

## **Minutes of the Bar Council Meeting held on Saturday 14 January 2012 at the Bar Council Offices**

### **Present:**

Rt Hon Dominic Grieve QC MP - Attorney General

Michael Todd QC - Chairman

Maura McGowan QC - Vice-Chairman

Vanessa Davies - Director of the Bar Standards Board and Acting Chief Executive

### **1. Apologies**

Apologies for absence had been received from Stephen Collier, Gregory Jones QC, Michael Kent QC, Mark Lucraft QC, Ian Pringle QC, Michael Soole QC, Keir Starmer QC, Andrew Walker QC, Mirza Ahmed, Ivor Collett, Tom Crowther, Amanda-Jane Field, Philippe Freund, Lieutenant-Colonel David Hammond RM, Melanie McIntosh, Regina Naughton, Christopher Rose and Zoe Saunders.

### **2. Approval of the Minutes**

The Minutes of the 12 November 2011 Bar Council meeting were approved.

### **3. Matters Arising**

No matters arose from the 12 November 2011 meeting.

### **4. Bar Council Dates 2012**

The meeting noted the list of dates for 2012, attached at [Enclosure 1](#).

### **5. Statement by the Chairman**

Michael Todd QC's (MT) statement, attached at [Enclosure 2](#), had been tabled for the meeting and was noted by members. It was agreed that henceforth the Chairman's statement would be circulated in writing ahead of the Bar Council meeting, in the interests of a shorter meeting on the day. Members were free to circulate MT's statement to their constituencies. It was further agreed that the Bar Council minutes would now be briefer, and while capturing the key points of, plus any decisions emanating from, the discussion of an agenda item they would largely omit any

attribution.

MT said that communications were a key priority for him for the year ahead. He saw this as a two-way exchange, both at Bar Council meetings and on a daily basis, and he would operate an open door policy - subject to members being able to get past Charlotte Hudson (CH), the Chairman's Office Manager. MT asked members to invite him to their committee meetings and to their Circuits. He confirmed that the Bar Council were looking at the practicalities of providing a Skype connection, or some equivalent alternative arrangement, to Bar Council meetings.

### **Questions on the Chairman's Statement**

**CPS.** Asked whether reports of restructuring at the CPS were true, the AG said that he had heard no such reports, and certainly no restructuring that would affect the Self-Employed Bar.

**Quality Assurance Scheme for Advocates (QASA).** The meeting recorded interest from Gray's Inn, and Queen's Counsel Appointments (for Silks only), in supplying training for barristers needing re-accreditation. Asked what the Law Society's plans were, MT said he would speak to them.

### **6. Re-Appointment of BSB Chair and Vice-Chair**

The meeting noted and welcomed the reappointment of Baroness Ruth Deech (RD) and Sir Geoffrey Nice as Chair and Vice Chair of the BSB respectively.

### **7. BSB Report**

RD said that for today at least, unlike MT, she would deliver her report orally. However, she was open to requests from members who would prefer a written report for future meetings.

**Triennial Review of the Legal Services Board (LSB).** The Ministry of Justice had initiated a triennial review of the work of the LSB. The Bar Council and BSB would both respond, separately, but individual contributions were also welcomed. MT confirmed that Guy Fetherstonhaugh QC would chair the working group drafting the Bar Council response.

**QASA.** RD emphasised that whilst QASA remained a regulatory rather than representative matter, the BSB had listened to the range of concerns expressed by the Bar, including those of the Criminal Bar Association (CBA). Further information would be made available in good time ahead of implementation in April. QASA would be discussed further at the BSB's next meeting.

**Committee vacancies.** RD invited the meeting to encourage their colleagues to apply for barrister membership of the BSB's committees. The Standards, Qualifications, Professional Conduct and Equality and Diversity Committees all had vacancies.

### **Questions on BSB Report**

**Legal Education and Training Review (LETR).** RD was asked why the BSB was pressing ahead with aptitude tests when the LETR had yet to report. RD explained that the LETR would not report until the end of 2012, but that the BSB's work on aptitude tests had been in development since Derek Wood QC's 2008 report on the Bar Vocational Course. RD said that there was evidence of a strong correlation between aptitude test results and course performance, and that the Law National Admissions Test had similarly been introduced for law degree applicants. The LETR was a two-stage process: the first stage was for the independent report to be presented to the legal regulatory bodies; the second was for the regulatory bodies to individually accept or reject the recommendations.

**QASA.** Asked whether barristers would be assessed more harshly than solicitors, RD said that there was no reason to believe that a two-tier system would operate. RD took on board views from those at the meeting who said they did not wish to engage in a process that included plea-only advocates. RD emphasised that the principle of one scheme for all was one that the BSB would argue for forcefully. RD was as yet unable to confirm which Circuit would be the first to trial QASA.

### **8. Young Bar: Report**

The meeting noted Nichola Higgins' (NH) report, attached at [Enclosure 3](#). NH said that it had been a privilege to serve as Chairman of the Young Barristers' Committee in 2011, and left the Committee in David Nicholls' capable hands for 2012. MT thanked NH for all of her superb work.

### **9. Schedule of Practising Certificate Fees (PCF)**

Oliver Delany (OD), Director of Central Services, presented the Schedule as included at Annex 4(b) of the Agenda, and drew attention to his note at Annex 4(a) explaining the factors prompting a more comprehensive document. Nicholas Lavender QC emphasised that it was important to formalise approval of the Schedule as, following the Legal Services Act 2007, failure to pay the PCF was now a breach of the Code of Conduct.

### **Questions on the Schedule**

It was suggested that the removal of the 2.5% discount for direct debit payment, accompanied by the 3% increase in the PCF, which meant an increase of 5.5% for direct debit payers, was ostensibly contrary to the Bar Council agreement to a PCF increase of between 3 and 5%. Moreover, the removal of an incentive to encourage direct debit payment was perhaps mistaken. OD explained that the new facility to pay the PCF online, without any involvement with the Records Office staff, was inherently more efficient than the direct debit option, which required administrative staff input. It had been anticipated for 2012/13 budgetary purposes that the consequent efficiency would allow a reduction in Records Office staff. OD said he would draw the observation to the Treasurer's attention but there was a distinction to be made between the core fee for the PCF and the various fee reduction options that were available. MT stated that the Bar Council had voted on the increase to the gross PCF fee rather than the matter of discretionary discounts.

Concern was expressed as to whether the new system would cope with multiple last minute applications. OD said block payments taken in advance should reduce the burden on the system. Even so, practitioners would be requested not to leave applications to the last minute. OD further advised that, in the event of a serious problem with the system, there was some margin arising from the fact that practising certificates were valid until 30 April - one month after the due date of 1 April. If it proved necessary to go the BSB to ask for a further extension the Core Database Project Board would do so.

MT made four further points:

- i. He confirmed that he would soon be speaking to Mr Dingle and Dr Powers, the barristers who had called for a 5% decrease year-on-year in the PCF.
- ii. The Treasurer would chair the PCF Working Group.
- iii. MT and Maura McGowan QC (MM) would lead a review of the Bar Council's structure and organisation.
- iv. The Treasurer would present on the Bar Council's finances at the next meeting.

The Bar Council formally noted the Practising Certificate Fees Schedule.

## **10. Any Other Business**

**Social Mobility.** MT reported that Taryn Lee would chair the new Social Mobility Committee.

**Lord Chief Justice (LCJ).** MT had met the LCJ to discuss i) the problems faced by the

Criminal Bar and ii) working to change the perception of the Bar as a London-centric profession.

**Bar Nursery Group.** MT wished to see a Bar nursery set up in London by the end of 2012. Fiona Jackson was spearheading the initiative. The assistance of Inns' representatives in identifying property that could be used for this purpose would be welcomed. It was hoped that other Bar nurseries could be set up regionally. It was requested that information should be circulated to Bar Council members about crèche facilities available on Saturday mornings at Garden Court.

**Fees.** Concern was raised about some Silks accepting instructions to do Juniors' work at junior rates; and about referral fees. It was confirmed that the Professional Practice Committee (PPC), the CBA and the Circuits were addressing these issues, but that they would welcome further evidence of the problems.

**Legal Aid Bill.** It was noted that when the Bill had completed its Lords Committee stage there would be opportunity before the Report stage for concessions to be sought from the Government. It was confirmed that the Bar Council's Bill Group met regularly and that they would continue to ensure that the Bar's interests were represented clearly and persuasively.

**Member Services Fee (MSF).** It was apparent that practitioners mistakenly thought that the MSF funded affinity activity rather than supporting that non-regulatory activity which fell outside the "permitted purposes" to which money raised by the PCF could be applied. This impinged upon their willingness to contribute. The misconception could be attributable to the name. The Member Services Board were aware of the issue and would address it further.

**PPC Membership.** The Chairman of the PPC invited member nominations from barristers working in solicitors' firms. The Employed Barristers' Committee volunteered to assist the PPC.

## **11. Date of Next Meeting**

The next meeting would be held at 10 am on Saturday 3 March 2012, in the Bar Council offices.