



## **Minutes of the Bar Council meeting held on Saturday 16 May 2015 at the Bar Council offices**

Present:	Alistair MacDonald QC	Chairman
	Chantal-Aimée Doerries QC	Chairman-Elect
	Lorinda Long	Treasurer

### **1. Apologies for absence**

Apologies for absence were received from: Rt Hon Mr Jeremy Wright QC MP, Mr Robert Buckland QC MP, Alison Saunders CB, Safira Afzal, Mirza Ahmad, Richard Brent, Kerry Bretherton, Gemma de Cordova, Michael Duggan QC, Amanda-Jane Field, Manjit Gill QC, Richard Gibbs, Susan Grocott QC, Christopher Kennedy QC, Hannah Kinch, Taryn Lee QC, Naomi Madderson, Paul Mendelle QC, Neil Mercer, Christina Michalos, Gregory Mitchell QC, Thomas Payne, Peter Petts (Andrew Dymond attended in his place), Simon Picken QC, Dawn Pritchard, Hefin Rees QC, Derek Sweeting QC, Geoffrey Tattersall QC and Helen Tung.

The following did not attend and did not send apologies: Ian Bugg, Joseph Curl, Mark Engelman, Mark Fenhalls QC, Thomas Jagger, Sarah-Jayne Morgan, Grace Ong and Paul Stafford.

The following attended as guests: Vanessa Davies and Patricia Robertson QC (until item 7).

77 further members attended.

### **2. Minutes of the last meeting and matters arising**

The Chairman welcomed everybody to the meeting and reported that the BSB report would be presented by Patricia Robertson QC (PRQC) as Sir Andrew Burns was unwell; the Bar Council wished him well for a speedy recovery.

The Chairman reported that the Attorney General and Solicitor General had also sent their apologies; they were at pains to point out that this was owing to a diary clash and that they each are very committed to attending more Bar Council meetings, which they find very valuable.

The Chairman also thanked Andrew Walker QC (AWQC) for chairing the last meeting in his absence. The minutes of the last meeting were approved with no amendments.

There was a discussion at the last meeting regarding the potential Judicial Review of the Civil Proceedings and Family Proceedings Fees (Amendment) Order 2015 (2015 No. 576 (L.7)), in relation to the proposals to introduce an enhanced fee to issue money claims. The Bar Council had indicated a willingness to pursue the JR, subject to the appropriate governance processes being followed and further information regarding costs exposure. The Chairman reported that following consultation with GMC and discussions with the Chairs of interested SBAs, the Bar Council has signalled its intention to not pursue the JR. The Law Society and CILEx came to the same conclusion after following their own governance procedures.

The Law Society and the Bar Council will continue to make their case robustly by proactively lobbying and communicating through media and public affairs channels to parliamentarians, building on the issue's existing profile and using opportunities arising in this post-election period. The Chairman added that he was due to meet the Lord Chancellor on 18 May 2015, and this item would be raised during their discussion.

Tim Devlin (TD) reiterated that there are other ways to raise revenue instead of increasing court fees. The Chairman replied that the Lord Chancellor is known to take an intellectual approach to these problems and no assumptions can be made as to what his view will be. He is known for his commitment to excellence in all areas and the Bar Council wishes to continue working with the Government in a non-confrontational manner to ensure that justice is best served.

Nigel Lithman QC (NLQC) said that while he made no criticism of the decision not to pursue the JR on court fees, he wished to add that from the criminal Bar's perspective, the JR on QASA at least exposed the scheme's flaws and showed the BSB that it is unworkable, so it was worth it.

### **3. Statement by the Chairman**

The Chairman's written statement had been circulated ahead of the meeting and he did not wish to talk to all parts of it, just to raise some headlines and take any questions.

The "Rivlin Report" ("Criminal Justice, Advocacy and the Bar") was published at the end of March, and received wide-spread publicity as well as being well-received by the Bar. The Chairman offered his appreciation to HH Geoffrey Rivlin QC for such a comprehensive report, which gives 65 recommendations for the future of the Bar. Work is underway in relation to the recommendations, which cover topics as diverse as the BPTC, the Advocates' Graduated Fee Scheme and the role of remunerated McKenzie Friends. The recommendations will be followed through rigorously and will provide a focus for future activities.

A policy reference group has been set up to look at remunerated McKenzie Friends and solicitors' agents and their role in court and to make a recommendation as to the policy position to take. It is clear that there is work for the Bar which is going to uninsured, unregulated and often untrained McKenzie Friends, who are being paid as some sort of representative of a client, not just to support them in court. The Legal Services Committee is overseeing this work and the General Management Committee will be considering their proposals in June.

Preparations to implement vulnerable victim and witness advocacy training are now underway. The Bar Council's implementation team is working with the Advocacy Training Council, the Circuits, the CBA and the FLBA and regular updates will be provided to the Bar Council and the Bar in general.

AMQC invited questions on his written statement. There were none.

The Chairman turned to the paper annexed to his statement regarding the proposal to introduce 25-minute slots at Bar Council meetings for discussion and debate. The intention is to stimulate discussion on issues raised by Bar Council members on matters important to them, which in turn will inform the Bar Council's thinking going forward on business planning, activities and priorities.

As he said at his first meeting, the Chairman would like to see more contribution from members and for the meetings to become more dynamic in terms of issues being raised proactively by its membership. The first topic for discussion, for example, is intended to be about the employed Bar and will be an opportunity for the Chair of the Employed Barristers' Committee to take a 'sense-check' on what activities the committee should be pursuing.

In response to this proposal, Eleanor Mawrey (EM) had kindly prepared a response, which was also circulated to members ahead of the meeting. The Chairman invited EM to share her views.

EM spoke about the paper that was submitted and said that she felt she unable to support the proposal for such debates. The Council should be discussing substantive, specific items of immediate relevance. The Chairman said that this was something quite different; the proposal is not a replacement for those discussions. EM said that what her paper was proposing was not radical, just an agenda that gives time to make decisions on current issues which will raise their heads in the months to come; has it really come to needing to check the Constitution and refer to the Kennedy Report – as proposed by the Chairman – before they could agree to do that? If so, things were worse than she thought. It would be lovely to have time to discuss both generic and specific issues, but there isn't. It is a question of priorities. Bar Council meetings are fairly short so to discuss something for ten minutes at this meeting would be better than waiting for a twenty-five minute debate at the next meeting. Louisa Nye (LN) agreed with EM and felt that the meetings need to be more policy-driven and the debates as proposed could be in the abstract. LN further expressed that debates are vital in this manner for the Bar to move forward.

Andrew Walker QC (AWQC) agreed but felt that there has to be room for both. There seemed to be slight frustration as to what was going on in general and also the extent to which members have sight of the business of the General Management Committee (GMC). AWQC also mentioned that, as it stands, the proposals are too monitored and the agenda has specific timings for each item. The whole Council needs to think about being proactive and engaging. The Chairman stressed that although agendas mention timings, these are only indicative and not meant to stretch or limit discussion.

Gerard McDermott QC (GMQC) remarked that he has been involved in the Bar Council for over 30 years and has noticed that members have become less engaged. The strength of this Council is the amount of work which everyone puts in. He further said that a meeting which deals only in

reports may not be a good use of time, particularly for people that travel from outside of London. GMQC referred to the room where the meeting is held and suggested that the Council may be better served by the facilities at the Inns, which include separate rooms for refreshments.

The Chairman commented that efforts are made every year to liaise with the Inns about accommodation for meetings, and they have been very helpful and offered discounts. However, weddings – for example – are a fruitful source of income for them and are booked in advance. Lorinda Long (LL) added that even with discounts, the costs for each meeting could be up to £2,000 if held outside the Holborn offices, and £16k is a lot of money to spend in a year.

GMQC further added that the Bar and the Inns of Court are irrevocably linked and felt that Council should be reminding them that they are part of the profession.

The Chairman assured the Council that the Inns had been very cooperative and that this issue would be looked at again, even if it meant only holding one or two meetings per year outside High Holborn.

David Nicholls (DN) spoke about a series of debates that were introduced on the Young Barristers' Committee (YBC) in 2012, and it was extremely important to identify and discuss issues looking ahead.

Ruth Hughes (RH) commented that she had not been part of the Council for long, but had never seen agendas or minutes for GMC meetings. Stephen Crowne (SCr) confirmed that they are not circulated beyond GMC members. The Chairman suggested to the Council that the Executive will think further about this and find a way to give greater visibility to the workings of GMC. This will be put down as an item on the next agenda for the July meeting.

NLQC agreed with EM's point, but added that both sides of a debate could complement one another. Matters of more generic importance should be on the agenda as well as main, pressing topics of the day. The time could be used to discuss the feelings in general of the Council and give them a meaningful say in decisions. NLQC said that for this reason he is against a 25 minute debate.

Michael Jennings (MJ) felt that although debates are far livelier, they are not necessarily more efficient. MJ agreed that everyone has a right to bring a subject on the agenda which can spark a debate, whether generic or specific. This proposal does not say that they cannot. The Chairman agreed with him. It was noted, however, that no-one has proposed an agenda item in at least three and half years.

Richard Atkins (RPAQC) commented that meetings in the past went on well past 13:00 and there are many members who travel far and wide; meetings now finish at noon. Everyone should make themselves available until 13:30 and then there would be time for debates. If people want to be on the Council, everyone needs to be engaged.

Andrew Langdon QC (ALQC) said that he has only recently become a member of the Council and felt that EM's proposal resonated with many. ALQC's impression is that everyone receives impressive reports, but it is not clear what that actual body is about and who it should serve.

ALQC also felt that there should be more responsibility taken by members who should propose items for the agenda. Once the new Government beds in a little, there will no doubt be any number of issues to consider looking ahead e.g. the Human Rights Act.

John Elvidge QC (JEQC) agreed with previous comments regarding the current venue and that the expense of £2k to hire a room at the Inns is too expensive and the Inns asked to reduce it. The Chairman gave an assurance that it will be taken up but emphasised that the Inns have been very cooperative.

Max Hardy (MH) observed that internal debates are extremely important but added that he has suggested before that the Bar Council should be hosting public debates to engage beyond the legal community, and raise the profile of the Bar as not simply being self-serving. The Chairman agreed with MH and said that the debate held about Devolution and the Consequences at Middle Temple earlier in the year was extremely well attended. The Chairman agreed that there should be more debates as to engage far more with the general public. AMQC suggested that these could possibly be held three times per year as there is a desire from both the public and the Bar Council to have far more outreach.

Melissa Coutinho (MC) remarked that the Inns have been willing to waive the fees but heating, water and waiting staff still had to be paid for so both sides need to give a little. The Chairman expressed that it would not be about seeking rooms and refreshments for free, but to have them at a reasonable cost so there was other money to spend on other things. Also there has been a successive drop in BRF income so there has to be vigilance on how the Bar Council spends the profession's money.

Alexandria Carr (AC) commented that the EU committee at the Law Society has spoken of the need to educate the public on a possible exit from the EU, and they believe that they should prepare and produce a report on it. AC commented that the Bar should be taking a stand too. The issues are very different from everyone's point of view. This is therefore a good topic for a future debate.

Joe Smouha QC (JSQC) felt that EM's proposal could be merged and further expressed concern about the suggestion that topics and a précis should be submitted in advance may be a little formal. Topics should be identified on the agenda and timetable, with everyone invited to submit ideas and topics without supporting documentation. The Chairman stressed that what was set out in the paper was simply a proposal.

It was noted that as the Bar Council do not hold many meetings a year, if the Inns all provided, say, two rooms, the cost to each would not be vast.

RPAQC said that he recently received a quote for a dinner at the Inns and was quoted between £2k and £6k, room hire only.

The Chairman asked the Council if it would accommodate room for discussion, such as policy issues, on the next agenda. This is to get a more proactive approach to the future and to see if it works. Everyone agreed to try. The Chairman thanked everyone for their valuable contributions.

#### 4. Chief Executive's report

The Chief Executive, Stephen Crowne (SCr), delivered his report. At the last meeting, he had spoken about building a systematic approach to identifying and managing risk, working with the Audit Committee. GMC, the Finance Committee and The Chairman's Committee all had roles to play in the process. In addition it was important to ensure that the Council itself was briefed on the key risks on a regular basis.

He referred first to the recent Supreme Court judgment in the Hemming case. This case raised a significant risk to the ability of regulators to fund enforcement activity through a general levy on their regulated community. The judgment had largely removed the risk - the Supreme Court referred a minor issue to the European Court of Justice, but this is unlikely to be of concern to the Bar Council. He reiterated his thanks to Hugh Mercer QC whose expertise had been instrumental on producing a positive outcome.

Secondly, the Chief Executive addressed the issue of declining income from Bar Representation Fees (BRF). The proportion of barristers paying the fee has reduced from 68% in 2013 to 59% in 2015, although the latter figure may go up slightly as collection continues through the year. As a result there is a significant shortfall against the income target in the current year budget. If the trend continues in future years, the organisation will have difficulty discharging its representative functions. SCr referred to the Chairman's recent column in *Counsel* magazine in which he referred to the drop in BRF numbers, saying "it is an irony that, whereas barristers have been astonishingly generous in relation to helping others, they have been less generous helping themselves". The BRF pays for representational activity, including lobbying Government, and therefore it is an "ironic situation that the Bar is prepared to help those with no voice in society at precisely the same time as it is failing to help make its own voice heard in the corridors of power". The GMC meeting on 1 June would consider the strategy to increase BRF take-up, which will include improving the package of benefits and improved marketing. The organisation needs a better understanding of the value of the BRF to different areas of the Bar. SCr undertook to report back to Bar Council on progress.

SCr reported on plans to improve the Bar Council's external website. Phase I – focusing on removing out-of-date content and improving navigation in the professional practice and ethics, and education and training areas in particular - will be completed by the end of June. Phase II – more general editing and tidying up - will be completed by the end of September.

Finally, SCr mentioned that the ballot for the Vice-Chairman of the Bar for 2016 closes on Thursday 21 May at 15:00. Hard copy ballot papers and envelopes were made available at the front reception and these must be physically handed to Judy Green by the deadline.

SCr opened the floor to questions.

JSQC asked if Heads of Specialist Bar Associations could be provided with a form of words to use in their communications to members to encourage take-up of the BRF. RAQC also commented how important it was for Bar Council members to act and promote the BRF within their own chambers. SCr undertook to send a suitable form of words to all Circuit Leaders and SBA Chairs.

## **5. Treasurer's report**

The Treasurer, Lorinda Long (LL), assisted by David Botha (DB), the Bar Council's Finance Director, gave a comprehensive slide presentation on the organisation's final financial position for 2014-15.

LL presented the pre-audit financial results for 2014-15 and gave an update on progress so far in 2015-16. For 2014-15, the organisation has achieved an operating surplus of £228k, up threefold on last year. The operating surplus excludes the effect of actuarial adjustments for the defined benefit pension scheme, which the organisation is unable to control directly. LL will bring the final audited accounts to Bar Council later in the year. Income is down £500k largely due to the expected reduction in Inns' subvention and fewer Bar Representation Fee subscriptions. The VAT treatment of the BRF was also changed, leading to a drop in income of £75k for Bar Council and a slightly cheaper BRF for the subscribers. There was a small increase in the numbers of the practising Bar, leading to a small increase in PCF collected in that year. Regulatory and representative income was level on the previous year's results. Expenditure was reduced by £700k (5%). BSB costs were up slightly, resulting from the addition of entity regulation, but underlying costs were level. The effects of the planned restructure and capacity-building of the representative areas were seen, as were the benefits of last year's investments in the office facility with infrastructure reductions of £863k and a year-on-year reduction in project investment.

LL asked if anyone had any questions: there were none.

LL updated on progress for this financial year (2015-16). The PCF collection target is secure although there has been a small reduction in the numbers of practising certificates issued. The BRF subscriptions levels are lower than hoped for and SCr had already described how that is being addressed. At present, no new income risks have been identified. Increasing the diversity of income sources remains a key area of work for the future. LL welcomed any comments.

MC asked whether data is available to show the exact numbers of employed and self-employed barristers, along with the numbers joining the profession. DB advised that this would be provided with the final accounts to be presented later in the year. Understanding trends in numbers will be a key part of budgeting in the future. SCr further commented that the latest figures (for 2015-16) show a decline in barristers applying by c.1.9% but it is not yet possible to ascertain whether this trend will continue at the same rate.

## **6. BSB report**

Patricia Robertson QC (PRQC), Vice-Chair of the Bar Standards Board, spoke to the BSB's written report in Sir Andrew Burns' absence.

PRQC invited members to respond to the various consultations which the BSB currently has open, one of which relates to amendments to the Bar Standards Board's powers (closing 31 July 2015). The BSB has decided that it needs new statutory powers to step into barristers' failing chambers, companies and partnerships in order properly to protect the interests of clients where something has gone seriously wrong. These powers will automatically be conferred upon the BSB in respect

of ABSs once its licensing application is approved, but this could take a year, and while the BSB does not envisage having to use those powers with any frequency – barristers being prevented from holding client money removes a significant amount of risk – such circumstances can arise on rare occasions and when they do it is in the public interest to have that safeguard and for all those that the BSB regulates to be subject to the same potential action, regardless of which business model they may adopt. Applying for the powers now – along with other changes – also saves a resource-intensive administrative process of having to apply for them if the need arises.

The BSB is also consulting on insurance requirements for single person entities (closing 30 June 2015). Even those who do not routinely follow the work of the BSB are encouraged to consider this. If the Bar feels that there are good reasons in the public interest for the Bar Mutual Indemnity Fund (BMIF) to continue as the monopoly provider of first tier indemnity insurance for the Bar, including for one person entities, they should respond, ideally giving detailed evidence in support of their views (but if time does not allow that even just giving reasons in general terms is useful).

PRQC confirmed that the BSB has submitted its application to become a licensing authority to the Legal Services Board. This is now formally under consideration and the full application can be seen on the LSB website. Once approved, the BSB would be able to license and regulate ABS (Alternative Business Structures.)

The BSB is also consulting on a proposed professional statement regarding training and education as part of the 'Future Bar Training' programme of work. The statement is designed to describe what barristers should be able to do from day one of practice; again, all comments are welcome.

PRQC reported that by 8 April, the BSB had authorised 15 entities.

The BSB published its business plan on 1 April, which can be found on the website. It is easy to follow and shows what the BSB are doing.

PRQC added that there are still vacancies on the BSB Board for barrister members; while it is not possible to be a member of the BSB and the Bar Council (or any representative committee) at the same time, she encouraged members to consider whether they – or anyone they know – would like to bring their expertise to the Board.

Andrew Walker QC (AWQC) asked whether full and detailed responses to the insurance consultation are required, or if general support for BMIF is sufficient. PRQC said that both are welcome. If there are any insurance experts who wanted to provide a very detailed response, that would be helpful but if anyone simply wanted to give a personal view, that is fine too.

Alison Padfield (AP) said that she is chairing a policy reference group of insurance experts for the Bar Council, and they are working on a detailed response. AP volunteered to assist with any technical points. PRQC thanked AP.

Duncan McCombe (DM) asked about the proposal to amend the BSB's powers, which also proposes powers to establish and require contributions to a compensation fund. DM asked how this could be justified as a financial levy on the profession as it is the BSB's view that a compensation fund is not currently necessary. PRQC said that this was "future-proofing" in light

of the fact that making applications for amendments by way of a section 69 order is hugely time consuming and costly and the BSB therefore only want to go through the process once. On that basis, the BSB thinks it is important to obtain a statutory hook on which a future power could in future be hung if the BSB ever has evidence that causes it to change its current view on the need for a compensation fund. PRQC further stressed that BSB does not think a compensation fund is currently necessary, but that they could not tell if it might become necessary in the future, depending on how the market develops. If a decision were made, in future, to create a compensation fund, it would only be on the basis that there was evidence that demonstrated that the BSB needed to change its current view and the BSB would then need to consult on the necessary rule changes to implement a compensation fund. However, the fact that the statutory hook was already in place would avoid a situation where having fully consulted in future on the need to introduce a fund, and having decided that it was in the public interest to do so, the BSB then could not act on that decision without a further period of up to a year's delay while a further s69 order process was gone through, with all the delay and cost that involves. DM expressed concern that powers are being sought when there is no evidence that they are needed. Again, PRQC stressed that the concern is to protect the public interest and avoid a gap, the profession would be consulted again if the power was ever to be implemented and she urged that if people have views they wish to express, please do send them in to the BSB. The licensing authority application contains a note setting out in clear terms why a compensation fund isn't currently needed and this can be found on the LSB's website. The BSB is not resiling from that view. Vanessa Davies (VLD) said that she would be more than happy to circulate it. AWQC added his concern that the driver for a compensation fund may be coming from the Legal Services Board (LSB). PRQC suggested that AWQC might want to consider the role of the LSB in the regulatory regime, more generally, as a topic for a debate at a future Bar Council meeting.

NLQC expressed his opposition to the BSB seeking these powers; PRQC explained the rationale, namely to protect the public. NLQC found this unsatisfactory.

Gordon Nardell QC (GNQC) asked whether the consultation on education and training included issues relating to EU-based internships and whether these would be included in the forthcoming consultation on Future Bar Training. PRQC agreed with this and that more flexibility was required, recommending that GNQC and the EU Law Committee respond to that effect in due course.

RPAQC remarked that the Bar may not realise how much of the Practising Certificate Fee (PCF) goes to the BSB, and that may be a reason why they are not paying the BRF. Given that the BSB is spending the PCF, which means that it cannot be used for representative activity, what assurances are there that the money is being spent properly and the expenditure is necessary? VLD responded that the BSB takes 63% of the PCF and LL holds the reins tightly. Budgets have been cut and BSB are careful and transparent about what they spend.

Tim Devlin (TD) suggested that the powers to create a compensation fund are a Trojan horse, imposing a levy to boost BSB funds. PRQC again expressed clearly that BSB does not consider a compensation fund necessary and in any event if one were ever to be established it would be ring-fenced for the purposes of such a fund and would not be available for general use.

Guy Fetherstonhaugh QC (GFQC) felt that everyone was being bombarded with consultations, which seem to be very long. For a recent paper, GFQC spent a whole day working on a response. Whilst the insurance consultation is slightly shorter, GFQC said that the mess created for the solicitors' profession by widening the market for insurance is evidence enough of why the Bar should not do the same. Articles in the legal press regarding insurance suggests there are quite a few solicitors who are applying to be regulated by BSB as it is less complicated and offers cheaper insurance. The future of "lawyers" is rapidly changing and GFQC questioned who was thinking about this. PRQC explained that BMIF is a separate entity and it is up to them who they insure. Their way of doing business is increasingly defined by activity and the BSB's entity regulation regime is advocacy-based, so this may include solicitors. PRQC reiterated that in order for voices in support of the BMIF's role in the market for indemnity insurance to be heard, they need to rally together and show why this is in the public interest.

NLQC repeated that he opposed the BSB seeking powers for a compensation fund and that it is not appropriate to seek a power that it does not think it needs. He claimed that everyone was unified on that position, so the BSB should accept that.

Ruth Hughes (RH) asked in what circumstances the BSB would have to take control of her files as a self-employed barrister. PRQC explained that it would largely be around insolvency or abandonment of practice, but that the purpose of having a regime of supervision is to become aware of a problem before it happens, so that in the vast majority of cases it never comes to intervention. Although the profession has rules against handling client money, intervention may be necessary if there are breaches of those rules.

Robert Rhodes QC (RRQC) said that because of the rules on handling client money, the insolvency point is not relevant. PRQC stressed that these powers are a safeguard in the unlikely event that those rules are breached.

GMQC said that he disagreed with the suggestion that everyone is unified against the BSB seeking these powers; in his view, they are necessary to demonstrate to the consumer that the Bar has nothing to fear from regulation. As business models change, safeguards like this are necessary.

Dr Anton van Dellen (AvD) expressed concern that solicitors benefit from regulatory arbitrage; the Bar is banned from paying a referral fee but solicitors get away with asking for them. Sometimes the kick-back is up to 40%. PRQC said that BSB are continuing to argue the point that such referral fees are not in the public interest and said that she will personally tell the LSB this. The other point PRQC will make is that solicitors who provoke a breach of the BSB Code by a barrister should be regarded in breach of their own professional code if they ask for a referral fee. The BSB is doing what it can on this issue but cannot garner support without specific evidence of this behaviour.

AWQC agreed and said that his committee – the Ethics Committee - absolutely need to know what is happening and that it is no good people complaining and not doing anything about it. The Solicitors' Regulation Authority (SRA) is trying to remove the ban on referral fees in legal aid and crime cases and have put this proposal in a consultation; AWQC urged members to respond to this consultation and to ask others to do the same.

There was discussion about ‘straw-juniors’, solicitor-advocates and HCAs who would not be competent to take over a case if the Leader was unable to continue. PRQC has had this debate with SRA and it seems there should be a clearly-stated obligation in terms of what “acting in the clients best interests” actually requires in terms of deciding who should provide advocacy services to the client. This has been raised before but to no avail, although there has been support from the judiciary. It is important to recognise what is in the public interest; it is not a matter of payment for barristers.

Robin Allen QC (RAQC) reiterated that this was an important issue for everyone, but that the discussion has been going on for years and still the abuse continues. He asked PRQC what she saw the end game being. PRQC said that the BSB needed to engage with LSB and others; that is all BSB can currently offer as they are unable to control the other side of the fence. QASA was relevant to this, in that it would have set standards across the board, on both sides of the profession, but has not yet been implemented due to the Judicial Review.

VLD stressed that, for example, the Legal Aid Agency (LAA) operate their contracts, and that tackling these issues will require a joint, collaborative approach. JEQC said that the recent change to the definition of ‘Instructed Advocate’ by the LAA is a step in the right direction.

## **7. Future Bar Council meeting dates: for discussion**

The Chairman referred to Annexes 4a and 4b on the agenda. In the past three years, two members have commented that due to their faith, they are unable to attend Saturday meetings. It was suggested that perhaps some could take place mid-week or on Sundays. The Chairman opened the floor for comments.

RRQC expressed that it was difficult to please everyone. Having a midweek meeting would cause problems due to barristers’ court commitments. He suggested staying with Saturday meetings.

Zoe Saunders (ZS) mentioned that perhaps it could be resolved with technology and some may find it helpful if they had remote access. The Chairman said that, as set out in the annex, the Bar Council had introduced Star Leaf, which is a very useful tool but no audio-visual solution is a substitute for attending. The Chair of any meeting would not be able to manage it effectively with some on screen or on the telephone.

ZS explained that the Circuit often uses video conferencing, as does the FLBA. The Chairman said that having been on the receiving end from the North Eastern circuit, in his view it is absolutely no substitute for being at the meeting in terms of mood and the whole point is to seek to have a balance of meetings and some are still saying that the Bar Council is too “London-centric” and that we are not represented enough. There has to be a balance to make it worthwhile.

The Chairman referred to page 4 of the document regarding 2016 dates and felt it was not too much to expect people to attend six meetings per annum. Ruth Hughes (RH) felt that this was not the right forum to ask as people who are unable to join the Council because they cannot attend Saturday meetings are not represented. The Chairman asked how this should be done. RH suggested that it could be done via a survey to ascertain if people are affected, whether it be for

childcare or religious purposes; in some instances it is not childcare but people wanting to spend time with their children. A survey is simple enough and if people care they will complete it. The Chairman reminded members that the Bar Council offers a crèche for all meetings, which is rarely used.

LN was concerned that the proposal was to hold one less meeting in 2016, and that the number of meetings may continue to decrease. The Chairman noted her concern.

Three Jewish members of the Council said that their attendance on a Saturday was not ideal, but that this was a choice that they had been able to make. Jennifer Josephs (JJ) added that there will be those whose faith means that Saturdays are simply not an option for them.

RAQC thanked Charlotte Hudson (CHu) who has done an enormous amount of work on this issue to recognise considerations of faith, practicality, inclusion and work-life balance. There must be access to the whole profession. The solution may be to have the majority of meetings on a Saturday but possibly have two meetings on other days. However, as this will require constitutional change, dates have been proposed for 2016 on Saturdays and RAQC suggested that the executive should look at amending the dates for 2017, bearing in mind that a weekday meeting will be far shorter and a Sunday gives different issues, whether they are religious or related to travel.

GFQC explained that they had the same issue regarding Inner Temple Scholarship interviews, and received one complaint as they were held on Saturdays. Although it may mean yet another consultation, this could be drafted in five lines and carried out online which will be quick and simple. The Chairman agreed that this could be an option. RPAQC felt that none of these options would work as the constitution specifies attending a minimum of half the meetings held in the year; if two are mid-week, then that rules out Circuit attendance straightaway. Midweek becomes London-centric, train issues are likely to occur on a Sunday and there are religious reasons for the whole weekend.

RAQC suggested that there is a further discussion at GMC and will report back at the next meeting.

## **8. Wellbeing Survey: for report**

RAQC thanked Rachel Spearing (RS) and Sam Mercer (SM) for the effort and time spent on this report; both are extremely inspiring to work with. Points were highlighted regarding stress and mental health; everyone has encountered this; some are in control of stress and in some cases stress is in control of them. RAQC mentioned that over 2,000 practitioners contributed to the survey, which is a high number. From this survey it is clear that some barristers are “close to the edge” and it is for the leaders of the Bar to see what they can do and also why this is. Many barristers are perfectionists, most are extremely competitive; not enough cognitive renewal takes place. Sleep and the work environment are two prominent issues. A limited number would recommend the profession and some said that trust was not found in leaders, although those that had mentoring were more positive and less stressed. There was a significant difference in the employed and self-employed Bar and overall, there is a lack of work-life balance.

RAQC continued to highlight risk factors and reiterated that all those present are leaders and have to take the learning back into their own workplace and encourage support for wellbeing. The profession at large needs to be informed as to what is available to them by way of support. The next phase of the programme is to develop materials by collecting best practice and this should be completed within the next few months. Members are encouraged to email RAQC and SM with any thoughts of how they can raise and promote awareness of well-being. The Bar Conference in October will include a wellbeing seminar.

ALQC agreed that RS is truly inspirational and that wellbeing is vital for everyone. ALQC asked if there was any publicity about this. RAQC said it had been managed well and a lot of work has gone into press. James Kitching (JK) commented that the report focussed on how stress can be alleviated, but does not identify the underlying causes. RAQC agreed and said that there is an increase in home working as well as staying late at chambers, which is not good for wellbeing and also working from home is remote from leaders and peers who can offer support. This, and other causes, will be investigated. RAQC thanked everyone for their views.

## **9. Any Other Business**

EM mentioned that an email was sent to members on 8 May 2015, the morning after an austerity driven Government was elected, which advertised BMWs. It had angered many and she felt that this was insensitive as not everyone has this sort of money. It also helped promote the "fat cat" image which we at BC try so hard to combat. DB explained that this kind of marketing is sent to subscribers; RPAQC explained that BMW are an important affinity partner of the Bar Council and that revenue is generated for representational activity by promoting their services. Susan Jacklin QC (SJQC) added that she was aware of members of the family Bar being similarly upset to receive such an email.

AC commented that this email maybe why members do not pay their BRF.

The Chairman said that he would ask the Director of Services to look into this communication and ascertain to whom it was sent. It was recognised that some sensitivity is required.

## **Date of next meeting**

The next meeting of the Bar Council will be held on 11 July 2015 at 10.00 at the Bar Council offices.

**Judy Green**  
**Executive Assistant to the Chief Executive**  
**16 May 2015**