

Michael Gove's short tenure as Lord Chancellor was, on the whole, well received by the legal profession. His understanding of the Rule of Law, his compassionate approach to prisons and his willingness to repair the damage done by his hapless predecessor, the notorious Chris Grayling, earned him plaudits from across the political spectrum. Now banished to the back benches in the post-referendum aftershocks, he clearly retains a close interest in the justice system; whilst his successor, Liz Truss, barely managed a few words in defence of the judiciary who ruled that invoking article 50 required parliamentary approval, Mr Gove took to twitter with a robust defence of the wisdom and independence of our judiciary, to the approval of many.

Mr Gove continued in his role as the advocate of the justice system on the 16th November when he delivered the Longford lecture entitled 'What's really criminal about our justice system?' In a wide ranging many criminal practitioners will have found much to agree with; but Mr Gove, perhaps not for the first time in his career, waded into treacherous waters by arguing that barristers provided a 'better service' than solicitor-advocates. He takes this further by saying that only barristers should represent defendants in the Crown Court and that those solicitor-advocates who wished to retain their higher rights should requalify: understandably, whilst barristers have preened, solicitors are furious. It is after all, some, 21 years since HHJ Bentley QC, sitting in the Sheffield Crown Court, was forced to apologise for saying a defendant did 'not need to stoop so low' as to instruct a solicitor-advocate and many in the profession had hoped that they had earned the respect of their professional colleagues and the judiciary.

Mr Gove's analysis is based on a number of assumptions; some accurate, some flawed. He points out the difference in the training regimes between the two limbs of the profession. It is undoubtedly correct that under the current system, the BPTC is much more geared towards advocacy than the LPC and the exposure to advocacy a barrister receives through the Inns and pupillage undoubtedly stands them in good stead in their later career. He accepted that the current legal aid landscape makes criminal work the poor relation of commercial work and a career path that only the most determined to serve justice will follow (although he was less vocal on his government's role in this). And he was willing to acknowledge that there are some very good solicitor-advocates and very bad barristers; a truth which is borne out in many courts throughout the jurisdiction.

But Mr Gove describes in-house advocacy teams in solicitors' firms as 'those who have not made it into chambers,' effectively dismissing them as players who didn't get picked for the first team. This is of course, a nonsense: with the increased opportunities for higher court advocacy many of the most able students with a flair for advocacy are as likely, if not more likely to choose to train as solicitors and as this becomes the norm, there will be greater levels of peer support which will further serve to enhance their abilities.

The legal profession as a whole has changed immeasurably over the last 25 years and the distinction between the work conducted by barristers and solicitors has almost vanished. The public needs the best people doing the job and this is not achieved by keeping the very good solicitor-advocate out of court whilst preserving the rights of both the good and bad barrister. If the public are to be served by the best advocates (and the most diverse judiciary) the market needs to allow for flexibility in the way advocates can practice. There is scope to improve training, for both sides of the profession, and with the regulators currently reviewing their routes to qualification, it is to be hoped that they draw on each other's

expertise to disseminate best practice and where possible find common areas of need where training can be combined to reduce the cost burden and make law an affordable career choice for all.

As Mr Gove acknowledges the criminal trial is a cornerstone of a free society, and both sides of the profession should take heart from his acknowledgement that this is an area where the public will never grow tired of experts.