



**Minutes of the Bar Council meeting  
held on Saturday 17 September 2016 at Middle Temple**

Present:	Chantal-Aimée Doerries QC	Chairman
	Andrew Langdon QC	Chairman Elect
	Lorinda Long	Treasurer
	Rt Hon Jeremy Wright QC MP	Attorney General

**Apologies for absence**

Apologies for absence were received from: Rachel Ansell QC, Steven Bramley CBE, Simon Broomfield, Harriet Brown, Robert Buckland QC, Tom Cockcroft, Ivor Collett, Elizabeth Cooper, Tim Devlin, Malcolm Dodds, Katie Drummond, Manjit Gill QC, Shobana Iyer, Michael Jones, Jenny Josephs, James Juggapah, Duncan McCombe, Stephen Morris QC, Peter Petts, Alison Saunders, Rachel Spearing, Andrew Granville Stafford, Geoffrey Tattersall QC, Amanda Tipples QC, Jaqueline Wall.

The following did not attend and did not send apologies: Sarah Crowther, Diana Deju, Richard Gibbs, Courtenay Griffiths QC, Alexandra Healey QC, Ruth Henke QC, Rachel Langdale QC, Gerard McDermott QC, Benjamin Myers QC, Thomas Payne, Emma Price, Angela Rafferty QC, Laurie Rabinowitz QC.

70 further members attended.

**1. Minutes of the last meeting**

The Chairman welcomed the Attorney General, Jeremy Wright QC to the meeting explaining that he would be chairing the AGM.

The Chairman welcomed Stephen Hockman QC, a former Chairman of the Bar, to the meeting.

Richard Atkins QC reported that he has identified some corrections for the minutes of the previous meeting that have been sent to Natalie Zara, Head of Governance, for amendment. The minutes of the last Bar Council (20 July 2016) were approved subject to these amendments.

**2. Statement by the Chairman**

The Chairman reported that on Thursday, the Lord Chief Justice, the Senior President of Tribunals and the Lord Chancellor issued joint statement on *'Transforming our Justice System'*. Two consultations arise from this and the Bar Council will be responding fully to both aspects. The Bar Council has begun to engage with HCTMS and is sending representatives to attend professional engagement groups focussing on topics including civil, criminal and family law. Representatives from CILEx, the Bar and The Law Society are also in attendance. The first meeting took place last week and a full and frank discussion was held. The engagement groups are seeking feedback and suggestions and Derek Sweeting QC, Chair of the Legal Services Committee, is spearheading the response.

The Chairman reported that she and the Vice Chairman, Andrew Langdon QC, had recently met with the new Lord Chancellor. During the meeting, three broad topics were discussed: 1) diversity in the profession and judiciary; 2) Brexit and the consequences for legal professionals, the contribution the Bar makes to the economy, and ensuring that the Bar Council can pursue opportunities and look for new ones in the future; and, 3) ongoing concerns about AGFS and the outstanding response from the Government regarding the defence advocacy panels. The Chairman took the opportunity to emphasise the lack of progress with regards to AGFS and the criminal advocacy panels. During the referendum period there was relatively little activity.

Turning to the topic of Brexit, the Chairman asked members to inform her about any things that they feel the Bar Council could and should be doing. Hugh Mercer QC has been asked to chair a working group to look into the consequences of Brexit and its effects on the Bar, both for professionals and in terms of the potential consequences for our chambers. The ramifications could be wide ranging and the working group will be looking at producing a number of short papers to address issues of concern. These will be rolled out over the next few months to inform discussion and debate.

The Chairman reported that she had attended a meeting with the Treasury Solicitor and Permanent Secretary at the Ministry of Justice to discuss Brexit. She informed members that at the meeting, the Treasury Solicitor had in front of him a copy of the 'fantastic paper' written by the EU Law Committee, setting out the consequences of Britain leaving the European Union.

On the topic of vulnerable witness training, the Chairman explained that there is a story surrounding this that dates back to 2014. In 2014, the Government made a commitment to ensure that all advocates would undertake training. A working group, chaired by Peter Rook QC and appointed by Maura McGowan QC, has now reached the stage where the training can be rolled out. 31 legal facilitators have already been trained and the aim is to have everyone trained by 2018. The purpose of the working group has been to ensure the quality and accuracy of those who have undertraining. The Chairman gave thanks to the Circuits, Inns and SBAs for their support in reaching this stage.

Despite earlier indications from the Government, no consultation on regulatory independence has been published to date. In its paper entitled *'A vision for legislative reform of the regulatory framework for legal services in England and Wales'*, published this week, the LSB positively recommends a single regulator. The Chairman encouraged all Bar Council members to read

the report. Although the Bar Council has always opposed a single regulator, it will continue to engage with the LSB.

The Chairman noted with sadness the passing of four people of importance to the Bar. Two are mentioned in the Chairman's Statement: Sir Derek Oulton, a former Clerk of the Crown and Permanent Secretary to the Lord Chancellor, and, Sir Swinton Thomas, a former Lord Justice of Appeal and a member of the Bar Council. Kate Mallison of 4KBW, an active member of the South Eastern Circuit, who was very engaged in the Bar's wellbeing work, and David Howker QC of 2 Hare Court, among the many things he did for the profession was taking on the responsibility of being a named litigant in the QASA judicial review proceedings.

The Chairman drew the attention of the members to the section entitled '10 things the Bar Council did' in July and August and to the diary of activities that have taken place over the summer in Annex 2a.

The Chairman reported that most of the Bar Council Saturday meetings next year, if not all, will take place at the Inns. The next meeting in November 2016 will be held at BPP due to a shortage of Inn rooms. One consequence of the meetings being held off-site is that the Bar Council struggles to provide crèche facilities. The Bar Council is exploring options and the Chairman asked Bar Council members to share any suggestions with her.

The Chairman appealed to Bar Council members to encourage others to stand in the 2017 elections that are currently underway.

Bar Council members were also asked to assist in promoting this year's Bar Conference. The first speaker is Sir Ernest Ryder whose contribution is likely to be interesting and relevant. The Chairman of the Malaysian Bar, Stephen Thiru, has been asked to close the Conference. He was asked given the very real challenges which the Malaysian Bar Association is currently facing in terms of threats to its independence from Government interference.

Louisa Nye explained that the Young Bar Conference is taking place at the same time as the Bar Conference – Saturday 15 October. The keynote speaker is Caroline Wilson and the early bird rate has been extended to 23 September. She appealed to Bar Council members to buy tickets and to encourage others to do the same. The North Eastern Circuit will be subsidising tickets for up to 20 people and she asked other Circuit Leaders to follow suite.

### **3. BSB Report**

In the absence of Sir Andrew Burns, Chair of the Bar Standards Board, and, Dr Vanessa Davies, Director-General of the Bar Standards Board, Naomi Ellenbogen QC, Vice-Chair of the Bar Standards Board spoke to the BSB report accompanied by Amanda Thompson, BSB Director for Governance Reform.

Naomi Ellenbogen QC presented a selection of edited highlights from the report. Beginning with consultations, she announced that the BSB have listened to concerns about the amount of consultations issued. There have been two publications only since July: the BSB annual

report and the BSB enforcement performance report. The annual report covers the last business year and the last year of the current BSB strategic plan. It includes publication of the BSB's risk outlook, publication of the new professional statement, information about the new CPD regime, details of the women at the Bar research, and, information about the review of immigration advice and services.

A series of events around the country have been arranged to discuss the new CPD arrangements. The last meeting is a webinar for those who are unable to attend in person. Richard Atkins QC made the point that members were initially informed that in Birmingham, the CPD meeting would be held at a hotel some way from the courts. Since then, the meeting has been moved to St Philips Chambers. He suggested that, in future, those in charge of organising such events should first contact the relevant Circuit Leader to avoid unnecessary expense.

Louisa Nye thanked the BSB for engaging with the Young Barristers' Committee regarding youth court advocacy work. Three workshops will take place in December and she enquired as to whether these will be publicised more widely. Naomi Ellenbogen QC noted the comments of both Richard Atkins QC and Louisa Nye and agreed to pass them on to those at the BSB.

Ruth Hughes raised a concern about the drafting of the new CPD rules. She made the point that rules as drafted relay the message that CPD is 'above and beyond' the normal practice of a barrister when, in reality, barristers carry out CPD activities in the course of their normal working lives – not simply because they are 'told' to do so by the regulator. To this, Naomi Ellenbogen QC explained that a wide consultation had been held concerning the new CPD regime. A future consultation focussing on the best way of operating the rules exploring the best way of implementing the rules as usefully as possible will also be published and will present a further opportunity for input.

Andrew Stafford raised a question regarding paragraph 3 of the BSB report which states that the overall cost of regulation has decreased by 2%. He pointed out that the Bar Council financial statements appear to contradict this. Naomi Ellenbogen QC explained that there is no contradiction, the Bar Council accounts compare the results between 2015/16 and the prior year 2014/15 whereas the BSB annual report compares the results between the year 2013/14 and 2015/16. Both report figures are therefore correct.

#### **4. Bar Council Standing Orders/Constitution amendments**

The Chairman explained the series of amendments to the Standing Orders and Constitution for the Bar Council to approve. The first proposal, brought by the Employed Barristers' Committee asked that the Standing Orders are amended to ensure that the Chair of the Employed Barristers' Committee is always an employed barrister. This is in response to concerns by the Committee itself who feel that it is important that they should be represented by an employed barrister. The proposal has already been considered and approved by the GMC.

Melissa Coutinho asked about the status of dual practising barristers and their eligibility to serve as Chair of the Employed Barristers' Committee. Michael Jennings, Chair of the Employed Barristers' Committee, acknowledged that this is a good point. He explained that there is no simple answer to this vexed issue which the Committee will consider further in the future. The Committee agree that the practising certificate of their Chair should state 'employed barrister'.

The Bar Council approved the amendment.

The second paper sought to ensure that the Chairman of the recently established Pro Bono Committee is a member of GMC. This will create consistency with all the other Bar Council sub-committee chairs.

The amendment was approved.

The third paper was based on the premise that all ex-officio members of Bar Council should be treated equally. At present, the Chairman of the Commercial Bar Association is the only Specialist Bar Association (SBA) member of GMC who is not also an ex-officio member of Bar Council. The paper asked for a change to be made to the Constitution to ensure that the Chair of the Commercial Bar is an ex-officio member of Bar Council going forward.

Richard Hoyle said that he welcomed the change but raised concerns about deleting the role of 'Subscriber elected by the Commercial Bar Association' from the list of Bar Council members.

Ruth Hughes echoed his concerns citing the example of the Chancery Bar Association which has two Bar Council members, the Chair and a Subscriber elected by that SBA. Natalie Zara, Head of Governance, said that she would look into the issues surrounding this and report back to GMC. The Bar Council approved the amendment to make the Chair of the Commercial Bar Association an ex-officio member but placed on hold the proposed amendment to change the paragraph listing the Subscriber member of the Commercial Bar Association until further consideration is given to the implications.

The last paper concerned casual vacancies. The Chairman explained that over the last two years the Bar Council has seen a number of its members resign with only a couple months left to serve of their term. The current need to seek Bar Council approval to appoint to all casual vacancies means that where there is a very short term vacancy of only two or three months, the delay between meetings often means that the vacancies remain empty. Discussions have taken place between the Chairman of the Bar, the Head of Governance and GMC to arrive at a proposal whereby the Chairman has discretion to make a quick appointment. Any decision would still allow the Bar Council to take a view.

Louisa Nye suggested that the words 'in consultation with the Chairman of the Young Barristers' Committee' are added to the proposed wording given that the majority of the elected contingent are largely from this demographic.

Andrew Walker QC questioned the need to formalise the involvement of the Chairman of the Young Barristers' Committee as it would happen in practice anyway. However, Louisa Nye remained convinced that it should be included for the sake of clarity.

The Chairman explained that there is now a rigorous process in place for external appointments. She said that she would hope that any Chairman would take appointments to short term casual vacancies to the GMC in order to obtain the views of a wider interest group.

Amanda Pinto QC made the point that the GMC meets every two weeks and discussions about appointments are useful. Richard Atkins QC echoed this and said that he agreed with the proposal to go through the Chairman in such circumstances.

Colin Andress said that he had concerns about the words 'whichever is more appropriate'. He argued that it gives discretion to the Chairman with no reference to the Bar Council. The Chairman replied this is the intention, given the increasing number of cases where this situation arises at the last minute.

Colin Andress then suggested the introduction of a rule that is specific around timeframes.

Bar Council approved the amendment, but agreed that a revised amendment should be presented at the next meeting.

## **5. Communications at the Bar Council**

The Chairman explained that in the absence of a debate topic, she thought that Bar Council members might be interested in hearing about the communications function at the Bar Council. She introduced Steve Rudaini, Head of Communications, to talk about the role of communications and take questions.

Steve Rudaini said that it was his intention to talk about what the Communications Team does and how they do it. Over the last two years a number of new avenues have opened up allowing the Communications Team to better communicate the work of the Bar Council.

Bar Talk was launched in 2014 and although its audience numbers have grown considerably, this is not the sole solution. For example, the Twitter account has attracted 12000 followers this year, the Instagram account has 350 followers, and the Bar Council Facebook account is active. The Bar Council have even set up a YouTube channel that has reached 9000 views in one year.

The Communications Team have regular contact with the media and the Bar Council was mentioned in 1,200 media outlets in the last annual report year. In addition, the Communications Team have enjoyed good success in promoting direct access and last year appeared in a series of small business publications to promote direct access. Furthermore, the Team have forged effective links with politicians and senior leaders and Steve Rudaini cited the work on the Investigatory Powers Bill as an example of effective lobbying.

One strand of the work of the Communications Team are the party conferences and the Team aim to strengthen existing ties and make new contacts each year. Elsewhere, much of the work of the Team centres around publicising the role and value of the Bar and a number of campaigns are designed to illustrate what the Bar does. The Chairman's article '*A vision for legislative reform of the regulatory framework for legal services in England and Wales*', published in

in City A.M. in March, specifically highlighting the role of the Bar, is an example of the work that the Communications Team does to ensure that the importance of the Bar is widely communicated.

Steve Rudaini talked about the Bar Media Index that is made up of barristers willing to speak to people about their own areas of work in a personal capacity, citing this as a good way of promoting the work of the Bar. He also acknowledged the current problems with the Bar Council website and explained that the Team are taking steps to fix these. The Communications Team intend to use more film-based communications on the website in due course.

Despite being comprised of 'two and a half people', the Communications Team has a broad internal communications remit despite. Steve Rudaini acknowledged that there is still work to be done but said that steady progress has been made.

A question was asked about what the Communications Team puts on YouTube. Steve Rudaini gave the examples of videos of clients of barristers taken at the last Pupillage Fair, a video about how to use Barrister Connect, and, excerpts from the Brexit debate held earlier in the year.

Amanda Pinto QC noted the usefulness of the work of the Communications Team in promoting direct instruction and Ruth Hughes enquired as to how she might get a picture published on Instagram. Steve Rudaini encouraged her, and any other members with similar request or enquiries, to email him.

Paul Stafford recounted a recent long conversation with Stephen Irwin QC during which the topic of how public perception is influenced through the observation of figures in the media was discussed. He enquired as to whether or not the Bar Council has a procedure whereby it promptly corrects errors published in the media about the Bar. Steve Rudaini replied that the Team monitors media coverage but explained that the media is normally unwilling to change what has been published unless the information is completely inaccurate. To this, the Chairman encouraged members to make the Bar Council aware of any inaccuracies that they may have spotted about the Bar in the media.

Stephen Crowne said that in first year as Chief Executive he recalled encountering a lot of negative press around 'fat cat' barristers but noted that this has significantly diminished, thereby illustrating that the Communications Team have been successful in their approach.

Following a question from a Bar Council member referring to the T-shirt she was wearing, the Chairman explained that the Bar Pro Bono Board has been working closely with the Communications Team to disseminate the message more widely. Individual stories are being collated and it is hoped that publishing these will mark the start of a successful communications programme around the work that barristers carry out on a pro bono basis.

Robin Allen QC said that he appreciates the news update sent via email but also said that he is aware that not all barristers receive this and enquired about the circulation policy. Steve Rudaini replied that the news update goes out three times per week, normally on a Monday,

Wednesday and Friday, and covers not just The Press but other legal stories. He said that he is happy to add any barristers who wish to be added to the circulation list and he asked members to contact him if they want to subscribe. To this, the Chairman suggested that Bar Council members should be automatically added to the circulation list and that those who do not wish to receive the news update contact Steve Rudaini to request removal of their names from the list.

**6. Chief Executive's report**

In the absence of time, this item was discussed in the AGM.

**7. Treasurer's report**

In the absence of time, this item was discussed in the AGM.

**8. Any other business**

The Representative from the Planning and Environmental Bar Association said that he had an interest in Brexit and the work of the working group, but noted that there is little mention of planning and environment in any of the papers and enquired how he might get in touch with those working on Brexit. The Chairman advised him to contact her or Hugh Mercer QC, Chairman of the Brexit Working Group.