Is direct access a help or a hindrance?

Increased enfranchisement versus vexatious allegations, founding father **Marc Beaumont** considers the pros and cons of the public access scheme ten years on

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Once upon a time, direct access work did not even have a proper name. It was called 'public access' (PA), and was regarded as peripheral work done by people who had no 'proper' practice.

Today, more than ten years after its birth, direct access work is mainstream and permeates every aspect of Bar life. If, in 2004, it was something of a new instrument, progressive composers have now found a way to incorporate it into the Bar's orchestral sound.

Democratising effect

I wrote the first template of a direct access scheme, called direct advisory access (DAA), and presented it to the plenary Bar Council in 2000. It now seems rather tame.

Certainly, it was always intended that direct access would suit advice-giving, even though that model was ridiculed and rejected at first by the Bar Council.

However, soon after inception of the scheme, it became clear that contested trials could, in suitable cases, be conducted on direct access. All it required was a well-organised client.

As recently as 2006, I conducted what was thought to be the first PA case to reach the Court of Appeal. Others soon followed.

By 2007, it became clear that PA was having a democratising effect.

Barristers who did not, for whatever reason, get a fair crack of the whip with solicitor-instructed work, were beginning to build good practices on their own based almost entirely on direct access work. By 2008, a search of Lawtel for 'instructed on public access', produced a remarkable number of reported direct access cases.

In 2007, I founded the Public Access Bar Association. The Bar was waking up to the new style of working. Some of our seminars were booked out several times over. At one of them, barristers queued down three flights of stairs to get in.

Work functions did not change, but this created an anomaly. A barrister in a PA case was not permitted to correspond directly with the other side in litigation. I made this a pet project, lobbied inside the Bar Council for a rule change and this inconsistency was eventually swept away.

The initial scheme was limited to civil work; crime, family and immigration law were excluded. These categories of work were brought within the scheme after its first review. How prescient this now seems for the Family Bar, especially given the recent, heavy attacks on legal aid funding.

Early opponents of the scheme argued that complaints against the Bar would be significantly more frequent if we accepted work from the public directly. They were wrong. Until 2011, the data that the BSB shared with the Access to the Bar