what's next? You know, your year has been hugely successful, [00:50:00] challenging. Oh, that's

[00:50:00] **Sam:** nice of you to say. Thank you.

[00:50:02] **Sally:** Um, and, uh, you know, some of your, uh, predecessors, Max Hill, for example, who I was a huge fan of. I think Max was chair of the bar.

[00:50:10] **Sam:** No, he was, he was, um, chair of the CBA.

[00:50:13] **Sally:** Yeah, from the Bar [00:50:15] Association. But these various chairing opportunities have led to people being appointed to, um, the High Court, uh, the High Court, to, um, to the circuit bench as judges. And to others, you know, Max, for example, became the DPP, [00:50:30] the Director of Public Works. So I just wondered what's, what's next on the, on the success?

[00:50:36] **Sam:** Well, first, first priority is getting back to chambers. My sabbatical will be in an end and, um, you know, [00:50:45] uh, like most, we have to get back to work. Yeah. So that's the first thing. I have taken an appointment to be on the committee, the ethics and governance committee of Middlesex County Cricket Club, which I'm looking forward to.

[00:50:58] **Sam:** That's a voluntary thing. [00:51:00] It'll be nice. Then I'm thinking also of joining the Round Church Choir on Mondays, which I haven't had the opportunity to do, but Uh, I know that many at the bar, many judges like [00:51:15] if find singing very therapeutic. So I, I used to sing quite a lot. So I'm looking forward to going back to that.

[00:51:21] **Sam:** So that's a few things.

[00:51:23] **Sally:** Fantastic. And if there were to be a film of your life, you know, the construction [00:51:30] worker at the um, construction site who also became an estate agent. I forgot to ask you about that. That was my research along the route to becoming this hugely successful KC. Who do you think you'd like to play?[00:51:45]

[00:51:47] **Sam:** My word, my word.

[00:51:48] **Sally:** I know you weren't prepared for that. I wasn't

[00:51:51] **Sam:** prepared for that one. Who's that chap that did, does the great, the architecture program. Can you remember?

[00:51:59] **Sally:** [00:52:00] Um, someone will message me. I know, with the grand designs.

[00:52:04] **Sam:** Grand designs. I'll look it up. He's the one. Now people say that very flatteringly that I sometimes look like him.

[00:52:12] **Sally:** Oh, but I don't think he can act. [00:52:15] And also, I think you're blonde, not grey like he is.

[00:52:19] **Sam:** Uh, well that's, that's also very flattering and nice of you to say, but it's just, you know, Kevin MacLeod. I think, um, I think I might ask him to [00:52:30] give it a crack.

[00:52:31] **Sally:** Yeah, to, to, to step, to step in

[00:52:34] **Sam:** expand his, expand his range.

[00:52:36] **Sam:** Why not?

[00:52:37] **Sally:** Yes. Yeah. Well, rather than that, just, just doing this program. Well, Sam, it's been wonderful [00:52:45] interviewing you on talking more and find out more about your career and indeed your role at the Bar Council. Thank you so much for spending the afternoon with me.

[00:52:55] **Sam:** It's been a real pleasure, Sally. Thank you very much.

[00:52:58] **Sam:** And, uh, happy [00:53:00] birthday to the podcast. Now six years, I believe.