



**Minutes of the Bar Council meeting
held on Saturday 21 January 2017 in the Sherrard Room, Rutledge Suite,
Middle Temple**

Present:	Andrew Langdon QC	Chairman
	Andrew Walker QC	Chairman Elect
	Lorinda Long	Treasurer

Apologies for absence

Apologies for absence were received from: Robin Allen QC, Janet Bignell QC, Chris Bryden, Robert Buckland QC MP, Alexandria Carr, Ivor Collett, Celina Colquhoun, Joseph Curl, Tim Devlin, Katie Drummond, Michael Duggan QC, Max Hardy, Shobana Iyer, Fiona Jackson, Matthew Kewley, James Kitching, Justin McClintock, Stuart McCracken, Benjamin Myers QC, Francesca O'Neill, Thomas Payne, Charlotte Pope-Williams, Richard Posner, Emma Price, Robert Rhodes QC, Rachel Spearing, Daniel Sternberg, Andrew Granville Stafford, Amanda Tipples QC, and The Rt Hon Jeremy Wright QC MP.

The following did not attend and did not send apologies: Colin Andress, Marie Demetriou QC, Alexandra Healy QC, Angharad Price, Angela Rafferty QC, Penelope Reed QC, Alison Saunders and Brie Stevens-Hoare QC.

75 further members attended.

1. Minutes of the last meeting

The Chairman welcomed members to the first Bar Council meeting of 2017 and expressed gratitude to Middle Temple for allowing the Bar Council use of the room free of hire charge. He drew members' attention to the list of 31 new members attached as annex 2b and introduced the four new Circuit Leaders to all those in attendance. They are:

Michael Hayton QC – North Eastern Circuit
Nigel Sangster QC – Northern Circuit
Kerim Fuad QC – South Eastern Circuit
Paul Hopkins QC – Wales and Chester Circuit

Informing members that the Attorney General (The Rt Hon Jeremy Wright QC MP) and Solicitor General (Robert Buckland QC MP) are ex-officio members of the Bar Council, the Chairman explained that normally one or the other is in attendance at Bar Council meetings (although neither were present for this meeting). The Chairman emphasised that the Attorney

General and Solicitor General act as a conduit of the views of the Bar to the Government – their purpose is not to help the Bar Council formulate policy. Referring to the Bar Council meeting in November 2016 where the Bar Council made its views about the lack of support shown by the Lord Chancellor to those judges attacked by the media for their involvement in the article 50 litigation clear to the Solicitor General, the Chairman said that this is an example of the role of the Law Officers. The Chairman finished by saying that he hopes the Lord Chancellor will be in no doubt about what the Bar expects.

The Chairman congratulated the latest 113 barristers who have taken Silk. He acknowledged that the headlines around diversity are encouraging but noted that the major headline is that there are now 113 new Silks to promote the work of the Bar.

Michael Hayton QC, Leader of the North Eastern Circuit, was asked to relay condolences to the family of Dame Frances Patterson DBE who passed on 21 December 2016 on behalf of the Bar Council. Dame Frances was appointed Public Law Commissioner at the Law Commission for England and Wales in 2010 and in 2013 she was appointed to the High Court Bench, assigned to the Queen’s Bench Division. She spent several years as Head of King’s Chambers in Manchester and Leeds.

The minutes of the meeting on Saturday 5 November 2016 were approved subject to very minor amendments.

2. Statement by the Chairman

Saying that he assumed that his statement would be taken as read, the Chairman said that he wished to refer to one or two topics included in the statement.

He began by noting that the Bar Council has an opportunity to stand back and think about the year ahead. When they first joined, most members would not have foreseen that that they would be sitting on Bar Council at a time of such upheaval in society and a Trump-led America. What is happening in the wider world has an impact on the Bar and there is more need than ever to affirm the Rule of Law and concentrate hard on what we mean by this in the West. The responsibility for this rests with the Bar Council especially during a time when politicians appear all too happy to ‘tread all over’ territory that was previously regarded as sacrosanct.

There are a number of threats to the Bar and the Bar Council needs to be vigilant. For example, the media attacks on the judiciary, suggesting that judges are not impartial, is a threat. The erosion of legal professional privilege in the Investigatory Powers Act (IPA) is a threat. Although the IPA offers new protections for legally privileged material, the Government has fallen short of that considered sufficient by the Bar Council. The Chairman recorded thanks to Gordon Nardell QC and Peter Carter QC for their work in this area.

The Bar faces a number of threats to the Rule of Law in terms of access to justice that have been manifest for some years now. On this subject, the Chairman specifically highlighted three issues:

- 1) The need to put right market failure so that anyone charged with serious crimes may only be defended by those who are adequately trained;
- 2) Fixed recoverable costs and its impact on the Bar; and

- 3) The loss of legal aid to the most vulnerable – those thousands who are detained in immigration detention centres.

The Bar Council should be feeding its concerns into the review of LASPO.

The Bar also faces change of an unprecedented scale in the Court Reform programme. Some of the reforms have implications on the quality of access to justice and the Bar Council has a responsibility to share its concerns and 'speak up' where those changes are not in the public interest. The Chairman noted that this will not always make the Bar Council popular with the senior judiciary but made it clear that the Bar Council is independent of the judiciary and is entitled to take a different view. Practical input is required – clever ideas – and he urged members to 'lead with initiatives of our own'. The Legal Services Committee, Chaired by Derek Sweeting QC, has some practical ideas in this area.

The Chairman also spoke about 'business as usual' at the Bar Council and listed a number of tasks that fall into this category including responding to consultations, promoting international work, dealing with issues around equality and diversity, ethical assistance and education, support for Direct Access, championing and enabling Pro Bono work, working with the regulator and representing the interests of the Bar to Government across the piece.

Members who are not yet part of a Bar Council committee, board or panel, are encouraged to get involved and the Chairman outlined the role of members. Describing Bar Council attendance in terms of 'two way traffic', the Chairman explained that members are expected to take away the views of the Bar Council and speak to others in their constituencies about their thoughts.

One addition was made to the Chairman's diary. The Chairman reported that he attended a Ministry of Justice Roundtable meeting at Freshfields on Thursday 19 January 2017. The Lord Chancellor was present and discussion topics included judicial diversity, Brexit, talent management and promoting Global Britain/identifying priority target markets for legal services providers. Some 27 people were present including Laurie Rabinowitz QC (COMBAR); Amanda Tipples QC (Chancery Bar Association) and Hugh Mercer QC (Bar Council Brexit Working Group). A note of the meeting is expected shortly.

Turning to the topic of AGFS, the Chairman said that the Bar Council has played a significant role in formulating the MoJ's consultation. The Bar Council has been assisted by Professor Martin Chalkley and the Chairman asked members to read his short note giving some context to the changes, attached as annex 2c. He also asked members with any questions to talk to him, or Francis Fitzgibbon QC, Chair of the Criminal Bar Association and present at the meeting, directly. The deadline for responses to the consultation is 2 March 2017 and Bar Council members are strongly encouraged to respond.

Louisa Nye asked about the meeting that the Chairman had with the Lord Chancellor and enquired about whether or not she had given any indication of her priorities. The Chairman replied that the Lord Chancellor had not listed her priorities but she had made an announcement about the need for mutual recognition and enforcement of judgments. Laurie Rabinowitz QC, who had also been present at the meeting added that there had been recognition from the Lord Chancellor that the business of law is big and needs to be protected. The need for some 'joined up thinking' between the Government and Judiciary in order to deliver a series of events to promote English law and interests had been discussed.

Paul Mendelle QC asked whether it would be possible for Bar Council members to see a copy of the AGFS submission. The Chairman alerted members to the document published by the Bar Council in October 2105 as an overview of the scheme on the Bar Council website. The brief was to design a new scheme with a neutral budget and the Bar Council took the opportunity to redesign the scheme. What has been produced is close to the design that the Bar Council had wished for.

Ben Rowe asked about the article 50 judgment due on Tuesday 24 January with regards to the Bar's relationship with the Lord Chancellor. He enquired whether the Government has been warned what to expect should it lose. The Chairman replied that the Government should be aware. If, in her response, the Lord Chancellor fails to fulfil her constitutional duties, he is confident that it will not be because she does not understand them.

With regards to those mentioned in relation to Judicial Diversity in the Chairman's Statement, Michael Jennings made the point that the two Bar Council representatives, Robin Allen QC and Julian Picton QC, are both white, male, barristers. The Chairman replied that the Equality and Diversity and Social Mobility Committee is diverse in its make-up and he is satisfied that the Bar Council is significantly diverse. He had consulted with others.

Nigel Sangster QC reported that the exam structure for this years' Recorder Competition for 100 recorders, due to launch on 1 February, has been rejigged. He encouraged those who have previously applied to apply again. On this subject, the Chairman said that he is keen to ensure that the recruitment exercise attracts more diverse talent and noted that those applying ought to be told of the new approach.

3. BSB report

The Chairman introduced Sir Andrew Burns, Chair of the Bar Standards Board, to speak to the BSB Report. Sir Andrew Burns was accompanied at the meeting by Dr Vanessa Davies, Director-General of the Bar Standards Board, Naomi Ellenbogen QC, Vice-Chair of the Bar Standards Board, and Wilf White, BSB Director for Communications and Public Engagement. The Chairman expressed gratitude to the BSB for attending the Saturday Bar Council meetings and explained that the BSB's attendance at Bar Council meetings is a reciprocal arrangement. The Bar Council Chairman, Chief Executive and Special Advisor to the Chairman attend Bar Standards Board meetings.

Sir Andrew Burns wished Bar Council members a happy and prosperous New Year. Saying that he was looking forward to getting to know the new members, he explained that the BSB were present to tell the Bar Council 'what we are up to'.

It has been a busy year for the BSB and two of the current issues on the horizon are:

- 1) The work involved in responding to two major reviews of regulation. *The Competition and Markets Authority's market study into the supply of legal services in England and Wales* came out in December 2016 and this could prompt a new MoJ review into regulatory independence; and
- 2) The decision on the response to the FBT consultation.

Explaining that he would return to these two topics, Sir Andrew Burns presented the BSB report.

Shared Parental Leave

On 22 November, the BSB launched a consultation to ask the Bar whether self-employed barristers should enjoy similar rights to shared parental leave to those available to employed barristers. The consultation closes on Friday 17 February 2017.

Ministry of Justice Youth Justice Review

The BSB welcomed the publication of the Ministry of Justice's review, led by Charlie Taylor, into youth justice on 12 December 2016.

Continuing Professional Development

The new CPD rules for Established Practitioners took effect on 1 January 2017 prior to which the BSB issued guidance and a template on 13 December 2016. Sir Andrew Burns said that he hoped the Bar Council members would find the scheme a 'real improvement'. An energetic series of roadshows and discussions around CPD have taken place and these have enjoyed a positive response. The BSB focus is on helping barristers to comply with the new scheme rather than imposing sanctions for non-compliance.

Alternative Business Structures

An order has just been laid in Parliament and the BSB hope to begin licensing ABSs in April 2017.

Appointments to the Board and Advisory Panel of Experts (APEX)

The BSB have made a number of new appointments to its Board and APEX. The Board selection panel has appointed Alison Allden OBE, Steven Haines and Zoe McLeod to the Board with effect from 1 January 2017.

Nine appointments have been made to APEX comprising three barrister members and six lay members. APEX is a group of external and independent experts who may be called upon to provide specialist advice in areas of BSB work where an in-depth or more independent view is required.

Sir Andrew Burns recorded thanks to outgoing BSB Board members Malcolm Cohen, Tim Robinson and Andrew Sanders and to the two special advisers, Emily Windsor and Keith Baldwin, who have recently stepped down.

Future Bar Training

The COIC/Bar Council model has now been included in the BSB's Consultation on Future Bar Training. It was circulated together with an extension of the deadline until Tuesday 31 January 2017. The BSB welcome the proposal and are grateful for the efforts that have gone into the documentation. The BSB is looking forward to receiving comments and to meeting COIC and the Bar Council on 10 February 2017 to discuss the results.

CMA Market Study

This substantial report was published in December 2016. The BSB have a duty to promote the interests of consumers and is working to prepare a formal response with other regulators. Sir Andrew Burns said that he recognises that some topics covered in the report may be more contentious than others. He noted that the CMA appear to have focussed more on the services provided by solicitors but said that the BSB will be seeking to ensure that the CMA takes the differences into account.

The CMA recommends that the MoJ carries out its report into regulatory independence as soon as possible and the BSB expects the CMA report to trigger this. The Government has 90 days in which to respond to the CMA report.

Brexit

The BSB is continuing to discuss Brexit and its implications with the Bar Council.

Addressing the topic of FBT, Guy Fetherstonhaugh QC asked for a rough timetable of the next steps. Sir Andrew Burns confirmed that the deadline for responses to the consultation is Tuesday 31 January 2017. The BSB meeting with COIC and the Bar Council will take place on Friday 10 February. The BSB enjoyed a good session with those in the academic world this week and will be looking at other options with the intention of taking a view this Spring.

Vanessa Davies explained that the BSB Board will receive a private read out of the responses, of which there are some seventy at this point. The BSB Board would like to make its decision at the March meeting and to make this public. The rollout will depend on a number of issues. For example, changes to university courses can take up to five years to effect. It not simply a question of replacing one model with another as there are financial implications that need to be carefully explored.

Nick Vineall QC asked a question about the process by which the BSB Board will come to a decision and which materials they will have available to them. He enquired whether responses from principle respondents will be in front of them. Vanessa Davies replied that the BSB Board always has every single response available to it electronically for any consultation.

Referring to the CMA report, Louisa Nye said that it was heartening to hear that the BSB understands the distinction between the Bar and solicitors. On the subject of price discrepancy, she asked that the BSB are alert to the fact that the way the Bar fixes its prices is different to solicitors. Sir Andrew Burns sought to reassure Louisa Nye that the BSB is very much alive to this issue and Vanessa Davies made the point that 50% of the BSB Board and APEX are barristers.

Turning her attention to Ministry of Justice's Youth Justice review, led by Charlie Taylor, Louisa Nye sought assurance that any guidance produced by the BSB will take a 'light touch' approach. Sir Andrew Burns reassured her that it would.

Continuing on the topic of the youth justice review, Andrew Walker QC asked whether the BSB is proposing any requirements in relation to the youth court and, if so, whether the BSB can assure the Bar Council that it will first seek views from those practising in youth courts. Sir Andrew Burns confirmed that a lot of work has already been done in this area and Vanessa Davies reported that the BSB Board will be devising a proposed action plan in February.

While the BSB cannot promise there will be no requirements, it did not support mandatory training and it is hoped that the new CPD scheme will deal with this issue.

4. Statement from the Chief Executive

Future Bar Training (FBT)

The Chairman explained that prior to the Statement from the Chief Executive he had asked Guy Fetherstonhaugh QC, Chair of the Education and Training Committee, to talk to Bar Council members about the BSB Consultation on FBT. He also said that he is not certain that a review on regulatory independence is imminent.

The Chairman explained that prior to the Statement from the Chief Executive he had asked Guy Fetherstonhaugh QC, Chair of the Education and Training Committee, to talk to Bar Council members about the BSB Consultation on FBT. He also said that he is not certain that a review on regulatory independence is imminent.

Guy Fetherstonhaugh QC explained that, for the last three years, the Bar Council and COIC have been unanimous in their approach that the BPTC could be split into two stages. The first part on evidence and procedure would not be classroom based and could be 'taken anywhere'. At the end of the first stage, students would take a test which would prelude them progressing to the second stage if they don't pass.

Guy Fetherstonhaugh QC expressed surprised that this model, put forward by the Bar Council and COIC, was not included in the BSB's original consultation paper. Instead, options included an array of managed pathways and a 'Bar Specialist Option' which does not appear to have the support of any of the Specialist Bar Associations. Subsequently following a series of meetings the BSB agreed to consult on the Bar Council/COIC option and there is a now an addendum paper that outlines the approach.

The BSB have implied that all responses will be measured against a four criteria but there are three further criteria. It appears that the biggest fear surrounding the Bar Council/COIC model is that its adoption may result in wholesale closure of bar schools across the country.

Guy Fetherstonhaugh QC urged all Bar Council members to respond by the deadline of Tuesday 31 January 2017 and to encourage others to do so to. The more individual and considered the response the better. Bar Council members who may have missed the addendum paper were asked to get in touch with either Sam Mercer, Head of Equality and Diversity and Corporate Social Mobility or himself if they have missed it.

Statement by the Chief Executive

Stephen Crowne said that his main focus was to welcome all new and returning members to the Bar Council. Bar Council staff want to help members get their views heard and the Induction Pack, which includes pictures of the key/senior staff, should assist members. Council members are invited to contact the Executive Office if they would like to visit the offices where they will be very welcome.

5. PCF proposal to the LSB

Stephen Crowne said that his only other substantive point was around the practising certificate fees (PCF) proposals. Every year the Bar Council makes proposals to the Legal

Services Board if it wishes to change PCF. In recent years, the Bar Council has kept fees at the same level however, this year, the now closed Final Pension Scheme has been subject to a substantial deficit due to market changes. The Bar Council agreed to create a ring-fenced fund and increase the PCF contributions by 12% for three-four years. This proposal has been put to the LSB who have to respond by Friday 27 January 2017. The signs so far indicate that the proposal will receive LSB approval as the Bar Council is aware that it has not been taken as an issue to the LSB Board. The PCF fees fund the whole of the BSB's activities as well as important Bar Council activities that fall under the permitted purposes. The Bar Council is unable to finalise its budgets until the proposal is agreed by the LSB. Stephen Crowne informed members that the Bar Council remains 'cautiously optimistic'.

6. Revision to the Employed Barristers' Committee (EBC) Standing Orders

Stephen Crowne presented the paper put together at the request of the Employed Barristers' Committee, by its Committee Executive, Dominique Smith. He explained the current standing orders as drafted preclude those members of the EBC who are not employed by the Government Legal Department or the Crown Prosecution Service, from standing as Chair or Vice-Chairman of the Committee. Under the proposal, the Chairmanship would continue to alternate between the private and public sector but there would no longer be a distinction.

The proposal was approved.

Melissa Coutino made a point regarding a rule change made last year. She said that she agreed with the proposal as, in her opinion, simply because a barrister works in a specific sector should not preclude them from standing. However, she raised concerns that rule change made last year precludes barristers who are dual practising from standing as Chair of the EBC. She said that she had previously chaired the EBC and had, for some time, been simultaneously a dual capacity barrister, largely to undertake pro bono work. If such a rule applied to the Bar Council, our previous Chair, Chantal-Aimée Doerries QC, who was employed, would not have been able to stand!

Michael Jennings, Chair of the EBC in 2016, replied to Melissa Coutinho saying that she raised a good point. He reported that the EBC has a member who is dual capacity who has been asked to write a paper about the potential necessity for a Dual Capacity Committee. Good progress has been made with dual capacity barristers carrying out pro bono work and Michael Jennings said that he hopes to see this issue 'bottomed out' in the near future.

7. Fixed Recoverable Costs

The Chairman introduced the discussion on fixed recoverable costs ("FRC") saying that the review of FRC by Lord Justice Jackson is 'on its way'. Lord Justice Jackson has invited written evidence or submissions to assist the review to be sent to him by Monday 23 January 2017 but this deadline has now been extended.

The Chairman explained that Nicholas Bacon QC, Chair of the Working Group on FRC was present at the meeting and said that he had invited Derek Sweeting QC to explain the ramifications before holding a discussion to decide what the Bar Council response should be.

Derek Sweeting QC, Chair of the Legal Services Committee, explained that FRC is a topic being responded to by the Remuneration Committee. Practical experience of dealing with FRC to date was largely in the context of personal injury litigation. In the absence of Rob Weir QC, Chair of PIBA, Derek Sweeting QC said that he had been asked to speak to this item.

The review will conclude by 31 July 2017 and Sir Rupert's recommendations will inform the government's public consultation on proposed reforms to the costs regime. A series of seminars, lectures and discussions on the subject have already taken place.

The terms of reference for the review include:

- developing proposals for extending the present civil FRC regime in England and Wales to make the costs of going to court more certain, transparent and proportionate for litigants; and
- considering the types and areas of litigation in which such costs should be extended, and the value of claims to which such a regime should apply.

Sir Rupert has previously called for the extension of the fixed recoverable costs regime to claims up to the value of £250k. If that took place it would represent a 10 fold increase on the current limit for claims subject to a fixed cost regime (small personal injury being the largest example). This level of compensation includes cases where people have been seriously harmed or have suffered a substantial loss. There is an argument that the application of fixed costs to this level would be inappropriate and would affect access justice.

The first question to ask is "what types or value of claims should be subject to fixed costs?" At the moment FRC is largely confined to personal injury costs and Derek Sweeting QC explained the possibilities for horizontal (type of claims) and vertical (value of claim) extension to all claims.

Secondly Derek Sweeting QC outlined "The "Grid" which illustrates how those costs are allocated with items of costs down one side and bands across the top. He noted that some of the item costings on the suggested grid would be considered 'woefully inadequate' based on existing costs assessments and experience. He pointed out that it is proposed that there should be only one grid regardless of the nature of the litigation ("no Balkanisation").

Derek Sweeting QC moved on to explain that FRC means what it says. There is no limit on what may be spent or charged. Therefore, large organisations will only have to pay a certain amount but may spend what they like thereby increasing the likelihood of small litigants 'doing it themselves'. However, as these are cases where the gains from the efficient conduct of cases are the greatest, there is an obvious tension. There is equally an incentive not to use counsel for cases within the fixed recoverable costs regime if solicitors are to do the work on a basis which is economic and cost effective for them.

There are obvious impacts on the Bar and in particular the junior Bar as solicitors will want to keep more things 'in house'. April 2013 saw the introduction of the Jackson reforms when proportionality was introduced. There will likely be an argument put that proportionality as between client and legal representative means adhering to the grid and thus a downward pressure on fees.

In the grid, band 1 is for claims where the sum in issue or the value of the property or rights claimed is between £25k and £50k. This encompasses a large number of multi-track claims. Bands 2, 3 and 4 are for larger claims up to a ceiling of £250k. The suggested figures in the grid include counsel, but exclude other disbursements, the costs of enforcing any order and VAT. The costs of claims above £250k are to be controlled by means of costs management.

Such a 'one size fits all' approach for all cases, regardless of complexity, will make many cases economically unfeasible, undermining the principle of justice delivering fairness for all. Many responses make it clear that the indicative figures are often about half what a barrister would expect in any area.

Derek Sweeting QC finished his introduction by informing Bar Council members that they should not be under any illusion that the introduction of FRC will pose a threat to some.

The Chairman reminded members that he had touched on this subject in his inaugural address. In a subsequent meeting with Lord Justice Jackson, he expressed the importance of him speaking to the Bar and he has agreed to attend a meeting in Leeds in May. There is no doubt that the junior Bar is shrinking. There is a 10% reduction in barristers between 10 – 15 years call, a 20% reduction in barristers between 5 – 10 years call and a 30% reduction in barristers between 0 – 5 years call. When looking at the consequences of FRC, he said there were obvious public interest considerations if the new regime is implemented.

Nicholas Bacon QC praised Derek Sweeting QC for his excellent summary of the position. He said that he hoped Bar Council members will find the report a through response to the proposals. Responses from PIBA suggest that up to 80% of their work is up to £250k. For the Professional Negligence Bar Association, the figure is 50% and TechBar 80%. Speakign from a personal perspective, Nicholas Bacon QC said that 75% of practitioners up to 5 years call in his chambers will be caught by this change. He said there are two key issues:

- 1) How far will fixed recoverable costs go vertically; and
- 2) How wide will fixed recoverable costs go horizontally (the Bar Council does not wish to see this extend past £25k).

Christopher Kennedy QC asked to what extent it might be possible to bring down the level of costs either way. Nicholas Bacon QC replied that there is no chance of this with regards to the fast track. There are realistic changes to be made on X - £50k would be a good result - and a solid argument that £250k is off the scale. Derek Sweeting QC observed that even if the £50k is achieved, it will be a staging post.

The Chairman made the point that it is important that the Bar Council is realistic and he impressed on all Bar Council members the responsibility of raising awareness and getting others to 'open their eyes' as to the consequences.

Describing the paper as 'excellent', Richard Atkins QC enquired as to when the final draft will be available. He advised that it would be a good idea to circulate it to circuit leaders. To this,

the Chairman replied that he has been advised that Wednesday 25 January 2017 is a realistic target date.

Amanda Pinto QC asked whether there is anything the Inns can do on this issue. The Chairman replied that the most important this is to raise awareness among the Benchers of the Inns about the need to respond.

Duncan McCombe said that the subject of fixed recoverable costs appears to be a personal crusade by Lord Justice Jackson, and every impression is given that the decision to introduce fixed recoverable costs has already been made. In his view this is not the appropriate way for such decisions to be made, and wondered whether anything could be done in relation to that. Nicholas Bacon QC responded that the idea is to follow the footprint of the review and the Chairman reiterated the importance of voices being heard at this stage. Well-founded criticism of what is proposed may shape Lord Justice Jackson's proposals.

Bill Mousley QC asked whether Bar Council members should be responding individually at this stage as opposed to simply raising awareness. In reply, Nicholas Bacon QC said that he is unsure of the extent to which further representations will be taken into account and the Chairman advised that it might be a good idea for circuit leaders to write to Lord Justice Jackson to ensure that the voices of the individual circuits are heard.

Richard Hoyle said that he understands that the Master of the Rolls recently gave a lecture in December 2016, in which he referred to the potential expansion of Before the Event (BTE) insurance. He reportedly stated that BTE insurance had a symbiotic relationship to fixed costs, and suggested that the Working Group may wish to take into account the extent to which this may be considered effective or ineffective in reducing access to justice concerns.

Gemma de Cordova asked whether the report had taken into account equality and diversity issues. She made the point that the introduction of the fixed recoverable costs scheme could lead to a restricted pool of barristers. The Chairman thanked Gemma de Cordova for her 'wise and powerful' point which is not presently captured in the report.

8. Any other business

Richard Hoyle reminded the Chairman to invite members to attend the free debate on online courts taking place at UCL on Thursday 16 February 2017. Entitled 'The Case for Online Courts', Professor Richard Susskind, who chaired the original advisory group, will provide a practical and theoretical introduction to online courts, making the case for fundamental change in the way the courts handle low value civil, family and tribunal disputes. The lecture will be followed by a panel discussion of the issues and contributions will be invited from the audience. The Chairman of the Bar will be in attendance as a panellist.