

Minutes of the Bar Council Meeting held on Saturday 2 October 2010 at the Bar Council Offices

Present:

Rt Hon Dominic Grieve QC MP - Attorney General

Nick Green QC - Chairman

Peter Lodder QC - Vice-Chairman

Andrew Mitchell QC - Treasurer

Simon Garrod - Deputy Director, Representation and Policy

1. Approval of the Minutes

The Minutes of the Bar Council meeting on 17 July 2010 were approved.

2. Apologies

Apologies for absence were received from James Dingemans QC, Chris Hancock QC, John Howell QC, Richard Miller QC, Mirza Ahmad, Jeremy Barnett, Paul Bogan, Tom Bourne-Arton, Mark Bryant-Heron, Kenneth Craig, Amanda-Jane Field, Peter Grieves-Smith, Caroline Harris, Rex Howling, Melanie McIntosh and Christina Michalos.

3. Matters Arising

No matters arose.

4. Bar Council Members 2010

The meeting noted the list of Bar Council Members at Annex 2 to the Agenda.

5. Statement by the Chairman

The Chairman reminded the meeting that the YBC Conference was being held at the same time as this Bar Council meeting and that it would be discussing a number of the same issues that he would refer to in his statement; namely, the various pressures for change that the Bar was being placed under due to the Government's intention to make savings in public services. The Bar had to adopt an outward-looking, flexible approach and work constructively with the Government. The ongoing dialogue that had been established was indeed constructive and friendly, as the Government recognised that it needed the Bar's help to get the profession to swallow a number of the bitter pills on offer. In turn, the Bar had to turn the various

crises of the moment into opportunities.

Timing of the Criminal Legal Aid round

The Chairman reported that the Ministry of Justice (MoJ) had not yet got a settlement with the Treasury, so the scale of the cuts that the department needed to achieve was as yet unknown. However, the cuts were likely to be in the order of a minimum of 25%, amounting to £2 billion of an overall budget of £9 billion. On 20 October, the Comprehensive Spending Review (CSR) would be announced and the position would be clearer. The MoJ would then issue a series of consultation papers relating to civil work, criminal work, Jackson / costs, market-driven funding of litigation, and the scope of legal aid. The latter was likely to specifically refer to the possibility of removing from scope private law, family, clinical negligence and immigration work, as well as the possibility of introducing means-testing for criminal legal aid. These various consultations would last three months, which would then be followed swiftly by decision and implementation. Therefore, in early 2011 the MoJ was likely to be in a position to make policy decisions in relation to the quantum of savings to be gained from prisons, sentencing, the courts and legal aid etc (i.e. February 2011 approximately). Once these precise details had been established, a green-comes-white paper would be produced which would consult on the modalities of implementation. The details were likely to include competitive tendering and fully-functioning contracts which would cover criminal work from police station to court. The various Bar Council teams working on these issues had already put down markers to include issues on the agenda such as private civil funding issues, CLAFs and contingency fees. The minister, Jonathan Djanogly MP, knew that he had to look at private means to facilitate alternative modes of delivery when implementing the cuts.

Contracting arrangements

The Chairman reported that the Bar Council had established ongoing engagement with the Government in relation to the future of contracting for publicly funded work and that he had, this week, met with representatives of both the Legal Services Commission (LSC) and the MoJ. Last week he had met with Lord McNally at the Liberal Democrat Party Conference and further briefings and seminars for Government departments would follow. The Law Society's judicial review success against the LSC was likely to have an effect on progress as the high court judgement of Lord Justice Moses had concluded that the LSC's procurement procedure was irrational and he had specifically referred to issues of access to justice and high quality legal services. The Bar Council's various contracting working groups numbered some one hundred individual practitioners, and these were growing. They covered areas of tendering processes, Government savings, business models, PR and education, and drafting of contracts. The output of these various workstreams would be rolled out in the next few months. The anticipated timeline had elongated slightly, but the autumn of 2012 was now likely to be the go-live date

for the new contracts, meaning that bidding would have to happen in the spring of 2012; this was only eighteen months away. This burgeoning of work on behalf of the profession was likely to include more members of the legal aid Bar, chancery Bar and family Bar in the future who would be called on to assist.

BSB

The Chairman referred to the BSB's greater levels of collaborative work with the LSB. He also highlighted the issuing of one of the most important consultation papers to be given to the Bar in recent times by the BSB in relation to entity regulation. This referred to such fundamental issues as the ability of the Bar in the future to hold client money, spreading direct access across the board, and the regulation of whatever entities the Bar believed would be important to maintain or set up in the future.

Inns of Court

The Chairman emphasised that there was a need to work even closer with the Inns of Court. The Inns, the BSB, the Advocacy Training Council (ATC) and the Bar Council would be meeting very soon to discuss the details of making the ATC a genuine college of advocacy by giving it sufficient funds and logistical support to operate as such. In this way, it was intended to enable the ATC to reinvent itself as the progenitors of world-class advocacy.

Young Bar

The Chairman emphasised that the Bar had to view current crises as potential opportunities to expand the work of the Bar and to enable, for example, those in the publicly funded world to move, where relevant, necessary and possible, to privately funded work. Therefore, work was ongoing to, for example, develop international opportunities for the Bar. In two weeks or so's time, there was to be a conference on international work for the Criminal Bar and this had sold out in two days. Continuing the international theme, he reported that the Bar Council had recently visited Hangzhou and Shanghai on trade visits at which questions had been received of considerable detail, illustrating the amount of potential work there was for the English and Welsh Bar from international jurisdictions.

Bar Council staff

The Chairman explained just what it was that the membership paid for: the Law Society employed about 1,000 staff whereas the Bar Secretariat just exceeded 100 in number. That small number in staff covered regulatory and representative functions as well as supporting common services. This near-skeleton staff were very hard working and were repositories of knowledge for the profession. The Secretariat knew its way around Whitehall, had considerable drafting skills, and had unrivalled knowledge and experience on which the profession could call. For example, the ethical advice line fielded some 600 calls from the profession per month. In addition,

there remained ongoing liaison with the judiciary and court services. This small staff was not as well paid in comparison to their equivalents at the Law Society, and the Practising Certificate Fee (PCF) was designed to support the services they delivered.

Practising Certificate Fee

The Chairman then referred to pages 19(a) and 20(a) of the agenda, drawing the attention of the meeting to the recommendations from the General Management Committee (GMC) of 23 September to invite the Bar Council to agree en bloc all of the ten recommendations there listed. The table at page 21 replicated the 2010 PCF structure. The rationale for this approach had been prompted by the many issues raised during the recent consultation relating to the PCF, which had caused the GMC to pause, think again and consult more thoroughly on those issues with a view to taking this forward next year. The issues that would be covered in the upcoming consultation would be: Fee Structure; whether the rate should be flat or stepped or a combination for the two for example. Many professions did operate a flat-rate, reflecting the regulatory risk of that profession, although the Bar had always traditionally taken a graded approach, reflecting the differences between junior and senior practitioners. However, it was recognised that the current graded PCF structure was steep at the moment and designed to protect the Young Bar, new to practice, cross-subsidising them by the payments from those of greater seniority. The BSB had rightly pointed out that a flatter fee structure could actually be better. Consultation would also cover issues such as Means Testing, should the PCF be means tested, and One Bar, discussion of whether there should be a single fee for both the employed and self-employed Bar, for both publicly funded and privately funded Bar, for Government Legal Service employees as opposed to independent practitioners based on whether or not the former appeared in court or not.

LSB / OLC levy

In relation to the LSB / OLC levy, the Chairman reported that this was designed to support approximately 30 staff working in those functions. The Bar Council had fought its corner as to the amount it would have to contribute and now that had been settled, covering that amount had to be divvied up amongst the Bar. Currently, the levy had been attributed to members on a per capita basis, but GMC had agreed that stepped fees should be used this year so that a heavy element of cross-subsidisation for the junior Bar remained.

The Budget generally

The Chairman pointed out that the Bar Council had the power to approve the budget but this presented difficulties with the advent of arrangements following the *Legal Services Act 2007*. Therefore there was now a joint Bar Council / BSB review underway to ensure that the interests of both the representative and regulatory sides of the organisation were properly reflected. The current times of austerity meant that the 2011 budget had been pegged at 2010 levels, notwithstanding that there were

certain large projects underway which included entity regulation and funding of the ATC. However, these large projects would be funded from Bar Council reserves and not the PCF. However, the 2011 budget would be a deficit budget and it was recommended that the structure in the table at page 21 covering the PCF might require readjustment and that this should be remitted to the Finance and Audit Committee (FAC) for final decision so that the FAC could ensure there were sufficient funds for the year going forward. Therefore, the inflator used would be either 2.5% or 5% or capped at 7.5%. In conclusion, 2011 would be a difficult year, made more difficult, most likely, after the CSR announcement on 20 October, but the Bar had cause to remain optimistic.

Discussion

The AG confirmed that the MoJ would consult on where cuts would fall following the announcement of the CSR. However, the Treasury was insisting that savings of 25% had to be made over four years and this therefore had to be the challenging starting point for the department. The AG expressed his gratification that the Bar Council and MoJ were consulting and liaising so effectively together. The MoJ was developing clear strategy and thinking in relation to the future. In relation to the CPS, he was still working with the DPP on these issues. He was confident that the Chatham House discussions and the various meetings between the Bar Council and CPS would result in new Panel arrangements which would ensure sustained prosecution work for those on it in the future. Finally, he emphasised that he was certain that the Bar would have a future as a referral profession.

Sir Ivan Lawrence QC suggested that the Chairman should be less negative in relation to the Government having an imperative to slash the income of the publicly funded Bar. No one elsewhere had suggested that those working in the system should not be allowed to earn a living in the future, therefore, the Bar Council needed to be more optimistic as it could not be the Government's plan to prevent it being cost-effective for practitioners to work in the publicly funded world. The Chairman confirmed that the Bar Council would fight and do all it could on behalf of the profession but, in the straightened times, in doing this the Bar Council had to be realistic; the figure of £500 million had been touted as the anticipated savings to be derived from changing legal aid.

6. BSB Update

Baroness Deech (RD) reported that she and the BSB had been contemplating what would be in store as the Opening of the Legal Year had just passed. She emphasised that the BSB would be financially responsible and would not make unnecessary changes and increase the costs of practising, particularly at a time when the LSB and others were increasing that cost. However, the backdrop to the profession was shifting and the recently issued consultation paper on Entity Regulation could be

regarded as a significant change to that backdrop. RD paid tribute to the young staff team that had produced the consultation paper and suggested that it was very important to the Bar, as a recent BSB survey conducted by YouGov had indicated that 35% of the Bar were likely or very likely to join a new business structure. Permitting the Bar to practise in new business structures with the BSB regulating them had huge implication for the profession and for users of their services. The consultation paper covered issues such as more litigation for the Bar, Legal Disciplinary Practices, Alternative Business Structures, the maintenance of the cab rank rule (RD indicated that she personally felt that the maintenance of this rule was absolutely crucial), and the BSB sought responses to these issues by 23 December. She commended it to barristers and suggested also that they share the paper with their clerks.

The BSB wanted the Bar to move positively forward. The interface between the Bar and the public was underpinned by the excellence of the former's advocacy. Therefore the BSB intended to permit as flexible new business structures as possible if the Bar wanted them, whilst preserving the very best of what constituted the Bar and its very significant qualities.

QAA consultation

RD particularly highlighted the current QAA consultation paper (consultation paper on proposals for a quality assurance scheme for criminal advocates) which required responses by 12 November. The focus of this paper was on criminal advocacy but it was likely to extend. It addressed issues of quality of advocates which in some quarters had been cited as being not all they should be. However, RD was confident that such a scheme would show that the Bar was an excellent, quality-driven profession.

Legal Services Board (LSB)

RD indicated that the BSB maintained quite good relationships with the LSB. Recently, the Board had concluded successful negotiations in relation to the issue of a lay majority on the BSB. However, RD indicated that she had been taken aback by the LSB's stance on referral fees and felt that they had got it all wrong, particularly in considering the recent findings of reviews conducted by Lords Jackson and Young. The Bar, she suggested, was both spiritually and ethically against a referral fee culture and this would be a position that the BSB would maintain.

Vacancies on the BSB

Finally, RD encouraged those present to apply for the vacancies on the Board that were becoming available. Fiona Jackson thanked RD for her address and suggested that in many ways she was 'preaching to the converted'. However, she was not eligible to apply for a Board vacancy and had not seen any advertisements for them. She therefore suggested that the BSB might be better emailing potential applicants

for such positions, which was likely to be cheaper and more effective than using any other printed media.

7. Circuit Report - Wales and Chester Circuit (Winston Roddick QC)

Winston Roddick QC (WR) addressed the Bar Council, indicating that this was the first occasion on which a Circuit report had a formal slot on the Agenda of the Bar Council, but it was one that would continue in the future. This had been an initiative of the Chairman of the Bar and reflected the importance of the role of the Circuits. On behalf of all Circuits he therefore thanked the Bar Council for this welcome innovation.

Who are the Circuits?

WR explained that there were six circuits: North Eastern, Northern, Midland, Wales and Chester, South Eastern, and Western. Each Circuit had its own constitution but the constitutions were all similar. The Circuits were different sizes, with the South Eastern Circuit being the largest and Wales and Chester being the smallest. The North Eastern Circuit was led by Stuart Brown QC, the Northern Circuit by Richard Marks QC, the Midland Circuit by Gareth Evans QC, the Western Circuit by Nigel Lickley QC (NL) (welcome was extended to the newly appointed NL), and the South Eastern Circuit was represented by Stephen Leslie QC. All Circuits supported and assisted each other in their work. The importance of that work was in relation to the administration of justice in England and Wales, which, through the Circuits, was kept at a local level. Each Circuit had a good connection with the main towns and cities within its boundaries. Each Circuit Leader had to take the initiative in understanding significant issues facing the Bar today, and especially the Young Bar and publicly funded Bar. Each Circuit linked to the Senior Presiding Judge through judges practising on Circuit. The Circuit Leader also provided the link between the Bar Council and the members of Circuit. Circuit Leaders also had to mediate in disputes on Circuit between judges and counsel, counsel and counsel, counsel and clerks, and counsel and the CPS. It was the Circuit Leader's duty to intervene if a member of Circuit was unfairly treated by a judge. When attending Bar Council meetings, the Circuit Leader had to reflect members' views to the centre and Circuit Leaders were considerably assisted in performing this particular task by dialling in to a regular Monday morning meeting with the Chairman of the Bar and others. Circuit Leaders were particularly grateful for the creation of this forum in which information could be disseminated. It also provided an opportunity for them to lobby the Chairman of the Bar on certain issues on the basis that any new ideas had to be sold to members of Circuit.

WR thanked the AG on behalf of all the Circuit Leaders for attending Bar Council meetings. He emphasised that there was a feeling at the Bar that barristers needed to be able to compete on a level playing field with solicitors, and that they needed to

therefore acquire hold of 'the purse-strings' of cases. The future was likely to provide ample opportunities for the Bar to continue to prove their first-class advocacy services.

8. Legal Services Committee Report (Richard Salter QC)

Richard Salter QC (RS) explained to members of Bar Council the areas of the Legal Services Committee's work:

1. The Committee defended the Bar's practising turf - the Legal Services Committee had led in responding to the efforts of the Institute of Licensed Conveyancers and the Institute of Legal Executives to expand into the practising area that was currently the preserve of the Bar. Similarly, the Committee had led on the instruction of barristers to intervene in such cases as *Prudential plc v HMRC*, litigation which focussed on efforts of non-lawyers to expand the scope of legal professional privilege.
2. The Committee led on expanding the Bar's scope of work - for example, the Access to the Bar Committee, chaired by Peter Arden QC, was very active in relation to the Bar's ability to directly contract for work and was assisting in bringing the training of barristers for qualification to conduct public access work back in-house at the Bar Council. As Chairman of the Committee, RS was heavily involved in the work around LSC contracting. He chaired the Tender Processes Working Group on which three current LSC chairmen were also involved. In relation to publicly funded work, RS paid tribute to Sir Ivan Lawrence QC as an individual who kept everyone honest in their thinking and appreciative of the extent of that work.
3. The Committee was committed to improving practising conditions for the Bar - for example, the Committee had considered the recent high-profile employment case involving former heads of 4 New Square Chambers. New guidance in relation to issues arising out of that case would be produced by the Committee in the Autumn. The Committee was also involved in working to improve the Judicial Appointments Commission's (JAC) processes and the effectiveness of the proposed new Bar Nursery.

RS paid tribute to all contributors to the work of the Legal Services Committee and in particular Jan Bye and other members of staff. RS said there had been various highs and lows during the tenure of his chairmanship of the Committee. The lows included listening to Jonathan Sumption QC arguing that the best solution to the JAC's selection proposals was to change the candidates, not the proposals. Another low was hearing the LSC say that there were no advocacy skills involved in pleading in the Crown Court. However, highs included listening to the great many ideas in circulation as to how the Bar would continue to survive and prosper in the new

world of legal services being created around it and also the privilege of being here at Bar Council meetings.

9. Practising Certificate Fee (PCF) /Budget

Andrew Mitchell QC (ARM) explained that this was the last budget that he would present if the meeting approved the temporary switch to a 15-month budget cycle in order that the budget year ran by financial year rather than the current calendar year arrangement, as recommended by the FAC. He explained that the FAC was made up of representatives of the Bar Council, the BSB and lay members. The Vice-Chair of the BSB was meant to have oversight of the competing interests of the Bar in terms of the requirements of the BSB and the requirements of the Representation and Policy department of the Bar Council. At the July meeting, it was the strong view of non-Bar Council members that the proposed way in which the PCF was intended to be raised was fundamentally flawed. The proposals therefore before Bar Council (at page 20(a) of the Agenda) were built on the responses to the consultation on the PCF. The proposals in that earlier consultation suggested that it would be more appropriate to have a flatter range of PCF levels. However, the response to that consultation indicated a strong feeling against such a concept, particularly from the Young Bar, and, later in the day, from others. A further contextual issue was the idea of One Bar, One Fee, which was an issue for the employed Bar, and the general consensus of the consultation was that the proposals for the PCF were a step too far in the present time of austerity. However, the Treasurer pointed out that the Bar Council's overall budget could not be balanced by going back to principles and raising the 2011 fees on the 2010 basis. Notwithstanding a windfall sum of income of some £100,000 related to professional fees of tiling the exterior of the building, the estimated cost of the increase in rate of National Insurance contributions to 13.8% and the increase in rate of VAT to 20%, plus the inclusion of the element of pensions levy to remove the past service deficit of the staff pension scheme, plus all the new posts requested by the BSB (all of which were justified), meant that the 2011 budget would be some £420,800 in deficit. That said, the Treasurer recommended that the Bar Council could go forward on the basis of a deficit budget given the expenditure profiles of the last three years or so (i.e. past underspends). Therefore, he was asking for the budget to be approved by the Bar Council but to leave the "fine-tuning" to the FAC to balance the increase in the PCF against running a deficit budget whilst capping the increase to the PCF to no more than 7.5%. He referred the meeting to page 21 of the Agenda in particular, which demonstrated the effects of a 2.5%, 5%, and 7.5% PCF increase. He highlighted the fact that this exercise had been started in the hope that no increase in the PCF would be required at all. In cash terms, based on a 7.5% increase, the junior Bar would see its PCF rise from £62 to £67 and Silks would see an increase from £931 to £1001; these did not represent significant increases.

The Member Services Fee (MSF) had been retained and the Treasurer encouraged members present to espouse and promote payment of this fee far and wide as essential to the continuing functioning of the provision of services by the Bar Council to the Bar. Some Government departments had stopped paying the fee, but nevertheless the past year had seen a rise in MSF income which was time limited and related to the acquisition of Certificates of Good Standing which many were seeking to acquire before the Law Society changed its rules in relation to qualifying as a solicitor; it seemed to be cheaper by many to pay the MSF than to purchase the Certificate of Good Standing.

In relation to the pension levy, last year had been set at £9 per head capped and limited to those from 1974 Call. The Treasurer this year was suggesting £12 per head for the 15-month financial round and the money raised would be used to de-risk the staff pension scheme. The money so far collected sat ring-fenced and collecting interest. It had been judged to be more prudent to raise the required amount of money in stages. The LSB had indicated that the collection of the pension levy was proper for purpose from its point of view. Therefore, the Treasurer recommended that the Bar Council agree to all ten proposals itemised at page 20(a) of the Agenda:

1. Agree that the financial year end be moved from 31 December to 31 March;
2. Agree that, in order to achieve that there be a 15-month PCF MSF and Levy collection period for 2011/12 which can be paid in 2 tranches by the self-employed Bar (the employed Bar will only pay a 12-month fee as they already reflect the 31 March year end);
3. Agree that the Budget for 2011/12 be approved as a 15-month year with the budget reflecting the 2010 budget, save for recognising the changes necessary to reflect NI contributions and the change in VAT as well as the regulatory requirements of the BSB;
4. Approve that the PCF and OLC/LSB levies will be raised as they were collected in 2010, reflecting the same bandings as for 2010 (although the respective charges may increase between 2.5 - 7.5% depending on the final size of the budget deficit);
5. Agree that the prompt payment discount (which is 5% for a chambers payment and 10% for any employer paying for more than 100 Barristers) be set at 2.5% and 5% respectively;
6. Agree that the Pension Levy will be collected in the same way that it was collected in 2010 by reference to years of Call, capped at the 1974 Call year;
7. Agree that the Pension Levy for 2011/12 will be £12 per year (to reflect the 15-

month financial year);

8. Agree that the MSF be fixed at the same level for 2011/12 as it is for 2010 with the necessary adjustments to reflect the 15-month billing period.

9. Agree that the LSB and OLC levies for 2011/12 will be raised by adding 25% to the 2011 budgetary provision in order to achieve a 15-month income stream for the 15-month financial year.

10. Agree that the balance to be struck between the overall PCF % increase and the size of the budget deficit be remitted to the FAC for decision on 12 October 2010.

Questions and discussion

John Cooper questioned the difference in prompt payment discount rates between chambers and employers and questioned its origins. The Treasurer admitted that the origins of this difference were uncertain but likely to be based on the fact that historically employers had in excess of 100 employees to pay PCFs for. The current difference had been retained and in doing so a judgement had had to be made in relation to large contributors such as the CPS. However, this issue would be open for discussion as part of next year's consultation on PCF, which would happen early in 2011.

Michael Jennings questioned whether amendments to PCF regulations were required. The Treasurer confirmed that no regulatory issue had been raised and therefore the regulatory framework would have to catch up with proposals of reforming for PCF fees. Nicholas Lavender QC explained that some initial changes to the PCF regulations had been approved on Wednesday 29 September by the Standards Committee of the BSB, which meant that enforcement could be made for the first tranche of the fee by not issuing it, and could be enforced in relation to the second tranche by changing the rules to make non-payment of the second tranche professional misconduct.

In relation to the MSF, Richard Atkins suggested that a 5% reduction across the board should be offered if it included payment of the MSF. This was likely to make payment of the MSF more attractive. It was agreed that the Chief Accountant would analyse the numbers and report back to the FAC as to the viability of this suggestion.

Melissa Coutino suggested, that for equity's sake, the same prompt payment discount should be applied to both employers and chambers paying on behalf of more than 100 people. It was agreed that this issue would be taken back and impact assessed and would also be raised with both CPS and the Government Legal Service.

Sir Ivan Lawrence QC highlighted certain levels of expenditure in the proposed budget that seemed out of keeping in a world in which chambers budgets tried to keep salary increases of staff down in an age of austerity. In particular, he highlighted the large increase in the budget for Communications and Member Services, which seemed substantial and required explanation. In relation to Communications, the Treasurer pointed out that this was the first year in which the communications function had been brought in-house and away from sub-contracted arrangements with Weber Shandwick. Funding of that in-house function had therefore been provided from the commensurate reduction in fees paid to Weber Shandwick. The expenditure levels were not linked in any way to large salary increases for staff. In fact, there had been no salary increases for staff for the last two years and instead had just been a limited number of low bonus payments. What the budget did demonstrate was a growth in the regulatory arm of the Bar Council and the necessity to keep the Representation and Policy arm robust in providing services for and effective representation of the profession. In relation to Member Services, the increase in budget represented a new post in that area to run courses and conferences, the payment for which would more than cover the costs of employing that new post.

Stephen Collier questioned, in relation to the proposed 2011 deficit budget, whether or not Bar Council's cash reserves could be used to ameliorate the situation. The Treasurer confirmed that this was the case. The cumulative impact of the increased PCF, the OLC/LSB levy, and the pension levy meant that £1 million per year more was being provided from subscribers. This would feed into a radical reconsideration and consultation in the future.

In relation to the pension levy, Christiane Valansot indicated that BACFI members were not opposed in principle to the concept of a levy on subscribers of the Bar Council to help pay off the deficit, recognising the sensitivities of dealing with the deficit, but de-risking such a deficit was a difficult and complex question and BACFI were concerned that, if not handled carefully, the de-risking could cost more than it needed to. Therefore, the best advice was required from professionals in relation to the full range of costed options available to the Bar Council in relation to past liabilities and future accrual. At the AGM, indication was given that Bar Council members would receive such information at the October meeting. Having failed to provide that information, it was no longer reasonable to support the Treasurer's proposal and for those reasons BACFI proposed an amendment to set the pension levy element of the PCF at half the level proposed in the paper until such time as Bar Council were properly able to debate the matter in a fully informed way. The Treasurer explained that it was his intention that the November Bar Council meeting would be the point at which a major decision would have to be made by Bar Council members, namely whether to shut the Bar Council defined benefit pension scheme to future accrual or to permit it to go forward as a new, recast scheme. In relation to the

pace of de-risking the scheme, everyone had agreed that £9 per head was a reasonable amount to levy for this purpose. To cut that to £4.50 per head would move the problem yet further into the future. He acknowledged that there was a difficult balancing exercise that had to be undertaken but the triennial review figures for the scheme showed a deepening hole, requiring payments to be made by the Bar Council under the Recovery Plan to be set at £33,000 per month. Therefore, the levy funds so far raised were banked with a view to making those funds available to de-risk the scheme. The meeting then considered the BACFI-proposed amendment by vote, which resulted in 4 in favour of the proposed amendment, with the rest against.

The Vice-Chairman of the Bar commended the way in which the Treasurer had handled the 2011 budget. There were many problematic elements contained within it but ARM was keen to take them on and in a radical approach. Full consultation would follow next year covering many of these matters which would result in the cake being even more fairly cut at that point. The ten points at page 20(a) of the Agenda were then approved.

10. Pensions

The Treasurer reiterated that most of the issues around the Bar Council DB pension scheme had already been aired in the context of Item 9. There would be a major debate at the November Bar Council meeting. He indicated that staff involved had acted in an exemplary fashion and had responsibly produced robust proposals to put before the employer which would provide the opportunity for debate in November.

11. Any Other Business

New Leader of the Western Circuit

The Bar Council welcomed Nigel Lickley QC as Chairman of the Western Circuit. Formal thanks was recorded to Robin Tolson QC's thoughtful and energetic contributions over recent meetings.

Nominations for Vice-Chairman of the Bar 2011

Nominations had been received from Stephen Leslie QC, Richard Salter QC and Michael Todd QC.

Treasurer of the Bar Council

Andrew Mitchell QC had successfully stood unopposed to be Treasurer for the coming year.

Bar Council Inaugural meeting 2011

It was highlighted that the meeting had been moved to **Thursday 2 December 2010 at 1700.**

Sir Nicholas Lyell

It was noted that Sir Nicholas Lyell had died on 30 August 2010.

Bar Conference

Bar Council members were reminded that the Bar Conference would take place on Saturday 6 November, and encouraged to sign up for tickets. The Conference was worth 7.5 CPD points.

12. Date of Next Meeting

The next meeting would be held at 1000 hrs on Saturday 13 November 2010 in the Bar Council offices.