

Minutes of the Bar Council meeting held on Saturday 1 June 2013 at the Bar Council offices

Present:

Maura McGowan QC Chairman
Mr Oliver Heald QC MP Solicitor General

60 further members of Bar Council attended.

1. Apologies

Apologies for absence were received from Rt. Hon. Dominic Grieve QC MP, Mr Keir Starmer QC, Stephen Collier, Nicholas Lavender QC, Richard Atkins QC, Lesley Bates, Ayeesha Bhutta, Ian Bugg, Gregory Bull QC, Charles Cory-Wright QC, Tamsin Cox, Nicholas Cusworth QC, Tim Devlin, Jonathon Egerton-Peters, Felicity Gerry, Amina Graham, Susan Grocott QC, Alexandra Healy QC, Alexander Learmonth, Natalia Levine, Lorinda Long, Naomi Madderson, Jolyon Maugham, Paul Mendelle QC, Christina Michalos, Stephen Moriarty QC, Benjamin Myers, Alison Padfield, Richard Pratt QC, Muhammad Saley, Mark Thomas and Nicholas Worsley.

The following did not attend and did not send apologies: Phillip Blatchly, Ruth Cabeza, Alex Carington, Lord Alex Carlile QC, Alexandria Carr, Glenn Carrasco, John Cooper QC, James George, Manjit Gill QC, Suzanne Goddard QC, Barnaby Hone, Stuart Jamieson, Michael Kent QC, Nigel Lithman QC, Fiona McCreath, Melanie McIntosh, Sailesh Mehta, Hefin Rees QC, Bernard Richmond QC, Winston Roddick QC and Nigel Sangster QC.

2. Approval of the minutes and matters arising

The minutes of the April 2013 Bar Council meeting were approved. There were no matters arising from the minutes of the last meeting.

3. Statement by the Chairman

The Chairman opened with apologies for the late provision of her [Bar Council statement](#), which is also rather truncated; owing to the imminent submission deadline of the response to the Ministry of Justice's consultation on legal aid, everyone has been somewhat busy.

Legal aid consultation

In respect of the consultation, the Chairman would like to thank (on Bar Council's behalf) all of the staff who have been working unceasingly on behalf of the profession. Special mention goes to Sarah-Jane Bennett and Jess Campbell for all their hard work, particularly to Jess who has probably not slept for weeks. The Chairman also thanked Stephen Hockman QC and Paul Mendelle QC for their tireless efforts, although it is probably invidious to single anybody out when so many people have been working so hard.

The draft response is now running to approximately 150 pages plus five annexes. The specific content is currently being approved and then further refinements and proofreading will take place.

Included in the Chairman's statement is a list of meetings that the Chairman has attended since the last meeting and interviews held. It will come as no surprise that this period has been dominated by the consultation; the Chairman and other Bar Council representatives have seen as many stakeholders as possible, including meetings between the Chairman and members of the senior judiciary. She is also due to see the Justice Secretary on Tuesday (4 June).

The Bar Council has tried to be as constructive as possible in the response, while disputing the economic basis for the cuts proposed; suggestions for alternative areas for savings have been made. Expert help has been sought to counter-argue the Ministry's figures which do not appear to add up. For example, the consultation states that the current legal aid spend is £1.2bn per annum, whereas in fact figures from the Legal Aid Agency show that it is nearer £941m. The Ministry wish to continue discussions after the responses are submitted and the Chairman confirmed that she intends to maintain engagement.

The timetable for a response from the Ministry indicates that it will be due in September. However, depending on the volume of responses received and how long it will take to digest them properly, the Chairman would not be surprised if it were later than that.

The Chairman invited those who have not already submitted a response - whether as individuals, Chambers, Circuits or SBAs - to do so. Whilst it is obvious that legal aid sets will respond, it should also be borne in mind that legal services contribute 2% to GDP. The reputation of the publicly-funded side has an impact on the privately-funded side. It is a bizarre reality that with the financial contribution the profession makes to the nation, there is a struggle to find savings for legal aid.

Flyers have been left on all chairs at the meeting, advertising the 'Question Time'

event on legal aid, arranged by the Bar Council Communications Team, to be held on 18 June. Lord McNally and Andy Slaughter MP are on the panel and further participants will be announced soon. The Chairman hopes that the event will attract MPs and inspire interest in other stakeholders; she invited all to attend and to circulate details of the event.

Election of Vice-Chairman 2014

On the Bar Council's behalf, the Chairman congratulated Alistair MacDonald QC on his election as Vice-Chairman for 2014. It is, she believes, about 25 years since a leader of a Circuit (other than the South-Eastern Circuit) has become an Officer of the Bar Council and this is a welcome development. It is a good sign, showing engagement outside London. The Chairman also thanked Chantal-Aimée Doerries QC for standing in the election and for her help and support.

Bar Council Chief Executive

The Chairman announced that the new Chief Executive of the Bar Council, Stephen Crowne, will start on 3 June. A précis of his CV has already been circulated but the Chairman gave a recap: Stephen has a background in the civil service and spent a number of years working alongside Kenneth Clarke QC in the Department of Education. He has a wide range of experience in public and commercial fields. Has a lot of drive, which is important as this is a big job to take on. The Chairman took this opportunity to thank the three Directors - Oliver Delany, Mark Hatcher and Vanessa Davies - for having taken on the responsibilities of a Chief Executive on rotation over the last couple of years in addition to their own workload. The Chairman said that it was not until she saw it first-hand that she realised what an extra burden this was for each of the Directors.

Practising certificate fee consultation

The proposals for the next consultation on the practising certificate fee (PCF) are in draft and Oliver Delany, Director of Central Services, will speak to this later on in the meeting. However, the Chairman wished to stress the importance of early engagement and encouragement to practitioners to respond when the consultation is published.

Premises

As reported at previous meetings, it has been decided that the leases on a number of floors within the offices at High Holborn will be terminated as a money-saving measure. The sacrifice being made by staff to give up half of their working space should not be underestimated and managers, through a project board, are trying to work with them to manage the process appropriately. There are expenses involved in giving up space; it is not just a matter of terminating the leases and the savings being banked immediately. The project board are being very thorough and the Chairman wished to extend her thanks to them and the staff who are contributing

time and effort to undertake all the associated work.

S.55 notice

The Chairman also wished to report on the continuing correspondence with the Legal Services Board further to the s.55 notice received on Maundy Thursday (the notice being a request for information made through their monitoring powers under LSA 2007 arising from their real or apparent concerns about the conduct of the Bar Council and BSB). The notice was inspired by the joint statement issued by the Chairman and the President of the Law Society in which they expressed regret over problems in agreeing acceptable contractual terms but conveying a wish to work together to find a mutually agreeable solution.

This prompted the LSB to demand information to demonstrate that the Bar Council did not interfere with the independence of the BSB by pushing for a change to the Code of Conduct in respect of contractual terms. The LSB gave the Bar Council fourteen days - including weekends and Bank Holidays - to refute this concern. The Bar Council subsequently submitted three lever arch files of evidence but has now received further demands for information. These are being met at cost to the Bar Council in terms of resources and the Chairman believes that the requests are disproportionate to the concerns, which were addressed thoroughly in response to the original notice. The Chairman has raised the issue of over-regulation with the Chairman of the Justice Select Committee and will continue to press on this matter in response to the review of LSA 2007. It does not seem to be a sensible use of Bar Council resources - paid for by the profession - to give up days of work to respond although, of course, they will.

Any comments/questions arising out of the Chairman's written or oral statement Guy Fetherstonhaugh QC (GFQC) asked that examples of over-regulation and time-wasting such as that just given are noted on file in preparation for the next triennial review of the Legal Services Board. This will save time when it comes to collating evidence. The Chairman confirmed that this was in hand.

4. BSB report

Baroness Ruth Deech QC (RDQC) spoke on behalf of the BSB. A written report was circulated ahead of the meeting and RDQC was happy to answer any questions.

RDQC added that Bar Council members may have seen some sour pieces in the Daily Mail about the recent regulatory framework assessment. The stories are tied up with issues about press regulation and are distorted by that motivation.

Questions to the BSB

Stobart Barristers

Nigel Lickley QC (NLIQC) asked for clarification around rumours that the BSB has authorised Stobarts Barristers to receive fees for referring lay clients to barristers who accept direct access work. This sounds like a referral fee.

Vanessa Davies (VLD) explained that it is incorrect to say that the BSB authorises Stobarts to do anything in respect of that particular part of their organisation. However, the in-house litigation team within Stobarts has permission from the BSB to instruct barristers to undertake work for them without a solicitor. The position with Stobart Barristers is slightly different. They have inserted themselves into the market by acting as a service to assist the public find barristers under the public access rules. The list of public access barristers is available online (and is searchable) via the Bar Council website. The BSB has not 'licensed' them to undertake this work as they do not need a licence; as an intermediary service they fall outside the sphere of regulation covered by the BSB. However, if there were to be any breaches of the Code arising out of Stobart Barristers' work, this would be investigated.

This is the only relationship that the BSB has with the Stobart Group at the moment. If there were concerns with use of the licence, VLD could not speak about that publicly. VLD also stressed that the fee charged by Stobart Barristers is to the member of the public, not to the barrister. How the barristers who are on the 'list' get to the list is not a matter for the BSB but a matter for the individual.

VLD did explain the position in an email to the Chairman of the CBA, which was then reproduced in his 'Monday message' to members. VLD is happy to circulate this again if it would be helpful as it seems that the regulatory message has been misunderstood.

NLIQC asked if VLD would be willing to summarise that message at this meeting for the benefit of those who had not seen it as the position remains unclear. He is unable to understand why a fee is payable when the lay client can approach direct access barristers without the need for an intermediary service as provided by Stobarts. VLD said that if there is perceived to be a problem with the way in which Stobart Barristers' are presenting information, then this may be an issue for Trading Standards or the Advertising Standards Authority, but it is not within the BSB's remit. If there is anything that suggests that something untoward is happening from a legal services regulatory point of view, the BSB will, of course, do something.

Stephen Leslie QC (SLQC) asked whether a barrister who accepts work through these means is party to a referral fee and, if so, would it not then come within the BSB's remit at part of a joint enterprise. VLD replied that there is no evidence that this constitutes a referral fee. There is guidance available as what conduct does fall into that category and this will be expanded upon in the new handbook.

Richard Salter QC (RSQC) said that Stobarts are simply exploiting a niche in the market. Direct access barristers do not advertise widely as a body and the current 'list' is not easy to negotiate for the lay client. However, if you go into a search engine and look for direct access barristers, then an intermediary like Stobart Barristers will appear high on the list. They offer a service whereby they will find an appropriate barrister for the case for a fee. The same issue applies to remunerated McKenzie Friends, who advertise themselves ahead of say, the junior Bar, who would be happy to undertake that sort of work for a modest fee.

The Access to the Bar Committee (as a sub-committee of the Legal Services Committee) is looking into the issue of making the details of barristers who accept direct access work more accessible to the lay client. Member Services are also involved. This is not a regulatory issue, but a representative one and it is currently a priority project.

Zoe Saunders (ZS) said that this is not just an issue for criminal barristers, but others who undertake direct access work. She asked VLD if it would be possible to publish the clarification around Stobart Barristers on the website. VLD said that she was happy to help.

The Chairman said that the way in which the public can come directly to the Bar is under anxious scrutiny. The Bar Council website is not, in her opinion, particularly user-friendly.

BSB budget

Michael Turner QC (MTQC) asked whether reports of a predicted overspend by the BSB are accurate? MMQC said that Oliver Delany (OD) will address this further later on in the meeting (under 'Treasurer's update') but said that there is indeed a forecast that the BSB may have outgoings in 2014-15 which will exceed their budget. However, there are mitigating factors to consider and which he will come on to later.

5. Treasurer's update

This item was presented by OD, Director of Central Services, in the absence of the Treasurer. OD said that he had six topics upon which to report:

- 2012/13 End of year accounts
- 2013/14 Financial performance
- PCF Survey
- Staff final salary pension scheme
- Premises project
- Subvention

2012/13 End of year accounts

The on-site audit is complete and the formal audit report is awaited. OD was pleased to advise that no adjustments to the numbers are anticipated by the auditors; this is a great credit to Brian Buck and his team. The financial statements will be presented to the Bar Council at the July meeting. In the interim, the key numbers to note are as follows.

The income outturn was £13.3m against a budget target of £12.9m; the key reasons for this variation were the income from the practising certificate fee (PCF) and member services fee (MSF) which both had a higher take-up than anticipated.

The expenditure outturn was £13.4m against a budget target of £12.97m. Key reasons for the variations on the positive side was an underspend in Representation & Policy as well as in the Chairman and Chief Executive's offices. There were, however, overspends in other areas primarily attributable to cost of reinstatement and closure of the staff final salary scheme and setting up BARCO. For the BSB, the imposition by the LSB of the Regulatory Standards Framework added to their costs. With specific regard to the latter, the BSB was given an authorised overspend by Finance Committee of £350k of which, due to sound financial management, they only used £100k.

Overall, in management accounts terms, the result was a deficit of £54k against a budgeted deficit of £23k. Given significant in-year variations and a forecast deficit of £400k at one point, this is a gratifying result.

OD warned that financial statements presented next month will present a slightly different picture, primarily because of the FRS17 obligation to present within those accounts the implications of the closure of the final salary pension scheme. This will be explained in the Treasurer's report in the Financial Statements.

2013/14 In Year Accounts

OD explained that the organisation encourages early identification of budgetary risk so that mitigating action can be taken. Save for the impact of the later than anticipated implementation of QASA and slow take up of BARCO, budgeted income has held up well. As previously reported, there will also be a benefit in-year from a less demanding final salary scheme recovery plan than was originally envisaged. There has been unplanned expenditure on BARCO, as also within Education Standards, Corporate and Central Services of which the costs associated with reducing occupancy of this building is by far the most significant. As it is relatively early on in the reporting year, there is little to add at this stage.

MTQC asked whether OD was going to deal with the BSB's forecast overspend at this point. OD explained that risks have been identified early and that there is potential for overspend in a number of areas, the biggest being in Central Services

and relating to the premises project. In relation to the BSB, they have identified risks but also the mitigating actions which they can exercise if it is deemed necessary. There is no cause for alarm at the moment.

PCF survey

OD explained that it is proposed to survey the profession later this month, posing four key questions:

- Do you wish to maintain the present arrangements for allocating the PCF based upon year of Call?
- Do you support the introduction of an income based model, as outlined in the supporting paper, as the means of future allocation of the PCF?
- Do you support a change from bandings by years of Call to banding by numbers of years practised?
- Do you support a minimum PCF of £200 (applicable to the lowest category of income band or practitioners of 7 years Call and below or practitioners who have practised for 7 years or less)?

The survey will be supported by a paper jointly written Treasurer and OD, outlining the pros and cons of the options and the proposed methodology for the creation and implementation of an income based model. The intent is that the survey should inform, rather than determine, a Bar Council decision in September, regarding the future allocation of the PCF. It should be noted that the BSB also have a substantive interest in this matter and will wish to offer a view. Moreover, any decision to change to an income based PCF will require the prior approval of the LSB - that will take a minimum of 28 working days and so this dictates timing. Subject to any observations expressed at this meeting it is envisaged that the GMC will approve the paper that accompanies the survey.

OD said that he was very happy to explore the detail of the proposed income model with anyone who might have a pressing interest at the end of the meeting.

Final salary pension scheme

The Treasurer and OD continue to engage with the trustees of the final salary pension scheme on various administrative issues, such as investment policy. The only residual matter pertains to the informal approach made to the Bar Council's then advisers, now Capita (then known as Bluefin) regarding their erroneous advice. They have promised a formal response to our initial overture by 7 June.

Premises Project

The Treasurer reported at the last meeting that the organisation has to exercise a lease break option by 28 June 2013. Having evaluated a range of options, it was decided to take the opportunity to reduce the Bar Council's footprint in this

building. At present the entire building is leased from basement to the 8th floor flat. It is intended to surrender three floors plus the 8th floor flat.

However, it has emerged that the building ventilation/air conditioning system has to be upgraded to cope with a higher density occupation of each floor. The cost of that change plus allied matters will amount to c. £1.6m. This sum will have to be found from cash reserves and the benefit of reduced rent and rates would therefore probably not feed through to the PCF for up to three years. It would be more immediate if a decision was made not to restore reserves, but that might be unwise on several counts not least of which is the potential need for a sinking fund were the organisation to have to vacate the building at the end of the lease in March 2019. Ongoing work involves a further review of costs and a closer examination of the correlation between cost, savings and the exact number of floors surrendered.

NLiQC said that the whole purpose of surrendering floors was to save money and that a lot of work had been undertaken to look at all the options available e.g. leaving the building entirely. It now sounds as if those options need to be revisited. OD confirmed that they are.

MMQC confirmed that the ventilation problem is an extra worry but any part of these premises for which the lease is surrendered brings with it the costs of dilapidations. It is not just a question of handing back the keys; there is an associated cost. If the costs of giving up all or part of the premises means that there would be no financial benefit, then there must be a second look to see whether it is worth doing at all. This is underway but it is important that the Bar Council is aware of the worse-case scenario.

MTQC asked what the anticipated cost would be of simply 'handing the keys back'. OD reported that it had been professionally estimated at c. £2.5m, including the costs associated with moving to new premises.

Tim Fancourt QC (TFQC) asked whether there is room for negotiation with the landlord, perhaps over leases being surrendered and the extension of those remaining. OD confirmed that all potential areas for negotiation are being investigated.

Alistair MacDonald QC (AMQC) asked for clarification of the timescales involved. If notice has to be given by 28 June in order to break the leases on certain floors in March 2014, surely this applies if it is decided to move out completely. There is no Bar Council meeting between now and then, so how will the decision be made?

OD said that the project has been managed by the Finance Committee over the past 12 months and GMC will of course also be consulted. This is a long running project

and some options have already been discounted. Having looked at other properties both in midtown and out of the centre of London, considered rents, gauged costs and approximated the expense of moving to be anywhere between £2.5 and £5m, leaving the building is the least cost effective thing to do. There is also the loss of pro bono input by the legal community in the area to consider if the offices were to move out of central London.

MMQC stressed that the only new piece of information is the cost of the ventilation. It has been a thorough, well-managed project and all options have been considered.

Subvention

The subvention of c. £1.5m was reduced by 27% (less existing Bar Tribunal and Adjudication Services (BTAC) costs) for the accounting period 2013/14. A proposal will be going to COIC that a further reduction of between 23% and 32.8% be applied in 2014/14. The Inns are incurring greatly increased costs consequent upon the improvements made to COIC governance and the BTAC which they wish to offset in part, if not immediately whole, against the subvention. The Chairman is part of the subvention working group and has made eloquent representations on behalf of the profession that any decrease in the subvention has a direct impact on the PCF and, therefore, a substantial number of already beleaguered practitioners. A further report will be rendered when the decision of COIC is known.

The Chairman added that the Inns, through COIC, are more aware of the burden that falls on the profession by the reduction. She remains optimistic that the cut will be closer to 23%. All of the Inns have come to the way of thinking that they should make available rooms or halls for meetings and it is important to take advantage of those offers. Dates for next year's Bar Council meetings are currently being considered and there is a chance that the meetings will take place at one of the Inns.

6. Entity Regulation: Bar Council constitution

The Chairman reported that Nicholas Lavender QC (NLQC) was unfortunately unable to attend the meeting to speak to this item. In any event, the items for discussion have been subject to a number of emails in the last twelve hours or so which need to be considered. To do so now would be drafting on the hoof and therefore it is wiser to deal with matters at the Bar Council meeting in July. Owing to time constraints, there can be no further slippage on this item and therefore proposed amendments will be circulated as soon as possible. Bar Council members are encouraged to respond.

7. Equality and Diversity Committee: for report

OD presented this item on behalf of Kim Hollis QC. The committee's report had

already been circulated and OD was happy to take any questions.

OD took this opportunity, as a Director of the QC Appointments panel, to welcome any observations, advice or comments to help QCA get its message across clearly. The Head of Secretariat does get out to speak to as wide a range of constituencies as possible but there remain concerns about the low number of female and BAME applicants. All feedback is welcome.

Hannah Kinch (HK) asked whether the E&D committee are going to undertake an impact assessment on the proposals within the upcoming PCF consultation. OD explained that this is included in the narrative paper that accompanies the consultation. HK said that the YBC are very concerned about the potential for a three-fold increase in the PCF for those who are very new to the Bar and what will happen to the income waiver. OD said that the current waiver system was based upon earnings and so an income based model would ostensibly obviate the need for a waiver system. OD offered to meet HK and YBC outside of this meeting to discuss.

OD explained that Kim Hollis QC, in extending her apologies to this meeting, is also announcing her intention to stand down as Chair of the E&D Committee. OD wished to take this opportunity to acknowledge her singular role; she has been involved in the committee's work for over 12 years and made a significant contribution. Another sad loss is Pam Bhalla, E&D Advisor, who is retiring after 20 years' service. OD asked, and the meeting agreed, that the records show appreciation for their efforts.

8. Training for the Bar Committee: for report

Guy Fetherstonhaugh QC (GFQC), Chairman of the Training for the Bar Committee, presented this item (report at Annex 6).

GFQC reported on 'business as usual' work undertaken by the committee, including recruiting barristers to go into schools as part of the 'Speak up for Others' initiative, career days and law fairs. He also referred to the Bar loans scheme, a subsidised scheme for students which has been run through HSBC although their extended deadline for withdrawal from the scheme expires next year. The committee has approached other banks, so far without success.

The Pupil Helpline is a little-used resource but a very useful one; experienced members of staff are ready to take calls and answer any pupillage-related questions.

The committee has had a number of consultations to deal with recently, the largest one being the Legal Education and Training Review (LETR); the report is due to be published this month (June 2013). GFQC encouraged everybody to read it and

respond. It is not known at this stage what to expect from the final report.

GFQC then reported on recent issues relating to the Pupillage Gateway. By way of history, owing to a loss of confidence in GTI who used to run the pupillage portal (as it was then called), the Bar Council put the scheme out to tender for a new provider to run a new pupillage application system to be proud of. The panel considering the proposals were very impressed by one company in particular who had experience of handling jobs in the public sector and went with them. The panel talked through all the problems experienced with GTI and made it very clear what the expectations were for an effective and efficient system. As it happens, the process has been almost as much of a disaster this year as it was under GTI. GFQC emphasised that all the problems were caused by the provider of the service and that Bar Council staff have had to deal with the incompetence of others. It is in no way their fault. GFQC offered his deepest apologies and asked members not to be discouraged.

AMQC remarked that it was not just the staff who felt the effects; the problems imposed an extra burden on chambers' pupillage committees. It was always a high risk strategy to bring management of the system in-house and the events of this year cannot happen again. It doesn't do any good to our reputation. Is it not possible to road-test the process in advance? GFQC explained that it was thoroughly tested in advance and yet there were still problems. He offered apologies again to anyone who was inconvenienced.

The Chairman referred to her column in June's edition of Counsel, which deals with the issue of pupillage. The proportion of applicants who will actually get pupillage is very low; the profession is already at its maximum and is very unlikely to expand further. The Chairman has tentatively suggested that sets may wish to consider whether or not they would consider offering provisional pupillages to those who are at the end of their degree course. If students were able to apply for pupillage in advance of the Bar course and got nowhere they may think twice before paying c. £17k for the further training. Is there a duty to assist students by giving them a better indication as to whether it is worth their while to continue? Some commercial sets already do it. It is not the profession's fault that supply of pupillages cannot meet demand, although it is often blamed. The Chairman is aware of at least one course provider who would consider cooperating and tailoring the course (to a degree) to suit the type of pupillage specific students will be going into.

Melissa Coutino (MC) said that this makes a lot of sense but it is in the nature of the sort of person who wants to join the Bar that they think they will make it. There is a conflict between valuable work undertaken by committees such as Social Mobility and Training for the Bar in encouraging young people to consider a career at the Bar and the present realities of falling numbers and economic issues.

Max Hardy (MH) said that to suggest that an applicant to the criminal Bar will be able to survive without parental help is a lie. This is true in greater numbers than it has ever been before.

AMQC said that as Chairman of his chambers' pupillage committee, he finds that there are plenty of students who study and work part-time in order to support themselves. It is a great shame but there is little that can be done. However, to encourage 'cherry-picking' will have an unwanted and worrying effect on diversity. The Chairman clarified that she was simply suggesting that chambers consider applications a bit earlier than usual, not to necessarily recruit. AMQC expressed concern for the effect this would have on those whose first degree is not law.

RDQC reminded Bar Council of the aptitude test and the assistance this will give to students when deciding what to do next. In her experience, Oxford and Cambridge Universities are deluged with visits from the Inns and internships are offered. This is not true of other universities when no thought is given to preparing for the profession until the third year. This is an example of one of the reasons the idea would have an effect on diversity / social mobility and therefore would not work. The Chairman reiterated that a solution would have to be found that did not affect social mobility.

Colin Andress (CA) said that one of the things the Bar Council can control is the outrageous cost of qualifying for the Bar. The Bar Standards Board specifies what needs to be included in the course and this contributes to cost. VLD clarified that the BSB contracts with law schools to provide the BPTC; it is a free market and the BSB is not allowed to constrain numbers (although it can specify minimum standards as far as quality is concerned). However, what goes in the course is not an inconsequential driver and that is set, in part, by the BSB. VLD recommended a full discussion on this point further to the publication of the LETR. The Chairman said that she has been encouraging the Inns to get involved in as much as the training as possible.

Gregory Jones QC (GJQC) asked whether qualifying as a barrister even if you do not go into practice is still worth the money spent on education; if so, then there isn't a problem. GJQC suggested that it might be more productive to lobby for the profession to regain some control so that students cannot be ripped off and there can be some reform of the way Bar education is provided. The Chairman advised seeing whether there is scope for this in the LETR report.

GJQC responded that sometimes the profession is too polite and conciliatory. If there is a feeling that the status quo should change, the profession has to do something to change it.

Kerry Bretherton (KB) said that as a member of the Social Mobility Committee, she believes that the Chairman's concerns are accurate, although finding a solution may be more complex than hoped.

9. Social Mobility Committee: for report

Taryn Lee QC, Chairman of the Social Mobility Committee, spoke to this item (the full report was circulated before the meeting at annex 7). She did not intend to go through the entire report but would pick up some of the points raised during the previous discussion.

In response to MC's question about what information is going out to young people about the Bar, TLQC explained that the Speak up for Others initiative is a programme for secondary school students and includes a clear and somewhat gritty talk about what life is like at the Bar and what it will take to get there. The problem is that the Committee sends emails to all state schools inviting them to take part but very few take up the offer. Meanwhile, there are plenty of practitioners who are willing to go out to schools and give the true story of life at the Bar. TLQC therefore encourages Bar Council members to engage with local schools; there will always be people who want to become barristers and it is important that they know what it is really like.

There is certainly a tension between going out to schools to widen interest at the Bar whilst at the same time there are fewer pupillages and making a career out of it can be very hard. However, what the committee is trying to do is to ensure that the profession represents the public it serves.

TLQC then focused on social mobility placement week, which is taking place for the eighth time this year. Seventy-five students are taking part, some of whom were involved last year too. This is a very positive sign, as too is the overwhelming response from chambers in London to take part.

The committee has been trying to roll the placement week out to the Circuits; it has been very labour intensive and difficult. Oliver Williams started at the Bar Council at the beginning of the year and has done a fantastic job in managing to set up the first non-London placement week in Birmingham. It will start small but they are hoping to place 10-15 students (there were 40 applications in total).

However, having written to all chambers in Birmingham, two have been exceptionally helpful but one who has sent a number of emails calling the committee irresponsible when there is no future for the Bar. TLQC wanted to challenge this way of thinking. One of the major criticisms is that the Bar consists only of white, middle-class males. However, everyone is here because they want the Bar to survive;

these youngsters are the future of the profession. TLQC recognises entirely that there is a tension but there must still be opportunities for those who want to join; she understands the mood of the profession but no-one will ever stop people wanting to join the Bar.

TLQC asked any of those in attendance today from Birmingham if they would be willing to speak to her after the meeting.

The Chairman added a 'plug' for the Bar National Mock Trials Competition. It is a way of engaging students and performs part of the Bar's public education function; it does not just educate the children but their teachers too. The Chairman reminded those who are expected to make a contribution to get out their cheque books! The Bar has a responsibility to encourage the brightest and the best.

10. Ministry of Justice consultation on legal aid

The Chairman said that there was little to add at this point; the draft response is going through the final stages of refinement. The Chairman stressed that everyone should be encouraged to submit a response, even if it is just one page.

11. Any other business

The Chairman added her thanks to Kim Hollis QC and Pam Bhalla. Equality and Diversity has a view over all the work done with the BC and BSB; the committee does sterling work on behalf of the profession who are now much better educated in these important matters.

The Chairman had a further message for those who sit as Recorders who may have received notices saying that permission must be sought -in cases where there is a conviction but an adjournment for sentence -to return to pass sentence. This seems, to the Chairman, entirely wrong and she intends to discuss it with the Senior Presiding Judge. She asked the Circuit Leaders to let her know if they because aware of this 'rule' on their Circuit.

David Wurtzel (DW) expressed concern about the quality of cross-examination of vulnerable witnesses. This topic has been brought into the public arena again owing to reporting of a case in Stafford where there were apparently serious failings in this regard. Although the Chairman and Toby Craig spent a great deal of time dealing with similar issues arising out of R-v-Brewer, and reassuring the public that nothing untoward happened in the defence cross-examination, there is still a lingering perception of poor conduct. Is it now not the time for the Bar Council to come out favourably in support of s.28 of the Youth Justice and Criminal Evidence Act 1999, which allows the submission of recorded evidence.

The Chairman said that if what has been reported about the case in Stafford is true, then it is certainly a cause for concern. The Chairman recently attended an All Party Parliamentary group meeting on the Victims' Charter and has attended a roundtable meeting on the same topic held in conjunction with the CPS. There is much to be said in favour of s.28 but it only works in ideal world, where the defence has everything, including full disclosure, before the first day of the trial. This does not often happen. It goes without saying that the Bar Council, Law Reform Committee, Circuits and CBA will do everything in their power to ensure trials run with minimum upset to complainants.

Mark Wall QC (MWQC) said that as he understood it, late disclosure played a real part in the case in Stafford, although this does not excuse any inappropriate conduct.

The Chairman said that she was recently told by a member of the judiciary that one in three trials in this country relates to sexual offences. Whether this is the number of cases or the number of counts, either way it is a lot. AMQC said that the reason the Stafford case is in the newspapers is because it is an exception.

12. Date of next meeting

The next meeting will be held at 10.00 on Saturday, 20 July 2013 in the Bar Council offices.