



The General Council of the Bar®
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The General Council of the Bar

Annual Report 2006

Chairman's report

One of the Bar's greatest strengths is that its traditions are rooted in history, as I said at the 2006 Bar Conference. The Chief Justice in the reign of Henry VIII told the Serjeants at Law that they were expected:

"... to observe high standards of conduct: to assist the poor and oppressed without reward; to give counsel to anyone who should seek it; to dissuade clients from pursuing unjust causes, and to advise them to abandon causes if it appeared they were in the wrong; to deal with business expeditiously and not prolong it for gain; to keep their clients' business secret; to avoid corruption by money or favour; to stick with hand, foot, and nail to the truth, never pretending that a wrong is right; and to do nothing contrary to good conscience."

These principles still guide our profession today.

The key to the Bar's future is to remain steadfast to these enduring ideals, but ever ready to adapt.

However, Society no longer respects tradition for its own sake. So, any profession must continually demonstrate its value in the public interest, and must be prepared to accept scrutiny on a hitherto unprecedented scale.

Key developments in 2006 included the following:

Structures

The first and most significant issue was that of legal services reform. The Legal Services Bill creates an independent Legal Services Board, supervising the regulation of the legal profession as a whole. Nonetheless, under the new Board, the Bar Council remains the approved regulator of barristers (through the Bar Standards Board).

The arguments which we pursued in 2006, namely those accepted by the highly authoritative all-party Joint Parliamentary Committee which scrutinised the draft Bill, are receiving strong support in House of Lords debates in 2007.

Towards the end of 2006, the Vice-Chairman and I issued a consultation paper "The future for practice at the Bar" on the scope of our own regulatory regime. It raised vital questions on the future structure and ambit of practice, under the new regulatory framework, in particular, on the role of barristers practising in partnership and under alternative business structures. The aim was to stimulate discussion on possible rule

changes to help ensure the survival of a specialist advocates' and advisors' profession.

Turning from regulation to our constitution (not radically altered for many years): early in 2006, I also invited Sir Paul Kennedy to chair a group to review the Constitution of the Bar Council to ensure it meets the needs of the 21st century.

Funding

2006 saw the publication of the findings of the Carter Review. Our own profession in this country is comparatively unusual in the degree of support which it receives from public funds.

In a difficult and complex environment, Lord Carter's work was a comprehensive and rigorous review of public procurement. His strong support for elements of the system, such as the advocates' Crown Court graduated fee scheme, and the Government's acceptance of this, augur well. But such schemes with their effective cost control will only last if regularly updated.

In the longer term the challenge is to ensure that the crucial role of independent advocates (especially in the Crown Court) continues to be recognised in any procurement structure. The availability of a specialist body of advocates is crucial to justice and is one of the key reasons why our system is respected internationally.

Model contracts

Work continues on a model contract developed in discussion with the Law Society, which will (in the absence of any agreement to the contrary) become the standard form of contract governing the relationship between Counsel and those instructing them.

Efficiency

In all classes of work the Bar is at the forefront of developing efficient and cost effective litigation techniques. Examples are the "Death of the Mention" proposal developed through the Bar's Carter team, and the Autumn 2006 seminar on the efficient conduct of commercial litigation sponsored by the Commercial Bar Association. The aim, everywhere, is the same: to define the issues, to clarify the material needed to resolve them and to facilitate a just outcome.



Chairman,
Stephen Hockman QC

Profile

In 2006 all sections of the Bar recognised the need for modernisation. The Inns of Court, the Specialist Bar Associations, the Circuits and individual sets of chambers and practitioners are steadily acclimatising themselves to the new world of legal practice, and are continuing to maintain standards of dedication and effectiveness of which any client could be proud.

But does the public at large, especially politicians and the media, recognise this? To adopt a slightly over-used expression: it is truly a case of attempting to “turn around a tanker”. That will be a slow process.

Among the steps which we pursued in 2006 are: the restoration of the award of Queen’s Counsel; the raising of the Bar’s international profile, especially in the human rights arena; and the strengthening of our pro bono work, so vital in today’s legal aid environment.

In 2006 we also launched a new publication about the profession called “Today’s Bar: barristers working in public interest” to increase awareness in the community of our services. The fact that approximately one third of the profession is engaged in publicly funded work shows in itself the commitment of the Bar to the interests of the community.

The Bar must never neglect the rights of minorities. Equally it must continue to support issues which concern us all such as security, crime and disorder.

Entry

It is critical for our future that the traditional role of the Inns of Court in training, supporting and admitting new entrants be preserved and indeed enhanced. However, we must re-examine whether there are any avoidable financial or other barriers to entry – real or perceived – which deter potentially eligible individuals from becoming barristers. At the same time we need to continue to examine the problem created by the very popularity of the profession itself, namely the fact that there are several times more applicants for every pupillage place each year than there are places available.

I therefore invited Sir David Neuberger to chair a high powered new working group on this issue. It issued an interim report in Spring 2007.

Unity

Even more important than attracting the right entrants, and ensuring that their role in the community is properly recognised, is the need for the Bar to remain united and cohesive. The most acute danger for the profession in the years to come will be the risk of fragmentation. By this I mean the risk that, for instance, the Inns will be perceived (entirely wrongly) as an isolated bastion of privilege separate and apart from the concerns of day-to-day working barristers; or the risk that the Circuits will become increasingly disillusioned with the London Bar; or the risk that ethnic minority practitioners will cease to regard the profession as one in which they can receive total fairness of treatment; or the risk that, because of

continual pressures on public funding, or competition from other advocates, barristers doing publicly funded work lose confidence and leave the field of battle.

The Bar continues to expand steadily (as it has in every single year since I started in practice in 1971) and hundreds of people annually seek to find places in the profession. These are not the signs of a moribund occupation.

So long as our democracy survives, and so long as disputes between citizens, or between the citizen and the state, continue to be resolved after each side has had its say, so long will there be a need for presentational skills, for drafting skills, and for objective advice, in other words for the particular forms of expertise which the Bar, employed and self employed, routinely displays.

The wider world

I have written of the growing importance of the international work of the Bar itself and of its leaders. This may seem a little remote to a practitioner whose most pressing worry is the speed of arrival of the next payment order from the Legal Services Commission, but a moment’s thought will underline that if we are to survive in an increasingly “globalised” society, we must face outwards to the world at large, as well as inwards towards those who occupy positions of authority here at home.

If you doubt me, I recommend a visit, like the one I made towards the end of 2006, to the troubled jurisdiction of Zimbabwe. Together with two colleagues from the junior Bar in London, I attended the annual summer school of the Zimbabwe Law Society (now a fused profession of barristers and solicitors). To see the vigour, intelligence and humour with which the lawyers of Zimbabwe debate their future was stimulating and humbling.

Despite immense economic, social and legal problems, these lawyers are utterly imbued with the traditions of professional integrity and respect for the rule of law: the hallmark the world over of a developed legal profession.

In response to their own grave internal difficulties, Zimbabweans draw strength from facing outwards to the world and proclaiming their commitment to justice and they told me how much they appreciate the support of the Bar of England and Wales.

My year as Chairman of the Bar enabled me to form links with the leaders of legal professions around the world. In accordance with tradition, the Bar and the Law Society entertained some of them at Middle Temple when they came to London for the ceremony of the Opening of the Legal Year. The more one speaks to other Bar leaders, the more one realises that the issues which we face here, though we may perceive them as purely domestic, are in reality the same issues (whether of professional structure, funding or profile) as those of other jurisdictions.

Moreover, by meeting, talking and arguing

about these issues, the professions can develop a network for the promotion not only of the rule of law but of international co-operation, peace and understanding. In this way our profession can make a significant contribution to solving the key

social issues of the 21st century such as public order, security and climate change.

2006

Stephen Hockman QC
9 May 2007

Treasurer's report 2006

The Bar Council had an excellent year financially in 2006. The 2006 result was particularly satisfactory, in that we were able to limit the rate of increase in practising certificate fees to 4.8%, while absorbing a major slice of the increased expenditure attributable to the establishment of the Bar Standards Board (BSB) and adding substantially to our reserves.

On revenue account there was a surplus of £387,209 for 2006, of which £135,000 was due to FRS 17 pension accounting adjustments. The cash surplus was £252,209, or 3% of turnover. This is the maximum amount which we are allowed to raise by way of surplus under the Practising Certificate Regulations. Additionally there was an actuarial gain in the pensions scheme (reduction in pension deficit as measured for accounting purposes) of £737,000. Hence reserves at the end of the year increased by £1.2m as compared with the position at the end of 2005.

Overall in 2004 and 2005 reserves had fallen by £900,000 as a result of the costs of moving to new premises and adverse movement on the pension scheme liabilities. The accounting surplus in 2006 thus both made good this fall in reserves and added around £400,000 to reserves.

Income was £8m (105% of unadjusted budget, 103% of 2005 actual). Expenditure was £7.7m (103% of unadjusted budget; 108% of 2005 actual). Variances of up to 5% are acceptable, so the budget setting process has thus shown itself to be reliable.

The Inns' subventions – 15% of total income – have been consolidated and agreed for five years. This has been of great assistance in preparing the budget. The financial and moral underpinning of the Bar Council by the Inns is immensely valued and valuable.

The BSB has had a path-finding year, which has made the prediction of its financial requirements more problematic than one would wish. There should be considerably less uncertainty in 2007. The Chief Executive has divided expenditure into three parts – like Caesar's Gaul: Representation, BSB and Common Services. This is an admirable foundation on which to build.

As Director of Central Services the Bar Council was fortunate to recruit Oliver Delany, who has already made a notable impact and is conducting a review of the operations of the Council's Secretariat, in the light of changing roles and responsibilities.

Like other organisations outside the public sector, the Bar Council has had to look seriously at its ability to maintain a defined benefit (final salary) pension scheme for its employees in the long-term. The problem is that

pension liabilities under such a scheme are open-ended, and there is a risk – be it remote – that they could escalate to the point where serious difficulties arose. An expert group has been looking at this issue since April 2006. In July 2006 the Bar Council's final salary pension scheme was closed to new members. This followed a recommendation of the Pensions Review Group. Since then new employees have been offered membership of a new defined contribution pension scheme. This means that the future cost of their pensions will simply be a percentage of their pay, and so is predictable. The final version of the Review Group's report is nearing completion, and this will go to the Bar Council when it has been submitted to the Finance Committee and General Management Committee.

The Finance Committee held 10 meetings of the full committee in the year. In addition there were several meetings of the budget sub-committee, and members also belonged to the Pension Review Group. Thus, membership of the Finance Committee involves a good deal of commitment and hard work. This year from January 2006 the Committee was augmented by lay members of the BSB, establishing a rough parity with members of the Bar Council. This arrangement has worked extremely well. The influence of the BSB members has proved a significant addition of strength. Claims on resources can be fairly considered in a balanced and realistic fashion.

The mission of the Finance Committee is to support the Bar Council's activities and policies, manage its resources, challenge the monetary implications of actions of the Bar Council, the BSB and their committees, supervise the preparation of the Bar Council's budget, and monitor performance against budget.

None of this would be possible without the high standard of financial governance and management which the Chief Executive, the Chief Accountant and the accounting team provide. They manage our financial affairs and maintain our financial records in an increasingly challenging governance environment. All subscribers to the Bar Council are beholden to them.

2006

David Southern
Treasurer, General Council of the Bar
9 May 2007



Treasurer,
David Southern

THE GENERAL COUNCIL OF THE BAR
CONSOLIDATED FINANCIAL STATEMENTS 2006

	2006 £	2005 (Restated) £
Income & Expenditure Account		
Income:		
Fees	4,811,360	4,481,227
Voluntary Subscriptions	535,657	603,729
Contributions from Inns	1,241,434	1,255,538
Investment & Other Finance Income	248,302	195,462
Other	1,233,651	1,240,007
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	8,070,404	7,775,963
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Expenditure:		
Staff Costs	4,378,900	3,929,418
Communications	182,539	203,586
Premises	1,243,659	1,224,973
General & Committee	1,876,245	1,721,391
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	7,681,343	7,079,368
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Provision for Liabilities	389,061 (1,852)	696,595 (13,493)
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Operating Surplus	387,209	683,102
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Statement of Total Recognised Gains and Losses		
Operating Surplus	387,209	683,102
Realised Losses on Investments	(5,145)	(16,875)
Unrealised Gains on Investments	89,710	108,761
Actuarial gain/(loss) in respect of pension fund	737,000	(1,083,000)
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Total recognised gains/(losses) for the year	1,208,774	(308,012)
Prior Year Adjustment	-	(608,400)
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Total recognised gains/(losses)	1,208,774	(916,412)
Reserves brought forward	281,382	1,197,794
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Reserves carried forward	1,490,156	281,382
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Balance Sheet		
Tangible Fixed Assets	545,765	640,426
Investments	830,796	746,233
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	1,376,561	1,386,659
Net Current Assets	702,595	355,723
Provision	(200,000)	(200,000)
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	1,879,156	1,542,382
Pensions Liability (FRS17)	(389,000)	(1,261,000)
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Net Assets	1,490,156	281,382
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Accumulated Fund	1,665,930	1,408,593
Revaluation Reserve	213,226	133,789
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	1,879,156	1,542,382
Pensions Reserve (FRS17)	(389,000)	(1,261,000)
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	1,490,156	281,382
	=====	=====