



The Bar Council

Minutes of the Bar Council

Saturday 29 February 2020, Lincoln's Inn

Present

Amanda Pinto QC	Chair	APQC
Derek Sweeting QC	Vice Chair	DSQC
Suella Braverman QC MP	Attorney General	SBQC
Nick Vineall QC	Education & Training Cmte	NVQC
Elaine Banton	E&D, Social Mobility Cmte	EB
Neil Hawes QC	Remuneration Cmte	NHQC
Ryan Richter	Employed Barristers Cmte	RR
Malcolm Cree CBE	Chief Executive	MC
Grant Warnsby	Treasurer	GW
Natalie Zara	Head of Governance	NZ
Baroness Tessa Blackstone	Bar Standards Board	BTB
Naomi Ellenbogan QC	BSB Vice Chair	NE
Mark Neale	BSB Director General	MN

75 further members were in attendance

Minutes	Samantha Anderson	Executive Officer	SA
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Apologies were received from

Dr Mirza Ahmad; Robin Allen QC; Nick Bacon QC; Shelley Brownlee; Mark Fenhalls QC; Neil Garrod; Max Hill QC; Sarah Holmes-Willis; Sa'ad Hossain QC; Rachel Langdale QC; Cathryn McGahey QC; Andrew Morgan; Francesca O'Neill; Alison Padfield QC; Francesca Perselli; Eason Rajah QC; Robert Rhodes QC; Lisa Roberts QC; Emma Walker; Richard Wright QC

1. Minutes of the last meeting and matters arising

The minutes of the meeting on 25 January 2020 were approved and published on the Bar Council website after the meeting.

2. Statement by the Chair

APQC welcomed some new members to the meeting - Edite Ligere; Jonathan Orde who is attending his first BC meeting and Mark Neale, the new Director General for the BSB. Welcome especially to the new Attorney General to the meeting – it is an accolade to her commitment to the Bar that she has been able to join us after such a short time in office.

The passing of The Rt Hon Sir Andrew Leggatt, who was a former Chairman of the Bar (1981-1982) was announced. Sir Andrew was Called to the Bar by The Inner Temple in 1954, eventually becoming a Governing Bencher in 1976. He was Head of Chambers at what has since become 3 Verulam Buildings and was appointed Queen's Counsel in 1972. Following his Chairmanship of the Bar Council, he became a Judge of the High Court of Justice, Queen's Bench Division until 1990. He served as a Lord Justice of Appeal from 1990-97 and as Chief Surveillance Commissioner from 1998-2006.

Following the recent advert for a casual vacancy in the category of self-employed barrister over 7 years in practice, Edite Ligere has been elected to membership. Lee Marklew has joined the Bar Council as a Circuit Representative for the Midland Circuit – he succeeds Lisa Hancox who has recently stepped down. Additionally, Quentin Cregan has stepped down as the IPBA representative, though we are awaiting news of his successor.

APQC reported that she has met with the CBA, Young Bar and Circuit representatives, Fiona Rutherford and Jelena Lentzos to discuss the accelerated asks and the overarching review. The consultation went out on 28 February and it is vital that as many people possible respond to it and attend the roundtables that are being put on around the country. There is an additional investment of £30-50million, of which some will go to litigators and advocates. The Bar Council has been extremely involved, especially with the accelerated asks and it is a positive first step. This consultation is for 4 weeks only as the government want to drive it on.

We are engaging with the CPS and assisting them with their budget to get as much funding from the treasury in the spending review. The idea is to get more money into the profession and to support them more generally in the work we do in the prosecution side of the CPS.

We have challenged the BSB on the appointment of a single set of chambers – they have agreed to review the arrangement after 3 years but accepted that no complaint against a person in the designated set, would be dealt with by it – it would go to a barrister from another set.

Justice Week was a very full week and APQC was happy to report that the AG and the SG were both photographed on Wednesday to promote Justice Week, to promote legal education and help people understand how to use the law. The Chair visited Colville Primary School, as part of the Big Legal Lesson, organised with Cilex, which involved over 40,000 students aged 8 and over. At the school, the students reported that they would like to ban pollution, all smoking anywhere and ban GCSE students from having access to social

media. The Legal Design Sprint had students designing technical solutions for access to justice.

The Bar Council made 10 recommendations to the budget submission, all of which will be available on the Bar Council website and will also be published in BarTalk. Additionally, 4 papers have been submitted to the government to help negotiate future relationships with the EU; Crime, Civil, Family and International Dispute. Some of the phrases we used within these papers have made their way into the publication. It demonstrates that we are being heard and that people are taking notice of our work.

3. Introduction to the new Attorney General, The Rt Hon Suella Braverman QC MP

APQC was at the swearing in of the new Attorney General and had the privilege of speaking. Whilst at the Bar, the AG was part of the YBC and she knows the importance of speaking up for and advising on the justice system, especially for the vulnerable. We hope that she will continue to do that, and we are grateful for her attending this meeting.

SBQC gave thanks for the introduction as well as the invitation to join the meeting. This was the AG's first public engagement since starting the role and as honorary Head of the profession, it is an honour to work with you, work for you and serve your interests at the Cabinet table. SBQC reported that she has been told since appointment and seen, the constructive role that the BC has played with brokering, negotiating and enabling real results between government and the legal profession, be that constructive engagement; whether providing feedback, tangible contribution to responding to consultations, funding or being the voice of our advocates, it is a crucial role that the Bar Council are playing and hope you are empowered to represent the profession. The work carried out is complex but completed to the highest standards and SBQC is humbled to be here as a representative.

The AG office will announce the public consultation on Public Guidelines of Disclosure, which will be open for 8 weeks. The Bar Council has contributed a pivoting role to get to this point and SBQC encouraged all, as well as colleagues, to engage actively with the consultation. The aim is to produce new guidelines that encourage best practice. With a collaborative approach, we will be able to achieve that.

SBQC's encouragement is echoed with the Criminal Legal Aid Review. In her first meeting with the Prime Minister, the AG was tasked to target the justice system. The PM is committed to seeing improvements and changes in practice, reforming some of the rules to assist in best practice. This reflects a wider government pledge to move forward within our criminal justice system.

SBQC spent ten years at the self-employed Bar and had the good fortune to work amongst some of the brightest people, who personified ethics, integrity and advocacy. It was a love of advocacy that drew her to the Bar and during her time as a Barrister, she learnt a lot, but most of all, resilience. It is a hard profession to survive in but believes that this is a profession

where meritocracy thrives. The English advocate is a real symbol, all over the world, of justice and equity – long may that continue.

SBQC didn't come from a family of lawyers and had no connection to the profession. When she began her pupillage, she felt daunted by the challenge of navigating the elusive profession. There was a determination to succeed and it was thanks to the opportunities, the support and those around her in the profession that helped her thrive.

The AG is committed to increasing access to the profession, access to justice, access to international legal markets. She wants to do all she can to help in that mission, to help others succeed within this profession, so that everyone, regardless of background, race, gender can find a place to thrive in this profession.

4. Bar Standards Board Report

BTB spoke to the report, adding that the report was hoped to lay concerns over the appointment of 11KBW to rest and emphasised that it is not a wholly exclusive arrangement – the BSB are aware of potential conflicts of interest and believe it will work.

There is slow but steady progress as far as diversity is concerned within the annual review. The BSB want to have accurate figures and the higher the response rates, better representative figures will be. The BSB encourage barristers to answer the diversity questions within the surveys circulated.

The intention is to provide a single recruitment timetable for pupillages, in the hope that the changes make competition fairer and clarifies the understanding to pupils and supervisors of what is expected of them.

In March, there will be a regulatory return for 150 Chambers where a range of questions will be asked, including risks and some on specific topics within the strategic plan (allegations of harassment). The last return was conducted 5 years ago, and it was a rich source of information to direct. The BSB want to get an idea of where attention needs to be directed. Whilst it takes time to reply to it, Chambers have mentioned that the returns are helpful and helps Chambers to make improvements. BTB encouraged those who do receive a request to respond promptly.

An introduction to Mark Neale, the new Director General for the BSB was made.

MN commented that after just 4 weeks so far with the BSB, he is aware that he has a lot to learn and hopes that he can look at the Bar Council to help him with that learning. He is keen to meet everyone, so if there are any events that would be useful for him to attend or where he can contribute, he will do his best to be able to come. He wants to get a feel for training and progress at the Bar and intends to sit in on pupil supervisor training at the Inner Temple. He is also viewing advocacy training at Lincoln's Inn in April. MN wants the BSB and Bar Council to work together where there are common interests and responsibilities – there are things that can be better done together than independently.

In response to why there was no mention of LGBTQ+ within the report, it was reported that there had been very little response in relation to this and if there could be an encouragement made from the Bar Council members, it would be helpful. With low response rates, the BSB were unable to draw out the relevant data. It was voiced that the Inns have LGBTQ+ groups and that maybe there needed to be higher engagement with those groups, but that the community would want to be able to respond anonymously, or in confidence. It was also suggested that such information should not be requested at all, but the BSB disagreed stating that they want to ensure there is no animosity.

It was also raised that if the Bar Council and the BSB were to work together, then policies surrounding discrimination could be better designed, including protected characteristics. Collaboration would be more effective.

MJ gave thanks to Wilf White in the BSB Comms team for changing their website to show GLD lawyers can conduct litigation.

5. Statement by the Chief Executive

The LSB have caused the Internal Governance Rules to change and have changed the way that we are able to work internally with the BSB. The main change is to the Finance Committee but there are minor changes for the emoluments committee also. MC has been working with MN on the IGRs. We must be compliant with these changes by the end of July and we will need the approval of the Bar Council at the May meeting of the revised IGRs.

The LSB are reviewing the ongoing competence of barristers and we will be following this very closely, working with the Inns and the E&T committee. This could be an opportunity and a threat, but we will be working to ensure that our rights and duties will be maintained and that we see the information that we need to see.

Additionally, the LSB are going to be reviewing the PCF fees and how we use these funds. We can justify why these fees are spent and what they contribute toward. Research and evidence gathering helps us with our budget submissions which can only be put in if we have sufficient evidence. We are working with think tanks and a statistician to ensure that we are well prepared.

MC has met with the BEIS Professional and Business Services Sector, who provides specialised support to businesses, government and other organisations (it does not include the financial sector). They have approached us, though we have been wanting to join this for a long time. MC asked for anyone with any information on the group, to please get in touch.

MC added that the [Employed Bar Awards](#) nominations deadline has been extended to Sunday 15 March. Members were encouraged to get involved.

6. Treasurer's Report

GW spoke to a tabled item which is an update on the current position for 19/20 year end and also a first look at the 20/21 budget.

There is a surplus of £1.14million, which in part is being helped by the PCF receipts. New budgeting processes were put in place and are now well established. The budgets are now more reliable than they have been in previous years.

The forecast for 20/21 forecasts a reduced surplus and the 20/21 PCF has not increased. GW encouraged members and for them to encourage their colleagues, to pay the BRF. It is hoped that contributions will increase the income by £1million for this year.

Staff costs have an approximate increase of 3% which reflects the good work done by the Bar Council team as well as general inflation of salaries.

Included on the budget is £133k for laptop refreshing, which is only for this coming year and will not appear for the following year. This is to keep the technology available for the staff, up to date. This is part of the corporate overhead.

The final draft budget is hoped to be presented at the March meeting, as well as a first draft of the five-year plan.

GW commented that the finance committee was currently reviewing the reserves policy. Currently the 19/20 and 20/21 anticipated surpluses mean that the reserves will continue to be maintained over £3m. The 5-year plan will show the impact on anticipated reserves.

7. Education & Training Committee Report

NVQC, who took over as Chair of the committee in January, gave thanks to his predecessor, Guy Fetherstonhaugh QC – all achievements published in the reports are that of GFQC's.

As a reminder in relation to the Pupillage Gateway, from this year, it will be compulsory for Chambers to have agreements with their pupils and we will suggest a template, which will ensure, that if filled in, will comply with the BSB requirements.

The Pupillage Fair that is run every year, this will be held on Saturday 17th October at De Vere Holborn Bars.

Attention was brought to page 5 of the report, paragraph 3.iii – the committee will be responding to the LSB Call for Evidence on Ongoing Competence. The LSB wants to consider whether it ought to be doing more on ongoing competence within the profession. There have been hints of this in the past, but they are putting out this call for evidence. Reported figures are that 23% of the public believe that barristers are trustworthy – this is the 'evidence' that they are basing this on and where the request has arisen. If there is a problem, then we want to work with the regulators, not against, to amend this.

COIC are going to collate a lot of evidence on what the profession does already to assure ongoing competence – the Bar Council shouldn't try to do the same thing as the profession

should speak with one voice. A plea to everyone – if you are involved with the Circuits, Inns, SBAs, you will be approached by COIC, asking for details of what your part of the profession does to ensure ongoing competence – please respond carefully and full, please make sure you are involved.

The Bar Council response will look at the logically prior question of ‘do we have a problem’ – with some help from BMIF who have data that will tell if there is a problem. The way our profession works will encourage a good story. We are all competing in a competitive profession. We have got to communicate these points, at least in the first part of the year as we do not want to leave it to the last moment.

MJ highlighted that entry process to become a solicitor is much easier than the process required to become a barrister. AC backed this by confirming that solicitors can carry out their training contract at the same time as the LPC, meaning that they can train at the same time as studying. When asking solicitors why they took the route of a solicitor rather than barrister, this is the main reason – it is a much easier route and easier to start their career, rather than the complicated route needed to access the profession as a barrister. NVQC said that at the moment, we are not doing anything on this, but maybe this is something that needs to be looked into.

8. Equality & Diversity, Social Mobility Committee Report

EB spoke to the report, confirming that she is a co-chair with Sa’ad Hossain QC.

The work of PAJE is key; the programmes are successful and oversubscribed. It entails online working which is accessible to everyone and there is also Judge workshops which are getting a good turnout. Additionally, Talk to Spot has been receiving really positive feedback.

E&D training is important work for barristers, clerks, heads of chambers etc. Some of the material hadn’t been updated for a number of years, but this is being dealt with now.

The committee is focussing on Wellbeing at the Bar and the information going out is about how we can improve that. There is positive actions being taken and positive steps to take up certificates of recognition. It is a popular issue and people are talking about Out of Hours protocol, whereby people are adding lines to the bottoms of their emails that they will not respond after a certain time. There is already a culture shift and there is good reception to it.

The Future Leaders Programme is hopefully going to engage a large number of people at the Bar.

The issue of employed barristers’ membership on the Wales & Chester Circuit is being discussed and EB has spoken to DEQC about this matter.

It was confirmed by Joanne Wicks QC that the Property Bar and Chancery Bar are both setting up a Sexual Harassment support group and have applied for a waiver on the

requirement to report. An issue that has been identified is that more would like to be trained to be involved and there are too few sessions.

Action: The committee will look into putting on additional training sessions.

APQC added that she attended the FLBA dinner on 28 February. There is incredible support from the judiciary, from the top and if we are going to change how we work, we really must get the judiciary to support the changes.

9. Remuneration Committee

NHQC spoke to the report. This is the largest committee under the Bar Council and thanks were given to all members who are very active and very supportive. Additionally, particular thanks were given to the executives of the committee – Adrian Vincent and Kathy Wong who have been sterling in their support.

The consultation on accelerated asks was published on 27 February; it is incredibly important that we respond in a positive way. Within 24 hours, we already have a first draft circulating the committee for comments. There are matters that we will respond to, requesting changes and there are anomalies that will need to be addressed in the consultation.

It is important that we support the CPS in their ongoing review; work has been done on their manual and thanks goes out to those who have spent a huge amount of time to update this. Thanks also to the senior leadership, especially MC whose knowledge was invaluable.

One of the work streams currently underway in the committee is Cost Judge Decisions. This is ongoing and we are trying to identify exceptional cases.

The FLBA, together with RemCom and senior leadership are trying to ease funding difficulties for members of the FLBA.

Gordon Stables was shocked to learn from the LAA publication that it is largely for those practicing with Legal Aid. Is this not promoting a culture whereby barristers are being knocked back time again, on the same areas, where there are cost Judges decision in the Bar's favour. Is this a policy that they have adopted, and does the Chair or the AG need to get involved in this matter? NHQC added that it does conclude that they favour the LAA rather than the Bar and this is why we have been looking at cost judge decisions with such importance. We can counter the line that has been take by the LAA but not sure that it can be taken much further. The database s to assist members of the Bar, not just the LAA and the council has been successful in getting the fees that they were looking for.

Action: APQC will raise this with Jane Harbottle

10. Employed Barristers' Committee

Ryan Richter confirmed that the EBC is looking after the interests of 3,500 employed barristers, bringing in own individual judgement of the Bar, regardless of who employs us.

James Kitching and Lucinda Orr were thanked for the work they did in the committee throughout 2019.

RR highlighted the Working Lives Survey and the importance of it being completed. Only with an evidence-based argument, can we advance the profession. The survey is especially looking at social mobility across the employed Bar. RR encouraged everyone to respond.

The EBC is working with the YBC on the welcome pack, supporting people through their first 7 years in the profession. There is concern that people become more isolated and so the committee is working hard to see what they can do to prevent disengagement and that everyone in the employed Bar are supported.

Thanks were given to colleagues in the EDSM committee and to David Elias QC for taking forward the issue of employed barristers not being permitted to become members of the Wales & Chester Circuit. It was a disappointment last year when the vote didn't get the desired result; a vote of the whole membership was required but not achieved.

The EBC is hosting a garden party with BACFI on 10th June, to promote inclusion.

The Employed Bar Awards nominations deadline has been extended by two weeks and everyone in the profession, regardless if they're self-employed, will know someone in the employed Bar. The nomination process is 250 words on why you think someone would be a good candidate for an award. Included within the categories is the Legal Team of the Year award, for which the requirement of nomination is for only one member of the team to be a member of the employed Bar. The awards ceremony will be on 3rd July at Merchant Taylors Hall.

A question was raised on the secondment hub and it was confirmed that whilst the committee isn't looking at this at the moment, due to the awards being the main focus for the start of the year, it is on the agenda for later in the year.

11. Accessibility and Diversity of Bar Council

Support will be required to make changes to the Bar Council constitution to be put into effect and these are small steps in the right direction to try to make our body easier to be a part of and therefore, more attractive to more of the Bar. These changes will provide better representation of the Bar as a whole.

We will be cancelling the meeting on the 4th July and want to see if anything is lost by having such a big gap between meetings. Additionally, the May meeting will be held in Derek Sweeting QC's Chambers which allows us to have a large group of people in the room, but also the capacity to have hubs around the country where people who live away from London can remotely access the meeting from the hubs.

The March meeting will be held on Circuit, in Bristol at the Clifton Club. Unfortunately, remote access isn't available from there.

We are thinking about the requirements of attendance at meetings; those who represent SBAs and the Inns can send alternates if they are unable to attend and this has worked well and seems to be organised; there are some alternates at this meeting. We are not going to be taking forward the option however for elected members to send alternates – NZ will be drafting a proxy system for this.

The time of the meetings will remain at 10am for the moment while we check the remote access option first. The Circuit meeting however will be starting at 11am to allow for travel.

We are also looking at changing the election process to make the BC more attractive with a more accessible process. Requiring a proposer is something that puts people off. The Inns no longer require a proposer, so it makes sense to follow their lead.

All changes will be brought to the Bar Council for approval at the March meeting and if there are serious concerns about the changes, we will rethink the way forward. However, having a more diverse range of people in the running of our profession can only be a good thing. If there are hurdles currently in the way of that, surely it is best to get rid of those hurdles. We need to improve our communications to attract a wider audience.

Before committing to making contributions toward circuit members attending the BC meetings, we need to look at the other options and what expense they could come at.

In due course, the desire is to make the top of the profession more diverse and representative of the whole profession. Current committee chairs and DSQC will need to look at those who are in a potential position to chair the committees, in Autumn in order to get everything in place for 2021.

The November meeting will be on the 21st and we are hoping to combine it with the Annual Bar Conference to alleviate the need to give up two Saturdays in a row. This would also allow those in attendance at the meeting, to attend the conference.

APQC confirmed that the 'three strikes and you're out' rule is being looked at as we want to move away from the punitive approach to attendance – we want to encourage people to attend. CLQC confirmed that the FLBA meetings no longer have such a rule – it caused stress and it has made a huge difference and attendance has been excellent. Remote access has been introduced and regional rep were introduced for the national conference which was a great success.

MHQC added that he is favourable of the comment on the proposal and that remote links to the meetings would be good. It is also a good idea to reduce the number of meetings. With remote access, careful monitoring of video link participation would be required as those online are less likely to engage and will listen more, with the host centre leading the meeting. He also approves the idea to combine the November meeting with the conference.

DP added that she supports freeing up constitutional changes for co-options as there is enthusiasm from individuals who are not members of Bar Council. We do not want to quash enthusiasm that is in the profession.

TD highlighted that the paper came across that the decision had already been made before a consultation had been sent out to anyone, however APQC confirmed that these are suggestions and any change made can be changed back if it doesn't work. There is only a requirement to have 4 meetings per year, which we already do more. We are suggesting trials of new methods and the decision making will be done in March, when constitutional changes will need to be approved to allow for these trials to be tested.

12. Bar Conference

Carolyn Entwistle spoke to this item, highlighting that it is important to ensure that the conference is something that the profession finds of value. We want to do research in advance of setting a programme to ensure that it is beneficial. CE has already gone out to the Circuit Leaders for their ideas and thoughts on what it should include.

Various ideas were put forward, including to have topics that are relevant to BACFI members, such as Business Law and Commercial Law. In addition, topics of specialist/advanced advocacy training, cross-examining of experts. A suggestion for the fees committee to put on a workshop on how to ensure barristers can be remunerated properly. A request was made for the timetable of the conference to be thought about, so that people can be at generic talks as well as specific items, without them overlapping or conflicting. Access to the profession should be included. It was also suggested that an item on post-Brexit should be included as a session.

CE confirmed that there are 3 legal aid billing seminars running in May/June which will be live streamed.

13. Any Other Business

CLQC commended APQC on the amazing job she did in getting everyone together to get a response. The FLBA brought together a complex document which was presented as 7 pages. It was only upon having a conversation with APQC that the FLBA found out that the government wanted only 2 pages per response which meant that the points raised had to be minimised into soundbites. There is concern that the report that has been produced since, does not make mention of family law. Other types of protection are mentioned within the report (such as data protection) but no mention of the protection of children. Whilst it is appreciated that SBQC has only just taken office as AG and we do not know what the government position will be, but the FLBA would very much like to work with the AG in this area to as to give family law a voice. SBQC added that she has come into office at the end of something that has been ongoing and whilst the negotiating mandate sets out broad parameters of the UK's position, it is only the beginning of discussions with Cabinet and the Lord Chancellor – there is a huge appetite to maintain as much cooperation and

collaboration with justice. SBQC took on board the point about the omission of child rights and made assurance that this should not be taken as a sign that it is off the table as it is an issue that we want to maintain maximum cooperation on.

Action: APQC will share the full FLBA papers with the AG directly.

The next Bar Council meeting is taking place on Circuit, in Bristol. This will coincide with the Bristol Grand Night – please let Charlotte Feest, the Western Circuit administrator know if you wish to attend Grand Night.

14. Details of Upcoming Meetings

Saturday 28 March 2020, 11:00, Bristol