



**Minutes of the Bar Council meeting
held on Saturday 16 September 2017 in the Bingham Room, Gray's Inn**

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| Present: | Andrew Langdon QC | Chair |
| | Andrew Walker QC | Chair Elect |
| | Lorinda Long | Treasurer |
| | The Rt Hon Jeremy Wright QC MP | Attorney General |

Apologies for absence

Apologies for absence were received from: Richard Archer, Steven Bramley CBE, Robert Buckland QC MP, Ivor Collett, Kerim Fuad QC, Shobana Iyer, Michael Jones, Rachel Langdale QC, Samuel Main, Athena Markides, Justin McClintock, Stuart McCracken, Paul Mendelle QC, Neil Mercer, Gordon Nardell QC, Francesca O'Neill, Peter Petts (alternate attended), Ryan Richter, Ben Rowe, Nigel Sangster QC, Alison Saunders, Joe Smouha QC, Andrew Spink QC, Gordon Stables, Andrew Granville Stafford, Brie Steven-Hoare QC, John Paul Swoboda, David Christopher Taylor and Jacqueline Wall.

The following did not attend and did not send apologies: Charles Burton, Simon Broomfield, Shelley Brownlee, Gemma de Cordova, Marie Demetriou QC, Alexandra Healy QC, Christopher Henley QC, Fiona Jackson, Rupert Jones, Angharad Mary Price, Christopher Rees, Sonia Tolaney QC and Mark Trafford QC.

70 further members attended.

1. Minutes of the last meeting and matters arising

The Chair welcomed members to the September Bar Council meeting. He explained that the meeting would last for one hour, after which, at 11am the AGM would begin.

The Chair began by welcoming some new members of the Bar Council. Jessica Stephens, who was in attendance, has replaced Rachel Ansell QC as the 'Subscriber elected by the Technology and Construction Bar', and Christopher Henley QC, who was not in attendance, has joined as the 'Subscriber elected by the Criminal Bar Association' now that Angela Rafferty QC has succeeded Francis Fitzgibbon QC as Chairman of the Criminal Bar Association. Also in attendance for the first time was Michael Duck QC who will succeed next year's Vice Chairman, Richard Atkins QC, as Leader of the Midland Circuit from 1 October 2017.

The Chair also formally welcomed the new Chief Executive, Malcolm Cree, to his first Bar Council meeting. Malcolm Cree has been in post around six weeks since he succeeded Stephen Crowne on 1 August 2017.

Lastly, the Chair welcomed the Attorney General, The Rt Hon Jeremy Wright QC MP, to the meeting and announced that in accordance with established practice, he would be chairing the AGM. He informed members that he hoped to get through the agenda by 11am in time for the AGM.

The Attorney General noted one correction in the minutes regarding the make-up of the conservative majority in Parliament following the General Election. Subject to this change, the Bar Council approved the minutes of the meeting on 8 July 2017.

2. Statement by the Chair

Acknowledging that members would have ‘slowly and carefully’ read his statement, the Chair said that he wished to pick up on four topics to develop:

1. The EU Withdrawal Bill
2. AGFS
3. Flexible Operating Hours
4. An aspect of the LASPO Review

The EU Withdrawal Bill

Noting that members would be aware of the second reading of the EU Withdrawal Bill, the Chair acknowledged that the Bill will be heading into parliamentary scrutiny and was clear that the Bar Council has a role to play in this legislation. Some of the clauses were grounds for concern, whether you were a ‘Brexitteer’ or a ‘Remainer’ or neither.

Clause 1 of the Bill provides that ‘the European Communities Act 1972 is repealed on exit day’.

Clauses 2 and 3 deal with preserving EU-derived domestic legislation and converting direct EU legislation into domestic law. The same status is granted to all EU legislations but not for directives or treaties. The Chair said that he wishes to distil three things:

1. Citizen’s rights in relation to our ability to challenge executive decision-making. The Bill revokes this right for UK citizens and the result is a reduction in power-less protection from the power of the state - because Clause 3 of the Bill incorporates EU legislation directly but in schedule 1, paragraph 1, UK citizens are prevented from going to a European Court after exit day. If you have a pre-exit instrument that interferes with data privacy deemed to be invalid in the EU, unlike Europeans who are protected, EU citizens will be unable to challenge.

2. Ministers are given alarming amounts of power. The so-called Henry the Eighth power to repeal legislation ought to worry us and it does.

3. Clause 6 is unsatisfactory and could result in the politicisation of the judiciary if not constrained. The Chair quoted Lord Neuberger, 'If (the Government) doesn't express clearly what the judges should do about decisions of the ECJ after Brexit, or indeed any other topic after Brexit, then the judges will simply have to do their best.' This therefore leaves politicians in a position whereby they can point at judges and say they are causing all the difficulty.

The Bar Council has put together a short brief which has been provided to Keir Starmer MP, who specifically requested it, and other politicians from other parties. In addition, the Bar Council is involved in considering drafted amendments and remains engaged.

AGFS

The Chair reported that there had been a Bar Leaders meeting the previous Wednesday and that the Circuit Leaders had met earlier that morning. Saying that the Bar Council had put together a scheme that it thought delivered more, the Chair explained that there is now a question over which year's figures to use. The Bar Council is of the opinion that the best ones to use are those from the most recent year, but the government may not be persuaded. It is likely that some progress will be made about AGFS and LGFS following the party conferences.

Flexible Operating Hours and Court Reform

Saying that he had been disappointed with the content of Lord Justice Fulford's letter criticising the profession for misunderstanding or being ill-informed, the Chair informed members of the Bar Council that he had written a letter to Lord Justice Fulford that subsequently went public. The Chair said that he did not know how things will end but that he felt certain that it will have helped to focus minds.

Moving on to the pilots themselves, the Chair said that he is trying to find out what is happening next. The contractors were due to have been selected and the first pilot was scheduled to start in Newcastle at the end of the month, however, no contractors have been selected as yet. Susan Acland-Hood has made it clear that the pilots won't commence until a proper contractor is in place and that may take some time.

Under the heading of court reform is another priority with the heading of 'open justice'. It is complicated but involves trying to grapple with the fact that if a hearing does not take place in court, the public and press still need to be catered for. There is no choice but to use technology but the question is 'how'? The Chair explained that these are some of the important questions and discussions taking place and sought to reassure members that their concerns regarding any ramifications have been articulated.

LASPO Review

The Chair acknowledged that the review has been much postponed. The Bar Council has contributed by focusing funds into research on immigration detention centres as rule of law issues are engaged here. Research has been commissioned from Dr Anna Lindley at SOAS, the results of which are due to be published in October. The work explores what the pro bono set have been doing in this area and partly looks into the impact of the withdrawal of legal aid. An event is scheduled for 7 November where the Bar Council will be focussing on other aspects of poor decision-making. The Chair finished by reporting that there are 'shockingly' high levels of successful appeal rates if people can find the means to appeal.

Robert Rhodes QC gave an update on the flexible operating hours pilot at Blackfriars, informing members that it is due to commence at the end of October.

Rick Hoyle said that he had two points to raise. First, he said that he had agreed with the Chair's recent article about judge-led reform and he urged members to read it as it outlines a real accountability difficulty that will cause problems later down the line. He suggested that Lord Justice Fulford is invited to Bar Council if he truly thinks that the profession misunderstand what is proposed. Secondly, in relation to Executive decision-making, Rick Hoyle said that he wished to register concern about an article that included details of the Home Secretary disregarding a Court Order.

3. BSB Report

Sir Andrew Burns, Chair of the BSB, presented the BSB Report. He was accompanied at the meeting by Dr Vanessa Davies, Director-General of the BSB, and, Andrew Lamberti, BSB Communications Manager.

Consultations

Sir Andrew Burns began his report by talking about consultations and acknowledging that, in some quarters, there is a degree of consultation fatigue. The BSB has just ended its consultation on a new set of proposals to require barristers to declare a range of information about their practice when applying for their practising certificate. A second consultation on potential changes to the rules governing the Public and Licensed Access schemes following the BSB's recent review ends on 26 September 2017.

Two further consultations are now subject to Board approval and the BSB will be inviting comments on both. The first will consider the BSB's response to the Competition and Market Authority (CMA)'s recommendation that the BSB and the other legal service regulators should introduce new price and service disclosure requirements. The second will take forward the work on Future Bar Training by seeking views on the qualification rules for new barristers. In particular it will ask:

- to what extent we should prescribe the role of the Inns of Court in the training and qualification of barristers; and
- what rules and regulations we should require regarding the supervision arrangements and administration of pupillage.

This consultation will also cover the development of our Authorisation Framework for new routes to the Bar and consider how best to allow for the transition between the current training structure and the future. It will also contain draft principles for recognising qualified lawyers who are transferring to the Bar.

Sir Andrew Burns informed members of the Bar Council that the BSB would have more to say about these consultations at the next Bar Council meeting. He sought to reassure members that the BSB approaches both with an open mind. Explaining that the BSB agrees with the CMA that clients would benefit from greater transparency, he acknowledged that the new changes should be introduced properly and appealed to members for their views.

On the topic of Future Bar Training, Sir Andrew Burns emphasised that the BSB has no intention of undermining the current role of the Inns in the training and qualification of barristers or the supervision and administration of pupillage, however, it wishes to review the current arrangements with a view to finding out if the rules and regulations are all necessary and to explore ways of allowing the Inns greater flexibility.

Sir Andrew Burns asked members of the Bar Council to look out for events and roadshows which are being held to encourage discussions. He asked members of the Bar Council to attend in order to give their views and urged them to encourage others to do the same.

Family Law Review

Sir Andrew Burns reported that the BSB had published its report on the findings of its research looking at the experiences of consumers who have used barristers' services during family legal proceedings on 11 July 2017 and said that he was pleased to hear that it had been welcomed by the Family Law Bar Association (FLBA).

The research consisted of a survey of 1,200 people who had recently had to deal with a family law issue, followed by interviews with 50 clients who had used a barrister during their family law case. The BSB hopes that the findings will help it to focus its attention on regulatory issues in this area in the future.

The findings showed that those who had used a barrister were generally positive about the service they had received but some clients referred by solicitors highlighted the limited contact they had with their barrister before going to court, and some argued that this had led to problems with the service they received, such as the barrister not providing enough information to the client, or the barrister not having

all the details they needed to provide effective representation. Although the proportion of those who directly accessed a barrister via the Public Access scheme was low, the research suggests this led to a stronger barrister/client relationship, clients were more likely to access a greater range of services from their barrister, and all of those who used this approach would use the scheme again.

The BSB's Annual Report

On 1 August 2017, the BSB published its annual report for 2016-17. BSB activities during the year included:

- introducing new measures to improve standards of advocacy within the Youth Courts;
- introducing a new Continuing Professional Development scheme for established barristers;
- consulting the profession and others about the future of Bar training;
- publishing the results of our major survey about women's experiences at the Bar; and
- preparing to license Alternative Business Structures (ABSs).

The Report also focuses on our day to day work which includes supervision, assessing complaints about barristers' professional conduct, complying with statutory equality and diversity responsibilities, and a range of tasks associated with overseeing the qualification of new barristers.

Describing the Report as 'very readable', Sir Andrew Burns commended it to members of the Bar Council and encouraged them to read it.

The BSB's Enforcement Report

On 1 August 2017, the BSB published its annual Enforcement Report. Sir Andrew Burns reported that some of the statistics have been pleasing. For example, the report shows that the BSB has reduced the average time taken to address complaints by over 1.5 months in the last two years (from 4.4 months to 2.8 months). In addition, the main statistical findings were:

- Over 80% of complaints were concluded by the BSB at the initial assessment and investigation stages within the service standards of eight weeks for initial assessment and six months for the investigation stage;
- The volume of enquiries and reports about possible misconduct by barristers (known as "pre-complaints") received by the BSB rose to 960 in 2016-17 from 882 in 2015-16;
- Reports being received of serious misconduct from the profession increased to 110 in 2016/17 from 80 in 2015/16. However, only 53% of these reports resulted in a formal complaint being raised, showing that barristers are

rightly erring on the side of caution in meeting their obligations to report misconduct;

- The general trend in complaints about the Bar is decreasing with fewer of the enquiries and reports received leading to formal complaints being opened this year (366) compared with 434 last year;
- Excluding an unusual number relating to one individual barrister, a lower number of complaints were referred to disciplinary action this year - down from 53 last year to 46 in 2016/17;
- The number of barristers disbarred in 2016-17, however, increased from seven in 2015/16 to 19.

The BSB's Governance, Risk and Audit Committee

Finally, Sir Andrew Burns reported that, on 23 August 2017, the BSB opened a process to recruit a new barrister member for its Governance, Risk and Audit (GRA) Committee.

The GRA Committee meets eight times a year and its function is to ensure that the Board's corporate governance standards and internal controls are maintained. Describing the work of the GRA Committee as 'not as dry as you might think', Sir Andrew Burns explained that the Committee keeps under review, and advises the Board on, all matters relating to corporate risk and the BSB's internal audit function. The closing date for applications is 25 September 2017.

Duncan McCombe said that some of the findings from the Family Law Review were about an understanding of the difference between regulated and unregulated providers. Only 57% of respondents understood that there are both regulated and unregulated providers of family law advice. He asked how the BSB sees its role with regards to helping to ensure that more people understand the difference. Vanessa Davies replied that she thought that ensuring wider understanding is a role for both the BSB and the Bar Council and explained that the BSB address that issue 'head on' in its draft CMA consultation. The CMA is very interested in the extent to which unauthorised providers can be expected to say that they are unauthorised. The BSB's role might be slightly different to that of the Bar Council, but she suggested that the two work together for a better effect.

Guy Fetherstonhaugh QC noted that the Bar Standards Board has a very full programme of regulatory activity and made it clear that, for the Bar Council and profession, the reform of BPTC is seen as the highest priority. Addressing those present from the BSB, he asked whether the timeframe on the BSB's website, which states that the BSB is expecting the rules and authorisation framework to be in place from the 2018/19 academic year, (Autumn 2018) is still correct.

Sir Andrew Burns replied that this remains the BSB's target but whether or not it can be achieved depends on the providers. Vanessa Davies said the BSB, from its

discussions with the Legal Services Board, believes that there is a possibility that the rules and framework won't go live until January 2019. However, she explained that this will not prevent providers developing their plans. To this, Guy Fetherstonhaugh QC sought reassurance that there will not be a delay. Vanessa Davies replied that she did not believe so but reiterated that the BSB is reliant on providers coming forward with proposals. In any event there is a 'stop date' for the current scheme.

Philip Marshall QC, referring to page 5 of the Enforcement Report, noted that disbarments have increased in the last year from seven to 19. He asked the BSB representatives if they had identified any trends perhaps amongst sole practitioners or in terms of seniority. Vanessa Davies replied that she considers the word 'trend' to be a difficult one. She explained that the figures show a large number of unregistered barristers, perhaps more than in recent years which would indicate some issues about what unregistered barristers understand. However, she said that the word 'trend' would be too strong to apply in this context.

Robin Allen QC enquired as to how the BSB comes to hear about the barristers that are subsequently disbarred. He asked whether there are any common themes. Sir Andrew Burns replied that the BSB is constantly improving the mechanisms by which it receives information but said that, to date, it has not identified any common themes.

4. Statement by Chief Executive and Bar Council Risk Register

Malcolm Cree thanked members of the Bar Council for welcoming him to his first Bar Council meeting. Explaining that he would save much of what he had to say for the AGM, he focussed on the Bar Council Risk Report and Register, attached to the papers as annexes 4a and 4b.

Reminding members of the Bar Council that the Risk Register is presented twice annually to the Bar Council, Malcolm Cree said that he will be reviewing the risk management mechanisms as part of the strategic review process.

Talking directly to the risks, in particular the three risks added since the Bar Council last saw the risk register, Malcolm Cree explained that risk BC020 'Risk to the stability, reputation and direction of the organisation arising from the departure of the Chief Executive' has been retired from the risk register as it no longer applies now that he is in post.

Risk BC021 'Risk of poor stakeholder and public reputation from external factors driving the financial valuation of the defined benefit pension scheme', was added in March 2017 at the request of the Audit Committee.

Referring to the new risk BC022 'Risk that an office move would reduce the ability of the Bar Council to meet strategic, business and regulatory objectives', Malcolm Cree said that he is satisfied that this has been de-risked but acknowledged the need to retain it on the risk register for the time being.

Drawing the attention of members to the new risk BC023 'Risk of reputation and business effectiveness of failing to respond adequately to the challenge of the new General Data Protection Regulation (GDPR)', Malcolm Cree explained that one feature of the new GDPR is that those who wish to receive marketing will have to positively 'opt-in' to do so and this is likely to have an effect on campaigns, marketing and commercial activities in Bar Council.

5. Statement by the Treasurer

Lorinda Long informed members of the Bar Council that she intended to split her presentation into two parts across the meeting and later the AGM. For the meeting she provided a brief update on the finances of the Bar Council.

Addressing progress in 2017/18, Lorinda Long explained that the Bar Council achieving its 2017 PCF collection target allows it to fully fund the budget plans. The operating budgets have been approved and the pension scheme funding plan met in full.

The Finance Committee approved an additional £120k of PCF towards Bar Council activities to offset BRF shortfall risk and cover the increased costs of the Chief Executive recruitment.

Unfortunately BRF subscriptions are weaker than expected at 10,051 and lower than last year (10,260). In addition, fewer attendees at training and events risks a reduction in commercial income.

Lorinda Long explained that the Bar Council's financial challenge ahead is to rebuild reserves to ensure future financial security. To achieve this, the Bar Council has been investing in IT and property to reduce the cost base. Further property investment will follow for the 2018/19 office move. There are also plans in place to replenish these reserves but these are dependent on stable pension contributions, greater cost efficiency, lower property costs and growth in BRF subscriptions

A number of IT driven cost reductions have been delivered and more are to follow in 2018/19. Plus, the pension funding strategy is in place. However, the property move is now likely to be cost neutral and increases in BRF subscriptions have been difficult to sustain.

Lorinda Long finished her presentation by saying that she and the Finance Director, David Botha, were on hand to answer any questions that members might have.

Nicholas Vineall QC asked why the office move, previously thought to be likely to reduce costs, will now be cost neutral and not result in a reduction in costs. Lorinda Long replied that a number of options had been explored and while Docklands would have been a cheaper option it was not considered to be the right strategy.

The Chair explained that the original proposal had been to house the BSB in Docklands and retain the Representation, Policy and Services function in Legal

London. This would have comprised of two separate buildings with some commonality of support. A number of issues arising from the idea of regulatory separation arose but the overriding one was that, in the long-term, it would have been more difficult to keep control of finances. In addition, the Bar Council is keen to avoid a Law Society/SRA situation. By retaining both the BSB and Bar Council in one building, the Bar Council believes that it can save costs in the long term.

6. Young Barristers' Committee

Duncan McCombe, Chair of the Young Bar, presented the Young Barristers' Committee (YBC) report. He noted that it had been another busy year for the YBC who are involved in almost all the work that the Bar Council does. He expressed gratitude to all members of the YBC for the work they put in and to the Bar Council more generally for the priority it places upon the concerns of Young Barristers.

Duncan McCombe began by mentioning paragraph 2.1 of the report, attached to the papers as Annex 5. The Young Bar has seen a large decrease in its numbers over a relatively short period and it is effectively 'shrinking'. Emphasising that the figures are very marked (the number of barristers under 5 years' call fell by 30% between 2005 and 2015), Duncan McCombe said that this is something that should worry anyone in the profession and/or anyone who prizes access to justice more widely. He appealed for a focus on how to ameliorate the situation.

Turning his attention to the issue of Magistrates' Court fees, Duncan McCombe explained that a lot of work has arisen from a survey that was carried out at the end of last year. The survey found that half of the 292 respondents had carried out a hearing in the Magistrates' Court for which they understood that they would not be paid at all. The YBC has been talking to the Remuneration Committee, the Legal Aid Agency and other affiliated representative bodies about the issue. The Magistrates' Fees Working Group is of the opinion that direct payment is the only long-term solution but this has not been met with unanimous support. Duncan McCombe said that he would be interested in the views of members of the Bar Council.

In terms of future events, Duncan McCombe drew the attention of members to the Young Bar dinner and the International Weekend, which offers various packages for young practitioners, and encouraged them to attend.

Duncan McCombe thanked the Chair, Andrew Langdon QC, the Chair-Elect, Andrew Walker QC, and 'numerous other people in the room' who have helped YBC with workshops and events. He also thanked Rick Hoyle, Vice-Chair of the Young Bar, and congratulated him on being appointed Chair of the Young Bar for 2018. Finally he thanked Onyeka Onyekwelu, Policy Analyst and YBC Executive for her help throughout the year.

Robert Rhodes QC said that he expected that all members will have been shocked by the 30% reduction figure for the Young Bar and he asked what the actual numbers

are. Duncan McCombe replied that he did not immediately know the answer but said that he could readily obtain the figures. The Chair made the point that it is especially concerning that while the Young Bar is decreasing in size, the Bar, more generally, is increasing year on year meaning that the Bar is an ageing profession. He promised to bring the most up-to-date figures to the next Bar Council meeting but warned members that they are 'dramatic'.

Tim Devlin, addressing the members, said that he is in a big crime set in London. He informed members that every pupil that the set has had in the last five-six years has left after around four-five years in favour of salaried jobs with organisations such as the Football Association and the Nursing and Midwifery Council. He emphasised the importance of negotiating for graduated fees to be changed in a cost neutral way.

Tim Devlin continued by saying that the situation has changed little over the last 19 years. The court appearance fee of £46.50 is not enough for practitioners to survive on anymore. Young barristers want to get married, have children and buy a house and they can't do this at the bottom of a criminal Bar career. Saying that 'a little bit more...won't cut it', Tim Devlin argued that if the 1% cap is being lifted on public salaries then it ought to be lifted for the criminal Bar and he finished by making the point that those who do survive tend to be in second careers having built up reserves to support themselves for a while. There are many barristers building up debt who will never actually receive any money.

Duncan McCombe was clear that the Bar Council has a role to play with regards to Magistrates' Court fees and said that the profession has not dealt with the issue well. The current contract has three-five years left to run and a solution needs to be found before then.

A member of the Bar Council asked how many of the surveyed barristers who had carried out a hearing in the Magistrates' Court for which they had not been paid had known that they would not be paid beforehand. Duncan McCombe replied that the answer doesn't emerge from the question and acknowledged that this is something that is not clear. When looking at responses about whether the non-payment was raised with chambers, it certainly appeared that some did not know that they would not be paid. When the point was raised in chambers some said that the chambers had subsequently stopped taking instructions from that firm, while the majority had said there was nothing that could be done about it.

Colin Andress said that he has witnessed the ramifications and warned that the next target will be junior practice in the Civil Justice Court and the profession is at risk of 'killing off another section' with regards to personal injury. He enquired as to what plans are afoot to prevent this happening. To this, Duncan McCombe replied that there were no specific plans in place at the moment. However, YBC had been heavily involved in the Bar Council's response to Jackson LJ's review into Fixed Recoverable Costs and this response had had an impact on the eventual proposals which are

nowhere near as bad for the Young Bar as they might have been. The YBC has also been making every effort to raise the issue of the likely impact on civil justice reform on the Young Bar in meetings with the senior judiciary. The point is being made that the Young Bar repeatedly hear 'it will be fine' in response to concerns about the latest set of reforms, yet the figures indicate otherwise.

Eleanor Mawrey said that she recalled joking with her peers about their 'pro bono' work at the Magistrates' Court when she was junior and expressed disgust that the situation is the same some years later. Saying clearly that 'something needs to be done now', she suggested that senior members of chambers take action on this to ensure that their younger members are paid, even if it means upsetting solicitors.

Nicholas Bacon QC said that he was shocked to hear about large criminal sets entering into arrangements whereby juniors are not paid on the understanding that work is guaranteed for senior barristers. He made the point that this is prohibited. Guidelines have been produced which people should read and take note. He also indicated that he would support direct payment for magistrates' court work.

Philip Marshall QC echoed the words of Nicholas Bacon QC in saying that he is shocked that this happens. He was clear that the Bar Council should enforce the guidelines via Heads of Chambers as it is their responsibility. Duncan McCombe replied that the problem with this approach is that it requires people to report, which they are not always willing to do. In response, Philip Marshall QC said that he thinks that this is a way to fix the problems and made the point that barristers have a duty to self-report. The Chair explained that the problem with enforcement is that information is required in the first instance and explained that it is because of a lack of historical information that the Bar Council has not been able to do anything to date. He agreed that the practice is 'completely wrong' and that Heads of Chambers should know that it should not be allowed to happen.

7. Proposed changes to the Standing Orders for Committees and Sub-Committees of the Bar Council and a short discussion as to the desirability of hustings

The Chair explained that the Officers, GMC and Executive have thought long and hard about how to simplify, modernise and allow for more flexibility in the committee configuration processes, structure and reporting arrangements. He said that he would summarise the paper proposing a series of changes to the 'Standing Orders for Committees and Sub-Committees of the Bar Council' (and by implication the Bar Council Constitution where applicable) written by Natalie Zara, Head of Governance, and attached as Annex 6a. Full details of all the changes can be found in the paper.

The Chair explained that the paper is divided into four main headings and he summarised as below:

1) Issues of nomenclature concerning committees/boards, panels and working groups

Members of the Bar Council were asked to approve that any reference to 'sub-committees' in the Standing Orders (and therefore the Constitution) is removed; that the current Boards (Bar Representation Board and Bar Pro Bono Board) are renamed 'committees' in line with the other representative committees; that working groups are consistently referred to as 'groups' and any reference working parties changed to reflect this; and, that the Standing Orders are amended to make it clear that all committees are responsible for supervising the work of their panels and working groups.

2) Issues concerning the membership of committees/boards and recommendations

Members were asked to approve an overhaul of the membership provisions in favour of a more flexible approach that allows committee chairs to configure their committees as appropriate but to have regard to the inclusion of Bar Council, Employed Bar, Young Bar and circuit representatives and to take into account matters of equality and diversity.

3) Committee attendance

Members were asked to agree to changes to the attendance obligations for committees that will allow committee chairs more autonomy as to whether members of their committee, panel or working group should cease to be members, though GMC will retain a general oversight.

4) GMC Terms of Reference

Members were asked to approve an additional term of reference relating the role of the GMC in reviewing and advising on the risk register and to an amendment to another of the terms of reference giving the Executive equal responsibility as the Chair for the effective and efficient delivery of the business plans.

It should be noted that there was a final section in the paper asking members to agree that any references to the Communications Team are amended to Communications and Marketing Team as a result of the recent staff restructure.

The members of the Bar Council agreed all changes to the Standing Orders (and by implication, Constitution).

Following discussion about the proposed changes to the Standing Orders, the meeting was brought to a close while the AGM took place. After the AGM, the meeting resumed with a discussion about the desirability of hustings in the Officer election process.

Saying that most of the members of the Bar Council will recall the hustings that took place in May, the Chair reported that the Executive is looking to bring suggested

changes to the way in which the Officers are elected to the November Bar Council meeting. One such change will be the possible move to electronic voting and another will be a decision on whether or not hustings should be held.

The Chair explained that there are two views about hustings. Hustings had been the idea of last year's Chairman, Chantal-Aimée Doerries QC (though they have been held before in the history of the Bar Council) but the Vice-Chairman position had gone uncontested. This year, as there were two candidates for the position of Vice-Chair and therefore the hustings took place. The Chair said that, in his opinion, the hustings were helpful but informed members of the Bar Council that others took the view that it didn't deliver and there have been suggestions that hustings might put people off standing. He invited Amanda Pinto QC and Richard Atkins QC, who took part in the hustings, to offer their opinions.

Amanda Pinto QC said that that she would prefer to have a conversation about hustings with Bar Council members rather than say anything specifically herself. She made the point that the hustings had been extremely hard work to prepare for and acknowledged that there are positives and negatives. A positive is that if you aren't well known, or as well-known as the other candidate(s) it might be helpful to have an opportunity to present yourself to the Bar Council. However, negatives include the fact that preparation work is time consuming, because the questions that might come up are unknown and if one candidate has been involved for the Bar Council in issues and another hasn't, that might be difficult to address in hustings, and, as mentioned by others in discussions outside of the meeting, hustings could put people off standing.

Richard Atkins QC reiterated that he had nothing to add and suggested it would be more informative to learn the thoughts of those who listened to the May hustings.

Tom Cockroft suggested that the candidates could agree between them whether or not to hold hustings.

Duncan McCombe said that he recalled that when he first joined the Bar Council, he did not know who the candidates were and found that a written paragraph was not enough information.

Nicholas Vineall QC said that he had found the hustings very helpful in deciding who to vote for and was clear that he is 'all in favour' of hustings.

Rachel Spearing said that she thinks hustings are important for reasons of transparency. She suggested that short podcasts for each of the candidates might be a good idea.

Alison Padfield said that she had concerns that hustings might put people off standing for election for Chair of the Bar and made the point that although the Chair of the Bar has to be able to answer questions on any aspect of Bar Council business, the Chair will be familiar with all aspects of Bar Council business and will be appropriately briefed. A willingness to face hustings and answer questions on any aspect of Bar

Council business was not therefore an indication that a candidate had the necessary qualities to be Chair of the Bar. Any barrister would be able to answer questions and represent the Bar Council if appropriately briefed, as that was part of their day-to-day work. Anyone who becomes Chair is making a huge sacrifice in terms of giving up their practice for a year and for some, for whom it is a marginal decision, hustings may be the deciding factor against standing. She raised the subject of the 50-60 page application to become a High Court Judge by way of example of a difference in procedure that can have the effect of dissuading people to apply.

Andrew Morgan said that The CPS Section of the FDA had gone through a hustings process when electing the Section National Convenor. However, it proved unsatisfactory with candidates not wishing to participate. The process has now moved to a system of formal written statements moderated by the General Secretary of the Union and felt this to be a better, fairer system.

Rick Hoyle said that he appreciated Alison Padfield's point but suggested that when deciding on electing a candidate, it is important to see that candidate at the lectern as it gives voters the opportunity to see how the candidate will deal with difficult questions, as they will have to do so in their meetings with [the BSB](#), government officials, [and others](#), if elected.

Angela Rafferty QC said that she did not doubt that the experience is 'horrific' and she suggested that a helper or mentor might be a good idea. Referring to Rick Hoyle's point, she asked the Chair if he often feels as if he is in a hustings. To this, the Chair replied that there are comparable moments but conceded that this is to be expected in politics.

8. Any other business

Given the time, the Chair brought the meeting to a close but encouraged those who wished to take up any questions with himself, the Chair-Elect or Chief Executive to stay behind.