



## The Bar Council

### **Introduction and Constitution of the General Council of the Bar**

28 March 2020

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## **Part I**

### **Introduction**

#### **Definitions**

1. In this Constitution of the General Council of the Bar, unless the context otherwise requires:

"The Introduction" shall mean the provisions set out in Part I.

"The Bar Council Constitution" shall mean the constitution of the General Council of the Bar set out in Part II.

"The Bar Council" shall mean the General Council of the Bar as constituted by the Bar Council Constitution.

"The Bar Standards Board" shall mean the Board established to exercise and oversee all the regulatory functions of the Bar Council.

"The Council of the Inns of Court" and the "Inns' Council" shall mean the incorporated charity named: 'The Council of the Inns of Court', charity number 1155640.

"The Chair", and "Vice-Chair", shall mean the Chair, and Vice-Chair, respectively of the Bar Council elected pursuant to the provisions of the Bar Council Constitution.

"The Vice-Chair Elect" shall mean the person (if any) who has been elected, but who has not yet assumed office, as Vice-Chair of the Bar Council pursuant to the provisions of the Bar Council Constitution.

"The Treasurer" shall, in the Bar Council Constitution, mean the Treasurer of the Bar Council elected pursuant to the provisions of the Bar Council Constitution.

"The Treasurer Elect" shall mean the person (if any) who has been elected, but who has not yet assumed office, as Treasurer of the Bar Council pursuant to the provisions of the Bar Council Constitution.

"The Officers" shall mean the Chair, the Vice-Chair and the Treasurer of the Bar Council.

"The President" shall mean the President of the Inns' Council elected pursuant to the provisions of the Inns' Council Constitution.

"The Inns" shall mean the Four Inns of Court and "Inn" has a corresponding meaning.

"Bencher" shall mean a Master of the Bench of any of the Inns.

"Self-Employed Barrister" shall mean a self-employed barrister as defined in the Bar Standards Board Handbook.

"Employed Barrister" shall mean an employed barrister as defined in Bar Standards Board Handbook.

"Registered European Lawyer" shall mean a European lawyer registered with the Bar Standards Board as defined in the Bar Standards Board Handbook.

"Unregistered Barrister" shall mean an unregistered barrister as defined in the Bar Standards Board Handbook.

"The Bar" shall mean the Bar of England and Wales as defined in the Bar Standards Board Handbook.

"Subscriber" shall mean any self-employed barrister or employed barrister or registered European lawyer whose practising certificate fee to the Bar Council is paid up to date in the full amount, or who has for the time being been specially exempted by the Bar Council from the requirement to pay a practising certificate fee to the Bar Council. For the purpose of attendance and entitlement to vote at the Annual General Meeting, 'subscriber' shall mean also any unregistered barrister whose voluntary subscription to the Bar Council is paid up to date in the full amount, but shall not include overseas or retired subscribers.

"Honorary Life Member" shall mean a barrister who has retired as a self-employed or employed barrister or as a registered European lawyer who has given exceptional services to the Bar Council and is appointed as an honorary life member by resolution of the Bar Council; such member shall be exempted from the requirement to pay the annual subscription.

"The General Management Committee" shall mean the standing committee of the Bar Council described in Regulation 13(b) of the Bar Council Constitution.

"The Relevant Date" shall mean the 1st January in each calendar year or such earlier or later date (not being later than the 1st September in that calendar year) as the Bar Council may determine.

"A Year" shall mean the period starting on the Relevant Date in each year and ending on the day before the next Relevant Date.

"The First Meeting" shall mean the meeting of the Bar Council Elect referred to in Schedule One of the Standing Orders for Committees of the Bar Council of England and Wales.

"The Chief Executive" shall mean the person for the time being appointed to such position pursuant to the provisions of Regulation 18 of the Bar Council Constitution.

"Extraordinary Resolution" shall mean a resolution passed by the members of the Bar Council by a greater majority than is required to pass an ordinary resolution.

The masculine shall include the feminine gender.

The plural shall include the singular and vice versa.

### **Amendment of the Introduction**

2. (a) Subject as aforesaid, this Introduction may be amended only by resolution passed by the Bar Council in accordance with the procedures provided for amendment of the Bar Council Constitution.

## **Part II**

### **Constitution of the General Council of the Bar**

#### **Functions and powers of the Bar Council**

1. The Bar Council is established to discharge the following functions:
  - (a) To be the governing body of the Bar.
  - (b) To consider, lay down and implement general policy with regard to all matters affecting the Bar.

- (c) To maintain the standards, honour and independence of the Bar, to promote, preserve and improve the services and functions of the Bar, and to represent and act for the Bar generally as well as in its relations with others and also in matters affecting the administration of justice.
  
- (d) As the Approved Regulator, to create a board, to be known as the Bar Standards Board, to which it delegates the discharge of its regulatory functions in compliance with Section 28 of the Legal Services Act 2007. The Bar Standards Board shall be constituted in accordance with such constitution as it shall from time to time determine, in consultation with the Bar Council. Functions and powers of the Bar Standards Board are set out fully in its constitution.

For the purposes aforesaid the Bar Council shall have all appropriate powers and jurisdiction, including (without prejudice to the generality of the foregoing) power to raise funds for its general purposes, and to use the services of any other persons including any charity or charities established by the Bar Council for educational purposes.

### **Composition of the Bar Council**

2. The Bar Council shall be made up as follows:

- (a) Officers comprising:
  - (i) The Chair, who shall be a member of the Council ex-officio and not otherwise;
  - (ii) The Vice-Chair;
  - (iii) The Treasurer.

The Vice-Chair and the Treasurer shall also be members of the Council ex officio, but in their case without prejudice to their membership (if any) under another provision of this Regulation.

- (aa) Officers Elect comprising:
  - (i) The Vice-Chair Elect;

- (ii) The Treasurer Elect.

The Vice-Chair Elect and the Treasurer Elect shall also be members of the Council *ex officio*, but in their case without prejudice to their membership (if any) under another provision of this Regulation.

- (b) Members comprising:
  - (i) The Attorney General, the Solicitor-General and the Director of Public Prosecutions *ex officio*.
  - (ii) The Leader for the time being of each Circuit *ex officio*.
  - (iii) The Chairman or Chair for the time being of the Criminal Bar Association, the Family Law Bar Association, the Chancery Bar Association, the London Common Law and Commercial Bar Association, the Bar Association for Commerce, Finance and Industry and the Commercial Bar Association *ex officio*.
  - (iv) 12 subscribers appointed by the Benchers of the Inns.
  - (v) 12 subscribers elected by the Circuits, of whom, at the date of their election, all shall be self-employed barristers or employed barristers and at least 6 shall be Juniors.
  - (vi) 15 subscribers elected by the Criminal Bar Association, the Family Law Bar Association, the Chancery Bar Association, the London Common Law and Commercial Bar Association, the Intellectual Property Bar Association, the Bar European Group, the Revenue Bar Association, the Technology and Construction Bar Association, the Planning and Environment Bar Association, the Administrative Law Bar Association, the Professional Negligence Bar Association, the Commercial Bar Association, the Personal Injuries Bar Association, the Employment Law Bar Association, and the Property Bar Association all of whom shall be self-employed barristers or employed barristers at the date of their election.
  - (vii) 4 subscribers elected by the Bar Association for Commerce Finance and Industry, the Crown Prosecution Service and the Government Legal Service through the FDA and the Bar Association for Local Government and the Public Service, all of whom shall be self-employed barristers or employed barristers at the date of their election.

- (viii) 39 subscribers elected by subscribers who are self-employed barristers or self-employed registered European lawyers and whom, at the date of their election, all shall be self-employed barristers or self-employed registered European lawyers, and 12 shall be Juniors who first became eligible for a full practising certificate less than 7 years before the date of their election, 21 shall be Juniors who first became eligible for a full practising certificate 7 years or more before the date of their election and 6 shall be Queen's Counsel, or self-employed registered European lawyers of equivalent seniority since registration.
- (ix) 15 subscribers elected by subscribers who are employed barristers or registered European lawyers in employment and of whom, at the date of their election, all shall be employed barristers or registered European lawyers in employment and 6 shall be Juniors who first became eligible for a full practising certificate less than 7 years before the date of their election, and 9 shall be Juniors who first became eligible for a full practising certificate 7 years or more before the date of their election or Queen's Counsel or registered European lawyers in employment of equivalent seniority since registration.
- (x) Not more than 8 further subscribers who may be co-opted by the Bar Council.

### **Election of members and duration of membership**

3. (a) Of the 12 subscribers appointed by the Benchers of the Inns, 3 shall be appointed by the Benchers of each of the Inns and shall be members of that Inn (whether Benchers or not).
- (b) Of the 12 subscribers elected by the Circuits, 2 shall be elected by each of the Circuits and shall be members of that Circuit. At least one of the 2 elected by each Circuit shall be a Junior at the date of his election.
- (c) Of the 15 subscribers elected by the Associations referred to in Regulation 2(b)(vi) one shall be elected by each of those Associations, and each shall be a member of the Association that has elected him. If the Chairman or Chair of any of the said Associations who is ex officio a member of the Bar Council (or his nominee serving on the Bar Council in his place) is a Queen's Counsel, then the elected representative of that Association shall be a Junior at the date of his

election.

- (d) Of the 5 subscribers elected by the Associations referred to in Regulation 2(b)(vii) one shall be elected by each of those Associations and each shall be a member of the Association that has elected him. If the Chairman or Chair of any of the said Associations who is ex officio a member of the Bar Council (or his nominee serving on the Bar Council in his place) is a Queen's Counsel, then the elected representative of that Association shall be a Junior at the date of his election.
- 4. (a) The elected members of the Bar Council shall take office on the Relevant Date following their election.
  - (b) Further provisions concerning the election of members of the Bar Council are set out in Schedule I hereto.
  - (c) No person who is a member of the Bar Standards Board shall be elected or appointed or co-opted as, or shall become ex officio, a member of the Bar Council.
- 5. (a) An elected member of the Bar Council shall retire immediately before the Relevant Date occurring three years after taking office as a member of the Bar Council, and shall be eligible for re-election.
  - (b) One-third of the members of the Bar Council referred to in Regulation 2(b)(viii) shall retire immediately before the Relevant Date in each year. Those to retire shall be those who have been members longest since their last election.
  - (c) One-third of the members of the Bar Council referred to in Regulation 2(b)(ix) shall retire immediately before the Relevant Date in each year. Those to retire shall be those who have been members longest since their last election.
  - (d) Each of the subscribers appointed by the Benchers of the Inns to be members of the Bar Council shall serve for such period as shall be fixed by the Benchers who appoint him being not less than one year and not more than three years subject always to Regulation 6. Each of the subscribers appointed shall be eligible for re-appointment on the expiry of his term of office.
  - (e) A person co-opted to membership of the Bar Council shall retire

immediately before the Relevant Date following his co-option, but shall then be eligible for appointment, election or co-option (as the case may be) to the Bar Council.

- (f) Any person who is appointed to one of the offices referred to in Regulation 2(b)(i), (ii) and (iii) and who, at the commencement of his term of office is, or during the currency of his term of office (but for this provision) would become, a member of the Bar Council within one of the categories referred to in Regulation 2(b)(iv) to (x) shall be deemed to have vacated his membership within such category forthwith upon commencing his term of office or (as the case may be) upon the date during the currency of his term of office when (but for this provision) his membership within such category would otherwise have begun, whereupon the provisions of Regulation 7 shall apply. This provision shall not apply to any person who, while a member of the Bar Council, is appointed an alternate or a nominee pursuant to Regulation 8 or (as the case may be) Regulation 9.

6. A person shall cease to be a member of the Bar Council if:

- (a) he ceases to be a subscriber;
- (b) he ceases to be a barrister or a registered European lawyer;
- (c) he was elected or nominated:
  - (i) as a self-employed barrister and thereafter ceases self-employed practice;
  - (ii) as an employed barrister and thereafter ceases to be an employed barrister;
  - (iii) as a registered European lawyer and thereafter ceases to practise as a registered European lawyer;
  - (iv) as a member of a Circuit or Association and ceases to be a member of that Circuit or Association;
- (d) by notice in writing to the Chief Executive he resigns his membership of the Bar Council;
- (e) not being a member ex officio of the Bar Council (i) he absents himself from 3 consecutive meetings of the Bar Council or absents himself in

any year from one-half in number of the meetings of the Bar Council and (ii) the General Management Committee resolves that he ceases to be a member of the Bar Council;

- (f) having been appointed by the Benchers of an Inn, his appointment is at any time revoked by such Benchers;
  - (g) he becomes a member of the Bar Standards Board.
7. If a casual vacancy occurs in the membership of the Bar Council pursuant to Regulation 6 or otherwise, such vacancy shall be filled by a person who satisfies any personal requirements specified in Regulation 2 and 3 (were there to be an election at the date of his appointment). Such person shall be appointed or elected to the casual vacancy in the following manner:
- (a) in the case of an appointed member referred to in Regulation 2(b)(iv) by appointment by the Benchers of the relevant Inn;
  - (b) in the case of an elected member referred to in Regulation 2(b)(v) by appointment by the Leader of the relevant Circuit;
  - (c) in the case of an elected member referred to in Regulation 2(b)(vi) or (vii) by appointment by the Chairman or Chair of the relevant Association;
  - (d) in the case of an elected member referred to in Regulation 2(b)(viii) or (ix): (i) by appointment by Bar Council for the period until the completion of the next election to be held pursuant to Regulation 2(b)(viii) or (ix), as the case may be; and (ii) thereafter, by election by subscribers eligible to vote in such election. In the event that the period of appointment under regulation 7(d)(i) would be for a period of less than 6 months, the Chair may make such an appointment, subject to that appointment being ratified at the next Bar Council meeting.

Any person who fills a casual vacancy shall (subject to Regulations 6 and 7(d)) remain a member until the date when the member whose place he has filled would have been due for retirement.

8. All Bar Council members are permitted up to 12 months leave of absence for parental leave. In the case of members referred to in Regulations 2(b)(i)-(vii), the relevant nominating body must provide an alternate.

## Alternates

9. (a) Any of the following members of the Bar Council may appoint an alternate to act and vote in his place at any meeting of the Bar Council:
- (i) the Circuit Leaders;
  - (ii) the Chairs and Chairmen of the Bar Associations referred to in Regulation 2(b)(iii).
- (b) Alternates may be appointed by the Benchers of the relevant Inn to act and vote in the place of any of the subscribers appointed by them as referred to in Regulation 2(b)(iv).
- (c) Alternates may be appointed by the Leader of the relevant Circuit to act and vote in the place of any of the subscribers elected by the Circuit as referred to in Regulation 2(b)(v).
- (d) Alternates may be appointed by the Chairman or Chair of the relevant Association to act and vote in the place of any of the subscribers elected by the Association as referred to in Regulation 2(b)(vi) or (vii).
- (e) A person may not be appointed or thereafter act as such alternate unless, at the date on which he is appointed and on every occasion on which he so acts, he is a subscriber and possesses the same personal qualifications specified in Regulations 2 and 3 which entitled the person he is representing to be appointed or elected to the Bar Council.
- (f) A person may not be appointed as such an alternate if he is a member of the Bar Standards Board. A person who is appointed as such an alternate may not thereafter act as such an alternate at any time when he is a member of the Bar Standards Board.

## Proxies

10. Any member of the Bar Council may delegate their voting power to another member of the Bar Council to enable a vote in their absence at a General Meeting for matters that have been identified on that Bar Council meeting agenda as requiring a vote. Notice of the intention to appoint a proxy and the name of the proxy must be made available to the Chief Executive in time to be tallied in the vote count on the question at issue.

## **Nominees**

11. (a) A Circuit or Bar Association shall be entitled to nominate some person to be its member ex officio of the Bar Council in place of its Leader or Chairman/Chair (as the case may be) and such person shall remain its member ex officio of the Bar Council until the Circuit or Bar Association (as the case may be) shall otherwise determine. A person may not be appointed or thereafter act as a nominee unless on the date on which he is appointed and on every occasion on which he so acts (i) he is a subscriber and a member of the Circuit or Bar Association (as the case may be) of which he is the nominee; and (ii) he is not a member of the Bar Standards Board.
- (b) References in these Regulations to Circuit Leaders and to Chairmen or Chairs of Bar Associations shall include their respective nominees appointed as aforesaid.

## **Election of Officers**

12. (a) The Officers shall be elected by the members of the Bar Council and shall at the time of their proposal for election each be a member of the Bar Council. The Chair, the Vice-Chair and Treasurer shall be elected not later than 21st May in each year. The Officers shall hold office from the Relevant Date next after their election until immediately before the next Relevant Date.
- (b) Candidates for election as Officers must be proposed and seconded by persons who are members of the Bar Council at the time of their proposal for election. Proposals for the election of Officers must be either by notice in writing to the Chief Executive, or, by email to the Chief Executive, using the form provided by the Executive Office. The form must be signed (electronically or by hand) by both proposer and seconder and accompanied by (a) a statement signed by the person proposed of his willingness to accept office if elected, and (b) a candidate statement written by the person proposed explaining their relevant skills and experience and outlining why they are interested in, and suitable for, the role. Contested elections shall be conducted by ballot with the Chief Executive acting as a returning officer and, if there are more than two candidates, by single transferable vote.
- (c) Proposals for the election of the Chair, the Vice-Chair and the Treasurer must be given not sooner than 10.00 on the first Monday in

April and not later than 17.00 on the last Friday in April in each year.

- (d) The Chair and the Vice-Chair shall be eligible for re-election for a second term. The Treasurer shall be eligible for re-election annually for a period not exceeding 4 years.
- (e) The Bar Council may elect some eligible person to fill a casual vacancy caused by any Officer ceasing to be eligible to hold office or for any other reason. Any person elected to a casual vacancy shall hold office until the next Relevant Date and shall be eligible for re-election for a second term.

### **Proceedings of the Bar Council**

- 13. (a) Save and subject as elsewhere expressly provided in these Regulations, the Bar Council may hold meetings and adjourn and otherwise regulate its meetings as it thinks fit.
- (b) Meetings of and ballots of the Bar Council shall be conducted in accordance with the provisions set out in Schedule II hereto.
- (c) The Bar Council shall cause proper minutes to be kept of the proceedings of all meetings of the Bar Council and all business transacted at such meetings, and any such minutes of any meeting, if purporting to be signed by the chair of such meeting or by the chair of the next succeeding meeting, shall be sufficient evidence without further proof of the facts therein stated.
- (d) The continuing members of the Bar Council may act notwithstanding any vacancy in their body; provided always that in case the members of the Bar Council shall at any time be reduced in number to less than 20 they may act as a Bar Council for the purpose of filling up vacancies in their body but not for any other purpose.
- (e) All acts done by the Bar Council shall notwithstanding that it is afterwards discovered that there was some defect in the appointment of any of its members be as valid as if every person had been duly appointed.

## **Committees of the Bar Council**

14. (a) The Bar Council may delegate any of its functions and powers to (and may make or approve any arrangements for the delegation of those functions by) any committee, Officer or employee of the Bar Council and at any time revoke any such delegation.
- (b) Without prejudice to the generality of Regulation 13(a) there shall be a committee of the Bar Council which shall be called the General Management Committee, and which shall have, among others, the powers and functions referred to in Regulations 6(e), 16(e), 18(b), 21, and Schedule IV.
- (c) The Bar Council may, at any time, resolve to exercise some or all of the powers and functions of the General Management Committee referred to in Regulation 13(b) in place of such Committee and it may at any time delegate the exercise of any of such powers and functions to some other committee or committees of the Bar Council.

## **Standing Orders**

15. Save and except as elsewhere expressly provided in these Regulations the composition, functions and powers of the committees of the Bar Council (including the power to establish panels and working groups and the power to co-opt and to appoint alternates), and the appointment of the officers and the conduct of the proceedings of such committees shall be in accordance with such standing orders as the Bar Council shall from time to time determine.

## **Annual General Meeting of Subscribers to the Bar Council**

16. (a) An Annual General Meeting of the Subscribers to the Bar Council shall be held once in every year on such date and at such time and place as the Bar Council shall determine. At the Annual General Meeting the Bar Council shall present its annual report and accounts. Every Subscriber shall be entitled to attend the Annual General Meeting.
- (b) The Annual General Meeting of Subscribers and ballots of Subscribers shall be conducted in accordance with the provisions set out in Schedule III hereto.

### **Extraordinary General Meetings and ballots of the Bar**

17. (a) Upon a request made to the Chief Executive in writing by not less than 150 Subscribers and stating the objects for which the meeting is required, the Bar Council shall as soon as reasonably practicable convene a meeting of Subscribers for the discussion of the objects for which the meeting is required and such other matters as the Bar Council may think fit.
- (b) The Bar Council may convene such meetings of or conduct such ballots of the Bar or any section thereof as it may think fit.
- (c) A meeting convened pursuant to this Regulation shall be called an Extraordinary General Meeting.
- (d) If the Bar Council pursuant to clause (a) or (b) of this Regulation calls an Extraordinary General Meeting or holds a ballot of the Bar or any section of the Bar, the provisions set out in Schedule IV shall apply.
- (e) Any powers of the Bar Council to ballot the Bar or a section of the Bar may also, subject to any directions of the Bar Council, be exercised by the General Management Committee.

### **Resolutions of Annual and Extraordinary General meetings**

18. (a) In this Regulation the expression "a Directive Resolution" shall mean a resolution of the Bar passed in accordance with the provisions of Schedule V.
- (b) Except in the case of a Directive Resolution the Bar Council and its officers shall not be bound to give effect to any resolution of any Annual or Extraordinary General Meeting (and whether passed on a show of hands or upon a ballot) and it shall not be competent for any Annual or Extraordinary General Meeting to exercise, or to attempt to exercise, any function or power which by these Regulations is exercisable by the Bar Council or by any person or committee to which, in accordance with these Regulations, the exercise of such functions or power has for the time being been delegated.
- (c) In the case of a Directive Resolution the Bar Council and its officers shall be bound to do all things which are required of them to

implement such resolution.

### **The Chief Executive and other administrative staff of the Bar Council**

19. (a) The Bar Council shall appoint a Chief Executive or other principal administrative officer and such other administrative officers for such periods and on such terms as to remuneration and otherwise as it thinks fit. Such administrative officers shall discharge all such duties as the Bar Council shall assign to them respectively.
- (b) Anything required to be done and any directions required to be exercised by, and any notice required to be given to, the Chief Executive may be done or exercised by, or given to, any deputy for the Chief Executive authorised by the General Management Committee to act in the latter's place (either prospectively or retrospectively and either generally or for a particular purpose).

### **Investment and borrowing and subsidiaries**

20. Monies not required for current purposes may be placed on deposit or invested in the purchase of or upon the security of such shares, stocks, funds, securities, lands, buildings, chattels or other investments or property of whatsoever nature and wheresoever situated and whether involving liabilities or producing income or not or upon personal credit with or without security in all respects as if the persons exercising the powers of investment hereby conferred were absolute owners beneficially entitled and so that any investments shall be held in the name of a body corporate from time to time selected by the Bar Council as its nominee for that purpose.
21. The Bar Council shall have power at any time and from time to time to borrow and secure any monies borrowed and to act as guarantor for any subsidiary company, provided always that the aggregate amount of any borrowing for the time being outstanding and any liability arising from acting as guarantor for a subsidiary company shall not then exceed one half of the market value of the investments then held by the Bar Council.
22. The powers of investment and borrowing conferred by Regulations 19 and 20 may be exercised on behalf of the Bar Council by the Finance Committee. Any undertaking to act as guarantor for a subsidiary will require the prior approval of the General Management Committee.

## **Finance**

23. The Chief Executive may authorise any bank account of the Bar Council to be overdrawn up to a limit fixed by the Finance Committee.
24. Any bank account of the Bar Council shall be capable of being drawn upon by such persons as the Finance Committee shall from time to time determine.

## **Accounts and books of account**

25. The Bar Council shall cause proper books of account to be kept at its offices or at any such other place or places as the Bar Council shall think fit. The books of account shall always be open to the inspection of the members of the Bar Council.
26. The Bar Council shall each year prepare accounts which shall be duly audited and shall annually present such accounts to the Inns and to the Subscribers in the Annual General Meeting.

## **Notices**

27. A notice, ballot paper or other document required by these Regulations to be given to any person may be given to him:
  - (a) by delivering it to him personally; or
  - (b) by sending it through the post or by email. or
28. Any document so posted or sent by email shall be deemed to have been received by, and so duly given to, the person in question on the third day after the day on which the envelope or package containing it is put into the post, or which the email was sent..
29. A person for whom the Bar Council has no record of any such postal or email address shall not be entitled to receive any ballot paper or notice of any meeting.

30. No proceedings of any general meeting of the Bar Council or the Subscribers shall be invalidated notwithstanding that it be afterwards discovered that notice was not duly given to any person or persons entitled thereto or that any person not entitled to such notice was present at or voted at such meeting.
31. Any notice, written request or other document which by these Regulations is to be served on or given to the Bar Council or the Chief Executive shall be sufficiently served or given by being addressed to the Bar Council or Chief Executive (as the case may be) and deposited at the offices of the Bar Council.

### **Alterations of Regulations**

32. (a) Without the prior written consent of the Inns' Council no alteration may be made to Regulations 2(b) (iv), 3(a), 5(d), 6(f), 7(a), 9(b) or this Regulation or to the voting rights of members of the Bar Council. The prior written consent of the Inns' Council will be required to any change in the composition of the Bar Council which reduces the Inns' representation on the Bar Council to less than one tenth of the members of the Bar on the Bar Council.
- (b) Subject to Regulation 31(a) these Regulations may be altered by Extraordinary Resolution of the Bar Council.
- (c) The terms of any alteration to the Regulations shall be notified to all Subscribers in the notice convening the General Meeting (whether Annual or Extraordinary) next following the meeting of the Bar Council at which the alteration was made.

### **Indemnity**

33. The Bar Council shall indemnify the Senate and its members against its liabilities outstanding on the 1st January 1987 which expression shall include liabilities accruing or arising on or after the 1st January 1987 in respect of any act or omission done or omitted before the 1st January 1987.

## Schedule I

### Election of members of the Bar Council

#### Functions and powers of the Bar Council

1. In this Schedule the expression  
  
"Candidate" shall mean a candidate for election to the Bar Council.  
  
"Circuit Elections" shall mean elections to the Bar Council by members of the Circuits as referred to in Regulation 2(b)(v).  
  
"Association Elections" shall mean elections to the Bar Council by Association members as referred to in Regulations (2)(b)(vi) and (vii).  
  
"Subscriber Elections" shall mean elections to the Bar Council by Subscribers as referred to in Regulation 2(b)(viii) and Regulation 2(b)(ix).
2. Circuit Elections shall be held every three years commencing in 1994 and Association Elections every three years commencing in 1995. Responsibility for conducting such elections is the responsibility of individual circuits and associations and not the Bar Council. Procedures are a matter for individual circuits and associations. The names of those elected are to be forwarded to the Chief Executive by the closing date for the receipt of ballot papers for subscriber members.
3. Subscriber Elections shall be held every year in order (a) to elect one-third of the members of the Bar Council referred to in Regulation 2(b)(viii), and one-third of such members referred to in Regulation 2(b)(ix), thereby replacing the one-third of such members retiring immediately before the Relevant Date pursuant to Regulation 5(b), and so ensuring that on and after the Relevant Date the Bar Council includes the members referred to in Regulation 2(b)(viii) and (b) to elect as required by Regulation 7(d)(ii) any person to fill any casual vacancy amongst the elected members of the Bar Council referred to in Regulation 2(b)(viii) and Regulation 2(b)(ix).
4. A person may not vote in Circuit Elections or Association Elections unless at the date of voting (a) he is a Subscriber, and (b) he is a member of the relevant Circuit or Bar Association (as the case may be)

and may not vote in Subscriber Elections unless at the date of voting (a) he is a Subscriber and (b) he is a self-employed or employed barrister or a self-employed or employed registered European lawyer.

5.
  - (a) A Subscriber may not in any year vote as a member of more than one Circuit in Circuit Elections.
  - (b) A Subscriber may not in any year vote as a member of more than one Association in Association Elections.
  - (c) A Subscriber who is a member of a Circuit and a member of an Association is entitled to vote in Circuit Elections and Association Elections as well as in Subscriber Elections in any year.
6. Every candidate in the Subscriber Elections shall complete a signed nomination form and either deliver it to the offices of the Bar Council or email it to the elections inbox address not earlier than 7 September and not later than 21 September.
7. A person may not offer himself for election at the same time in more than one of the categories referred to in Regulation 2(b)(v) to (ix). In the event that there is a casual vacancy or vacancies to be filled pursuant to paragraph 3(b) or 4(b) above in any Subscriber Election, then:
  - (a) each Candidate in the election shall be a Candidate for election as member of the Bar Council either for a three-year term (as defined in Regulation 5(a)) or for the term of the casual vacancy or vacancies;
  - (b) in the event of a ballot, the Candidates first elected shall be elected as members for three-year terms until the number required to be elected have been elected, and the Candidates next elected shall be elected as members for the term of any casual vacancy or vacancies, beginning with the longest such term;
  - (c) in the event that (pursuant to paragraph 11 below) no ballot is required, then:
    - (i) if no more Candidates stand than are required to be elected as members for three-year terms such candidates shall be deemed to be elected as members for three-year terms; and
    - (ii) if more Candidates stand than are required to be elected as

members for three-year terms, then the Chief Executive shall draw lots so as to determine which Candidates are elected as members for what terms, and the Candidates first chosen shall be deemed to be elected as members for three-year terms until the number required to be elected have been elected, and the Candidates next chosen shall be deemed to be elected as members for the term of any casual vacancy or vacancies, beginning with the longest such term.

8. A list of Candidates standing for election shall be posted up in such places as the Chair may direct within 4 days after the last day for delivery of proposal forms.
9. If no more Candidates of any description stand than are required to be elected to make up the membership specified in Regulations 2 and 3 (including any casual vacancy to be filled pursuant to paragraph 3(b) or 4(b) above) such Candidates shall be deemed to be elected and any vacancy still remaining shall be treated as a casual vacancy to be filled in accordance with Regulation 7.
10. If more Candidates stand than can be elected to make up the membership specified in Regulations 2 and 3 (including any casual vacancy to be filled pursuant to paragraph 3(b) or 4(b) above) the election shall be by ballot papers to be personally filled and signed by the electors. The ballot papers shall be in such form generally as the Chair shall from time to time prescribe and shall, when issued, have written thereon the name of the Subscriber for whose use it is intended and shall be counted only when signed by such Subscriber.
11. Ballot papers shall be served in any manner authorised by Regulation 26 not later than 5 October.
12. The Subscriber Elections shall be conducted by single transferable vote.
13. Online voting shall be completed not later than 19 October or (if 19 October falls on a Saturday, Sunday or bank holiday) by 10 am on the next working day.
14. Any form that has not been correctly completed within the requirements of this Schedule and within the time prescribed by the last preceding paragraph shall be void. The Chief Executive shall act as the returning officer, and shall determine all questions regarding

the validity of any online ballot or of any vote.

15. No election of any member of the Bar Council shall be invalidated by reason of any defect in the online voting system or by reason of any error however occasioned in the tally of votes cast.
16. A return of the persons elected as members of the Bar Council shall be made and signed by the Chief Executive as soon as possible.
17. The Chief Executive shall publish the names of the persons elected as members of the Bar Council as soon as practicable.
18. Persons elected to the Bar Council in accordance with this Schedule shall be deemed to have been elected on the last day fixed by paragraph 15 for the return of ballot papers.

## **Schedule II**

### **Meetings and ballots of the Bar Council**

1. There shall be at least four General Meetings of the Bar Council spread across each year, not including the First Meeting.
2. On the request of the Chair or of not less than 20 members of the Bar Council the Chief Executive shall at any time summon a meeting of the Bar Council. Four clear days' notice at least of each such meeting shall be given unless the Chair in any case of emergency shall otherwise direct.
3. Notice of any matters to be placed on the agenda for a meeting of the Bar Council shall be sent to the Chief Executive, with the name of the sender, at least eight clear days before the date of the meeting.
4. Unless those present at the meeting otherwise resolve, no business except that appearing on the agenda shall be brought before a meeting of the Bar Council.
5. 20 members of the Bar Council shall constitute a quorum.
6. The Chair shall preside at all meetings of the Bar Council at which he shall be present, but if there be no Chair, or if he be absent, then the Vice-Chair shall so preside, but if there be no Vice-Chair, or if he be absent, then the members present shall choose one of their number to be Chair of that meeting.
7. The Bar Council may at any time invite any person to attend in an advisory capacity at any meeting or meetings of the Bar Council. All meetings of the Bar Council shall be open to Subscribers unless the Bar Council resolves to the contrary in relation to any meeting or part of any meeting. Paragraphs 10-12 of this schedule shall not apply to any resolution by the Bar Council to close any meeting or part of any meeting.
8. Subject as hereinafter provided questions arising at any meeting shall be decided by a majority of votes of those present and voting. Each member of the Bar Council shall have one vote but in the case of an equality of votes the Chair of the meeting shall have a second or casting vote.

9. If the question be put as an Extraordinary Resolution the requisite number shall be (a) two-thirds of those members of the Bar Council who are present and vote at a meeting of the Bar Council of which not less than four clear days' notice specifying the intention to propose the resolution as an Extraordinary Resolution has been duly given; or (b) if voting is by ballot, two-thirds of those members of the Bar Council who vote in the ballot on the question; or (c) if the question is to be put to a vote outside a Bar Council meeting, the conditions set out in Schedule II, Paragraph 13 must be followed.
10. If a ballot is demanded by at least one-quarter of those present and voting or by 12 of them (whichever number be the less) the question shall be determined upon a ballot which shall be held (subject as hereinafter provided) in such manner as the Bar Council may determine so as best to ensure that every member shall have the opportunity of voting.
11. (a) If the question be put as one which requires a resolution of not less than two-thirds of the members of the Bar Council at the time of the resolution, the matter shall be determined either at a meeting of the Bar Council of which not less than four clear days' notice has been given specifying that the resolution is one which requires to be passed by not less than two-thirds of the members of the Bar Council or, if the Bar Council so decides, upon a ballot. If the question be put to the vote outside a Bar Council meeting, the matter shall be determined within four clear days of the question being put.  
  
(b) The provisions of Paragraph 12 of this Schedule shall apply to any such ballot as if references in that paragraph to the demand for a ballot were references to the decision of the Bar Council to hold a ballot on the question.
12. Unless the Bar Council otherwise directs, a ballot of members of the Bar Council shall be taken in accordance with the following provisions:
  - (a) Within seven days after the date of the meeting at which the ballot was demanded the Chief Executive shall send to each member of the Bar Council a ballot paper setting out the resolution in respect of which the ballot has been demanded. The ballot paper shall contain instructions as to voting and shall be in such form generally as, subject to any directions of the Bar Council, the Chief Executive considers

appropriate.

- (b) Each member of the Bar Council wishing to vote in the Ballot shall complete his ballot paper and return it to the office of the Bar Council so as to be received there not more than fourteen days after the date of the meeting at which the ballot was demanded and any ballot paper not so received shall not be counted in determining the result of the ballot.
- (c) On a ballot, the Chair of the meeting at which the ballot was demanded shall not have a casting vote, and, in the event of a tie, the resolution balloted (if it is on a question to be decided by a majority of those voting) shall not be carried.
- (d) The accidental omission to send a ballot paper to any person, or the failure of any person to receive a ballot paper, shall not invalidate the ballot.
- (e) The result of any ballot shall be made known to the members of the Bar Council in such manner as the Chair shall direct.

### **Voting out of Bar Council**

13. A decision taken outside a meeting of the Bar Council is valid if:
- (a) At least four clear days' notice of the matter to be decided has been sent in writing (either in a letter or an email) to all members of the Bar Council;
  - (b) All members of the Bar Council are given the opportunity to vote;
  - (c) The decision is approved by email and the following conditions have been met:
    - (i) For an extraordinary resolution, this must have been approved by two thirds of those who have voted (provided that at least 20 votes have been cast).
    - (ii) In the case of a ballot, this must have been approved by half or more of all Bar Council

- (iii) For a resolution that is not an extraordinary resolution, this must have been approved by more than half of those who have voted (provided that at least 20 votes have been cast).

In the case of a ballot, this must have been approved by half or more of all Bar Council members.

- (d) The decision is noted at the next meeting and recorded in the minutes of that meeting.

## Schedule III

### Annual General Meetings and ballots of subscribers

1. Not less than twenty-eight clear days' notice of an Annual General Meeting shall be given in such one or both of the following ways as the Bar Council determines:
  - (a) by the posting of notices in each of the Inns and in such other places (if any) as the Bar Council may from time to time direct.
  - (b) by giving notice individually to every person who is entitled to attend and (having regard to Regulation 28) to receive notice of the meeting.

Such notices shall specify the place, the day and the hour of the meeting, and the general nature of any matter which is to be brought forward for discussion. They should also include the proviso set out in Paragraph 16 of the Bar Council Constitution. The accidental omission to post any such notice in manner provided shall not invalidate the proceedings of any meeting.

2. Any Subscriber shall be at liberty to bring forward any resolution (not disallowable under Paragraph 7 of this Schedule) for discussion and decision at an Annual General Meeting provided that prior notice of his intention to do so shall have been given in writing to the Chief Executive not less than 21 clear days before the day of the meeting and provided that the resolution is seconded by another Subscriber. The Chief Executive shall thereupon give notice of all such resolutions in the manner prescribed under Paragraph 1 of this Schedule not less than 7 clear days before the day of the meeting. Notwithstanding any failure to comply with all or any of these requirements the Chair of the meeting may at his discretion allow a resolution to be brought forward for discussion and decision upon such terms as he considers reasonable. Before any resolution is debated at a General Meeting the Chair of that meeting shall remind it of the content and effect of the proviso set out in Paragraph 16 of the Bar Council Constitution and suggest that the resolution be phrased in the form "This meeting invites the Bar Council to examine ..." The Bar Council shall then be required to report the outcome of its examination to the Bar within six months.
3. No business shall be transacted at an Annual General Meeting unless a quorum is present at the time when the meeting proceeds to

business and, save as hereinafter otherwise provided, 60 subscribers personally present shall constitute a quorum.

4. If within a quarter of an hour from the time appointed for an Annual General Meeting a quorum be not present the meeting shall stand adjourned to the same day in the next week at the same time and place or at some other time and place as the Chair of the meeting shall appoint; and if at such adjourned meeting a quorum be not present within a quarter of an hour from the time appointed for the meeting, those persons who are present shall constitute a quorum.
5. The Chair of any Annual General Meeting may, if a quorum was present at the time when the meeting proceeded to business, adjourn the meeting with its consent to another time or another place, but
  - (a) no business shall be transacted at any adjourned meeting other than business which might have been transacted at the meeting from which the adjournment took place;
  - (b) if the meeting is adjourned for 21 days or more, not less than 14 clear days' notice of the adjourned meeting shall be given in any manner and form sufficient for the original meeting; and
  - (c) if the meeting is adjourned for less than 21 days, it shall not be necessary to give any notice of the adjourned meeting.
6. The Chair or such other person as he nominates, or in the absence of the Chair and any such nominated alternate, the Vice-Chair shall preside as Chair at every Annual General Meeting. If at any Annual General Meeting neither the Chair (or, as the case may be, an alternate nominated by the Chair) nor the Vice-Chair is present within ten minutes after the time appointed for holding the same, the persons present shall choose some member of the Bar Council, or if no such member be present and willing to take the chair, some person present to preside.
7. The Chair of an Annual General Meeting may, at any time during the meeting, by refusing to accept, to allow discussion of, or to put to the meeting, reject
  - (a) any resolution contrary to or inconsistent with these Regulations or the obligations of the Bar Council under any provision of or made under the Legal Services Act 2007

- (b) any amendment to a resolution which has not been seconded by another Subscriber;
  - (c) any resolution which in his opinion raises matters substantially similar to those which have arisen or are likely to arise under another resolution at that meeting;
  - (d) any resolution or amendment which, upon a show of hands being requested by the Chair, is not supported for debate by at least 20 subscribers, present in person or by proxy.
8. A Subscriber who has given notice of a resolution pursuant to Paragraph 2 of this Schedule may, without the consent of the meeting, withdraw the resolution at any time before speaking to it. Thereafter he may withdraw it only with the leave of the Chair of the meeting which shall not be given if any Subscriber present objects, and before giving such leave the Chair of the meeting shall ask the meeting if there is any such objection.
9. No Subscriber shall be permitted without the consent of the Chair of the meeting to speak more than once or for more than five minutes on the same matter, save in the case of the proposer of the resolution under debate, who shall be entitled to speak for not more than seven minutes.
10. At any Annual General Meeting any resolution put to the vote of the meeting shall be decided on a show of hands by a majority of those who, being entitled to attend, are present in person or by proxy at the meeting, unless a ballot of the subscribers is upon declaration of the result of the show of hands required by the Chair of the meeting or by eighty persons present in person or by proxy and entitled to vote on the resolution, but:
- (a) if the resolution affects only a section of Subscribers, only members of the section shall be entitled to vote and the references to a ballot in this Schedule shall be read as referring to a ballot of that section;
  - (b) for the purposes of sub-paragraph (a) of this paragraph, a resolution shall be regarded as affecting a section only of Subscribers if (and only if):
    - (i) the Bar Council so resolves; or

- (ii) the Bar Council having earlier neither so resolved nor resolved to the contrary, the Chair of the meeting at which the resolution is to be put so determines, except that if at the meeting, before a vote is taken on the resolution, the Bar Council's determination is demanded orally or in writing by at least one-half of those present in person or by proxy or by twenty of them (whichever is the less) the determination of the Chair of the meeting shall be of no effect in respect of that resolution (unless it is upheld by the Bar Council) and the Chair of the meeting may then provisionally take such votes as he may think fit or may adjourn the meeting (or proceed to other business and then adjourn the meeting) so as to enable a vote to be taken on the resolution after the Bar Council's determination;
  - (c) a ballot shall not be capable of being required by persons entitled to vote at the meeting other than the Chair of the meeting if the Chair of the meeting declares that the subject matter of the resolution has recently been the subject of a ballot.
11. No ballot shall ever be required on the election of a Chair of an Annual General Meeting or on any question of adjournment of any such meeting.
  12. No resolution shall be passed if there are less than 60 members entitled to vote present in person or by proxy when the vote is taken.
  13. In the event of an equality of votes on a show of hands, the Chair of the Annual General Meeting shall be entitled to a second or casting vote, but on a ballot there shall be no casting vote and in the event of a tie, the resolution balloted shall not be carried.
  14. Unless the Bar Council otherwise directs, a ballot on a resolution put at an Annual General Meeting of Subscribers shall be taken in accordance with the following provisions:
    - (a) Within twenty-one days after the date on which the resolution was put to the meeting the Chief Executive shall send to each Subscriber to be balloted a ballot paper setting out the resolution in respect of which the ballot has been demanded. The ballot paper shall contain instructions as to voting and be in such form generally as, subject to any directions of the Bar Council, the Chief Executive considers appropriate.

- (b) Each Subscriber entitled and wishing to vote in the ballot shall complete his ballot paper and return it to the office of the Bar Council so as to be received there not more than thirty-five days after the date on which the resolution was put to the meeting, and any ballot paper not so received shall not be counted in determining the result of the ballot.
  - (c) The accidental omission to send a ballot paper to any person, or the failure of any person to receive a ballot paper, shall not invalidate the ballot.
  - (d) The result of any ballot shall be deemed to be the resolution of the Annual General Meeting at which the ballot was demanded, and shall be made known to the Subscribers in such manner as the Chair shall direct.
15. A Subscriber shall be entitled to vote by proxy at an Annual General Meeting if he or she shall at least 24 hours in advance of the meeting have delivered or caused to be delivered to the Chief Executive a certificate that he is prevented from attending the meeting for due medical or religious cause and shall have nominated either some specified Subscriber present in person at the meeting or the Chair of the meeting ex officio to vote on his or her behalf (in which case any show of hands shall be so conducted as to ensure that the proxy has a further vote on behalf of the Subscriber in question in addition to his or her own vote).

## Schedule IV

### General meetings and ballots of the Bar

1. The Bar Council shall specify who shall be entitled to attend the meeting, and the date time and place of the meeting.
2. Not less than 14 clear days' notice of the meeting shall be given in such one or both of the following ways as the Bar Council determines:
  - (a) by the posting of notices in each of the Inns and in such other places (if any) as have for the time being been fixed by the Bar Council for posting notices to call Annual General Meetings of Subscribers;
  - (b) by giving notice individually to every person who is entitled to attend and (having regard to Regulation 27) to receive notice of the meeting.
3. Paragraphs 2 to 13 (inclusive) and 15 of Schedule III shall apply as if any references in those Regulations to a meeting were references to the meeting of the Bar or section of the Bar, and any references to Subscribers were references to the members of the Bar or that section (as the case may be), and save that the Bar Council may, if it think fit, fix for any particular Extraordinary General Meeting of the Bar or section of the Bar some other number than 60 persons present as a quorum for the meeting.
4. Unless the Bar Council otherwise directs, a ballot of the Bar or a section of the Bar shall be taken in accordance with the following provisions:
  - (a) The date of initiation of the ballot shall be taken to be:
    - (i) the date on which the resolution to be balloted is put to a meeting of the Bar or of a section of it; or
    - (ii) if the ballot is held, without any such meeting, by decision of the Bar Council or the General Management Committee, the date on which the Bar Council or the General Management Committee decides to ballot the Bar or a section of it.
  - (b) Within twenty-one days after the ballot has been initiated the Chief Executive shall send ballot papers to those persons to be balloted setting out the resolution or question on which the ballot has been

required. The ballot paper shall contain instructions as to voting and be in such form generally as, subject to any directions of the Bar Council, the Chief Executive considers appropriate.

- (c) Each person entitled and wishing to vote in the ballot shall complete his ballot paper and return it to the office of the Bar Council so as to be received there not more than thirty-five days after the ballot was initiated, and any other ballot paper not so received shall not be counted in determining the result of the ballot.
- (d) The accidental omission to send a ballot paper to any person, or the failure of any person to receive a ballot paper, shall not invalidate the ballot.
- (e) The result of any ballot shall be deemed to be the resolution of any meeting at which the ballot was initiated, and shall be made known to the Bar or section of the Bar balloted in such manner as the Chair shall direct.

## Schedule V

### Directive Resolutions

1. A Directive Resolution is any resolution of an Annual or Extraordinary General Meeting which satisfies the following conditions:
  - (a) when proposed and seconded notice is given to the Chief Executive that it is intended to be a Directive Resolution and a written explanation is lodged of its financial implications (if any).
  - (b) the Chair of the Bar has certified that he is satisfied that it would not if passed commit the Bar Council or the Bar to a policy or course of action which is not permitted or is beyond its powers, or is contrary to or inconsistent with the obligations of the Bar Council under any provision of or made under the Legal Services Act 2007.
  - (c) the resolution is passed by a majority of two thirds of those present and voting at the meeting (persons abstaining being disregarded) or if voting out of Bar Council, at least 20 votes must be cast and approval of two-thirds of those voting is required to pass the resolution
  - (d) If so required by the Chair of the Bar or by 80 subscribers at or within fourteen days after such meeting the resolution has furthermore been passed on a ballot of two thirds of those voting.
2. On any ballot under paragraph 1(d) above there shall be circulated the material lodged on the giving of notice of the intention to propose the resolution as a Directive Resolution plus three memoranda of not more than five pages each as follows namely
  - (a) one from the proposer and seconder summarising the reasons for passing the resolution as a Directive Resolution
  - (b) one from such person or persons as shall be nominated for this purpose by the Chair of the Bar summarising the reasons for not passing the resolution or not passing it as a Directive Resolution
  - (c) one from the Chair of the Bar indicating his views (if any) whether or not the resolution should be so passed
3. No resolution intended to be put forward as a Directive Resolution

shall be capable of amendment in any way unless the Chair of the Bar or of the meeting as the case may be certifies that the amendment in question does not alter the substance of the resolution.