



The Bar Council

Meeting of the Bar Council

Saturday 7 September 2024 at 10:00

The Bar Council

289-293 High Holborn, London WC1V 7HZ (Rooms 1.4-1.7)

Present:

Samuel Townend KC	Chair of the Bar	STKC
Barbara Mills KC	Vice-Chair of the Bar	BMKC
Lorinda Long	Treasurer	LL
Alan Kershaw	Chair, Legal Services Board	AK
Craig Westwood	CEO, Legal Services Board	CW

Members in attendance (in alphabetical order):

Stephen Kenny KC (SKKC), Adam Baradon KC (ABKC), Barbara Connolly KC (BMKC), Caroline Rees KC (CRKC), Charlie Woodhouse KC (CWKC), Christina Michalos KC (CMKC), Desphal Panesar KC (DPKC), Eleena Misra KC (EMKC), Fenner Moeran KC (FMKC), Heidi Stonecliffe KC (HCKC), Henry King KC (HKKC), Hugh Mercer KC (HMKC), Jacob Hallam KC (JHKC), Jaime Hamilton JC (JHKC), James Roberts KC (JRKC), Jason Pitter KC (JPKC), Jo Martin KC (JMKC), Kirsty Brimelow KC (KBKC), Leon Kazakos KC (LKKC), Mary Prior KC (MPKC), Michelle Heeley KC (MHKC), Mike Jones KC (MJKC), Nicholas Johnson KC (NJKC), Philip Moser KC (PMKC), Ruth Kirby KC (RKKC), Richard Honey KC (RHKC), Saira Kabir Sheikh KC (SKSKC), Tony Singla KC (TSKC), Aoife Kennedy (AK), Alex Matthews (AM), Alice Hands (AH), Amrit Dhanoa (AD), Amanda Jepson (AJ), Annabel Graham Paul (AGP), Anton van Dellen (AvD), Asad Maqsood (AM), Brittany Buckell (BB), Celina Colquhoun (CC), Cathrine Grubb (CG), Daniel Sheridan (DS), David Christopher Taylor (DST), David Bunting (DB), Ellen Wright (EW), Emma Hughes (EH), Emma Walker (EW), Elaine Banton (EB), Faisal Sadiq (FS), Guy Williamson (GW), Hannah Smith (HS), Ivor Collett (IV), James Paterson (JP), Jasmine Chan (JC), Kate Lumsdon (KL), Leanne Targett-Parker (LT-P), Linda Turnbull (LT), Luke Wygas (LW), Maddy Charlesworth (MC), Madeleine Deasy (MD), Martyn McLeish (MML), Matthew Keliris-Thomas (MK-T), Melissa Coutino (MC), Minka Braun (MB), Michael Harwood (MH), Mirza Ahmad (MA), Paul Adams (PA), Paul Powlesland (PP), Philip Stott (PS), Peter Grieves-Smith (PG-S), Reagan Persaud (RP), Rebecca Dix (RD), Rory Brown (RB), Sara Ibrahim (SIb), Sarah Fearon (SF), Sarah Gerrard (SG), Sunny Virk (SV), Sean Summerfield (SS), Shoshana

THE BAR COUNCIL

www.barcouncil.org.uk

289-293 High Holborn, London WC1V 7HZ DX: 240 LDE Tel: 020 7242 0082 Fax: 020 7831 9217

Mitchell (SM), Shazia Akhtar (SA), Shobana Iyer (SI), Simon Atkinson (SA), Susan Jones (SJ), Tahmina Rahman (TR), Yaa Dankwa Ampadu-Sackey (YDA-S), Yasmin Omotosho (YO)

In attendance:

Carolyn Entwistle	Director of Services	CE
Isi Onwukwe-Anyadike	Governance (minutes)	IOA
Phil Robertson	Director of Policy	PR
Piran Dhillon-Starkings	Advisor to the Chair	PD-S
Malcolm Cree	Chief Executive Officer	MC
Sally Burnell	Director of Communications	SB
Kathryn Stone OBE	Chair of the BSB	KS
Mark Neale	Director General, BSB	MN
Richard Cullen	Director, Finance	RC
Wilf White	Director, Communications and Public Engagement BSB	WW

Apologies were received from:

Georgios Petrochilos KC, Emma Southern, Gaynor Wood, Lucinda Orr, Simon Regis, Andrew Howe, William Dean

1. Conflicts of interest and announcements

None noted.

2. Minutes of the last meetings and matters arising

The following amendments were noted:

- Attendance: HKKC
- Item 9: Fenner Moeran KC, Co-Chair of the Ethics Committee presented the committee report which ~~she~~ he took as read. He highlighted the following.
- Item 10: Amrit Dhanoa, the Chair of the Young Barristers' Committee presented the committee report which she took as read. She highlighted the following

The minutes from the meeting held on 25 June were APPROVED as an accurate record with these amendments.

3. Statement by the Chair of the Bar Council

The Chair highlighted the following points from his report:

Respects

The Chair commenced the meeting by extending his respects to Treasurer of Middle Temple, Paul Darling KC, who recently passed away. Thoughts and well wishes are shared with his family and friends, current and former Chambers, and colleagues at the Bar.

Personnel

- Andrew Twigger KC retired as the Chair of the Chancery Bar Association as of 15 July 2024. Ian Clarke KC is the new Chair.
- Tana Adkin KC retired as Chair of the Criminal Bar Association as of 1 September 2024. Mary Prior KC is the new Chair and Riel Karmy-Jones KC has been appointed as Vice-Chair.
- Stephen Kenny KC steps in as Chair of the Bar Council Regulatory Review Panel.
- Michelle Heeley KC will be stepping down as Midland Circuit Leader in October 2024. She will be replaced by Harpreet Sandhu KC.

General Election

- Since the last Bar Council meeting there has been a General Election. The Chair gave an address on behalf of the Bar - welcoming the new Lord Chancellor, Attorney General and Solicitor General.
- Prior to the election, the Bar Council published a manifesto for justice, which it hoped would influence the spending review budget and government policy on justice.
- The Bar Council continuously seeks to influence the MoJ and AG's office on work they do in private and public. The Chair recently held his first formal meeting with the Minister of State for Courts and Legal Services. Our immediate priority is the spending review.

Sitting Days

There will be a change in the number of sitting days in court, uncapped sitting days will no longer be the policy moving forwards.

Bullying and Harassment Review

The Chair encouraged members of Bar Council are encouraged to engage with the Bullying and Harassment Review being led by the Rt Hon Harriet Harman KC. The Bar Council knows there is a problem with bullying and harassment and the review is designed to help the Bar solve it.

BSB Consultation

The Bar Standards Board (BSB) has launched a consultation on the regulation of equality, diversity and inclusion (EDI) at the Bar, which includes proposals to move to outcomes-based regulation of equality rules, and to amend Core Duty 8 from a duty not to discriminate unlawfully to a duty to advance equality, diversity and inclusion. The Bar Council has published an initial response and its members are encouraged to engage with this consultation and provide their own responses where possible.

4. Bar Standards Board Report

Kathryn Stone OBE, Chair of the BSB took her report as read. She highlighted the following:

BSB Consultation on revising on equality rules

- On Tuesday the BSB published a consultation on revising its equality rules. There have been improvements in equality, diversity and inclusion at the Bar in recent years, though it is recognised that the cultural changes being sought by the BSB cannot be achieved by regulation alone. Everyone, including the Bar Council, has a vital role to play in promoting access to the profession, in helping to retain qualified barristers, and in addressing bullying, discrimination and harassment.
- The consultation is seeking views on a number of proposals, in particular, the proposed change to Core Duty 8: “not to discriminate unlawfully” with a more positive obligation on barristers to “act in a way that advances equality, diversity, and inclusion” when providing legal services. The consultation is also proposing to take a more outcomes focused approach to the equality rules, but to retain prescriptive requirements where necessary for transparency and accountability.
- These proposals have been informed by discussions with the profession, the Inns, the BSB Race Equality, Disability, and Religion and Belief Task Forces, as well as by research.
- The public consultation will be open until 5pm on Friday 29 November 2024.

BSB Consultation on academic standard

- Students must meet an academic standard for entry on to Bar training. The BSB’s proposals were to maintain the existing standard, but to acknowledge that the standard could now be met through a wider range of routes than first degrees and, accordingly, to look to Bar training providers to play a bigger role in assessing whether applicants to their respective courses met the required standard. Concerns were expressed about the suggested approach, and the BSB is therefore proposing to run a second, shorter consultation, on its proposed guidance for Bar training providers with the Bar Council and COIC over the Autumn.
- The Board expects to return to this in January 2025.

Board appointments

- The BSB Board is seeking to appoint two lay Board members and one barrister Board member. The Board has six lay members of the Board (including the Chair) and five barrister members.
- The Board is seeking to recruit a barrister Board member with an understanding of a wide variety of practices, and lay members with experience of consumer advocacy, policy, and/or engagement. They are particularly interested in candidates with strong commercial expertise.
- The closing date for applications is midnight on 29 September 2024.

MH raised the recent case of a barrister who was taken to a disciplinary tribunal, only for it to conclude that the case should never have been brought. He noted that the BSB annual report highlights its enforcement policy and queried what its independent end-to-end review entailed. Kathryn Stone noted that she was unable to comment on any active cases, but noted that after every case review a lessons learned exercise is conducted, which is included within the end-to-end review process.

FS commented on the equality rules consultation. He noted that it would be helpful to understand not just the data, but the details of where the Bar is failing, as well as the steps that will be taken by the BSB in those cases. FS asked for further information to be shared about the role that regulatory enforcement will play. Kathryn Stone responded that the role of the regulatory body will be to review and work with individual chambers to achieve their goals before taking further action.

Kathryn Stone emphasised that all feedback and thoughts are welcome when responding to BSB consultations, including ideas on what can be improved.

5. Statement by the Chief Executive

Malcom Cree, CEO of the Bar Council highlighted the following points:

- Carolyn Entwistle, Director of Services, has resigned from her role and will be leaving the Bar Council on 8 November 2024. Malcolm highlighted how transformative she has been in her role and wished her the best in the future.
- Craig Westwood was announced the new Chief Executive of the Legal Services Board.

6. Treasurer's Report

Lorinda Long, Treasurer, shared an overview of the Year End Management Accounts position as of July 2024.

- A small budget surplus was planned as part of the strategy to mitigate the impact of the PCF increases on the profession.
- The forecast surplus is likely to be eroded by the additional in year costs associated with the BSB reform programme.
- Increase in income is due to additional PCF collection, BRF subscriptions, and bank interest.
- There is an overspend due to vacancies being covered by temporary staff. In the BSB, this relates to the final stage of the Fieldfisher review.
- There has been a reduction to the LSB charge.
- There has been an improvement in the forecast year-end surplus, mainly due to the additional income from bank interest. This forecast surplus is likely to decrease as the additional costs of the BSB reform programme take effect in quarters 3 and 4.

7. Risk Register and Draft Accounts

MC stated that the draft accounts were for approval and authorisation and would be reported at the AGM immediately following the Bar Council meeting. The financial statements were approved unanimously.

Malcolm Cree reported on the Risk Register as of August 2024. The main risks that the Senior Management Team are concerned with relate to cyber security and the associated risk to business continuity, and the risk of needing to increase PCF payments to cover GCB costs. These risks remain under review.

8. Legal Services Board

Alan Kershaw, Chair of Legal Services Board (LSB) presented a report to the Bar Council. Alan Kershaw began by providing an overview of how regulation at the LSB works.

Regulation

- The LSB is there to provide oversight and supervise the front-line regulator. The LSB oversees the regulation of the nine legal services in England and Wales. The principles the LSB are guided by are the same as those that the GCB and BSB are led by.
- Regulation is larger than record keeping, it is about promoting the good. Regulators on their own are unable to do all the work. Regulatory systems involve partnership and fall under three main headings:
 - i. Acting in the public interest.
 - ii. Leading the profession, speaking for them, and creating positive culture.
 - iii. Ensuing that they are centres of excellence for legal training and education.

These components need to work in harmony with each other. Good regulatory systems benefit everyone, including the profession and the public.

Equality, Diversity, and Inclusion

- The LSB is interested in equality, diversity, and inclusion and achieving this with real and visible results.
- The LSB is the aspirational leader of the Bar Council, the Law Society, and others. It aims to be the leader for cultural change in many ways. Areas of interest include bullying and harassment, workplace cultures (including of long working hours and presenteeism), and issues relating to matters of equality and diversity.
- Change won't happen without strong leadership from the top.

Leadership

- To avoid striking members off, the answer is in education and standards, because the ones who are struck off are a tiny fraction of 1% in virtually every profession. Education standards impact everyone.
- The leadership role is to promote the good and to work in harmony with the regular.
- It was noted that the cost per head of regulating barristers is going to be higher than the cost per head of regulating solicitors simply because the former is lower in number.
- The Internal Governance Rules are there because regulators aren't totally independent. They were set up to ensure a proper degree of independence for the regulator.

The Chair stated that barristers have been subject to very substantial increases to the cost of regulation over the past six years. It is a significant cost to barristers compared to solicitors. Alan Kershaw responded that the LSB is primarily concerned with the performance of lawyers in their jobs and how regulation is used to ensure this. The better regulation principles are: proportionality, accountability, consistency, targeting, and timeliness. He commented that it is for the BSB to set its budget according to its needs.

The Chair asked the LSB to consider the cumulative effect of many years of double-digit fee increases from the Bar's regulator, while the Bar Council itself is cutting its cloth and ensuring that its only increases are below inflation and are therefore proportionate.

SKKC noted that members spend a lot of time, on an individual basis, complying with the requirements of the regulator and that those requirements are becoming increasingly burdensome. He queried the extent to which the LSB focuses on the costs for the regulated community, and the extent to which it communicates those concerns to the frontline regulators. There is an impression that the frontline regulators are not under any pressure to limit the costs that they inflict upon those they regulate. Alan Kershaw responded that the LSB sees and reviews the budget submissions each year and expects the regulators to set out their reasoning for any increase.

9. Date of next meeting:

Saturday 16 November 2024, 11:00