



ANNUAL GENERAL MEETING OF THE BAR
HELD AT 10.30 ON SATURDAY 15 SEPTEMBER 2012
AT THE BAR COUNCIL OFFICES

Present:	Michael Todd QC	Chairman
	Maura McGowan QC	Chairman-Elect
	Stephen Collier	Treasurer
	Rt. Hon. Dominic Grieve QC MP	Attorney General
	Mr Oliver Heald MP	Solicitor General
	Keir Starmer QC	Director of Public Prosecutions

And more than 60 subscribers.

1. OPENING REMARKS BY THE ATTORNEY GENERAL

The Attorney General opened the Annual General Meeting by thanking practitioners for their active engagement in the life of the Bar over the last twelve months. For him to achieve anything on behalf of the Bar, he is reliant on a constructive dialogue with the Chairman and other Bar representatives; it has been an education for him and he thanked everyone for their input.

The Attorney General also wished to express his thanks to Edward Garnier QC MP, former Solicitor General, for his support and dedication to the life of the Bar; he will be missed. The Attorney General welcomed Oliver Heald MP.

It has been a difficult year. Those who have entered the profession have done so with a clear idea of the ethos and ethics of the Bar but recently there has been uncertainty about what the future is. There has been friction with Government, anxiety about payment and the role of the Bar; it can feel a bit depressing and there is a danger of always seeing the glass as being half-empty.

The focus for the Bar should be on securing the clearest possible future for high quality advocacy; it matters little whether one is from the employed or self-employed Bar. It is important for us to project the profession as forward-thinking and dynamic. It needs to engage in its future. It has been effective in challenging Government– as demonstrated by the lobbying around the Legal Aid, Sentencing and Punishing of Offenders Act – and has been able to make rational arguments to the Ministry of Justice which have been appreciated.

The reshuffle has brought a new Secretary of State for Justice and Lord Chancellor, and one who is not a lawyer. This should not matter. The Attorney General knows him well and believes that he

will be capable of fresh-thinking on the future of legal services. This is important for who really does know where the profession is going? That should be the focus for this year - developing for the first time a strategic overview of where we want the Bar to be.

The Attorney General concluded his opening remarks by observing that his is an interesting role, bridging the Bar and the Government but without direct policy responsibility. However, his function in promoting (or challenging) the Bar has been one of the most pleasant aspects of the last twelve months as he has observed harmony between his Office and the Bar. He ended by saying that he was happy to stay after the meeting to chat to anybody who may wish to raise any issues with him.

2. CHAIRMAN'S ADDRESS

The Chairman took this opportunity to welcome everyone attending this Annual General Meeting for 2012 of the Bar of England and Wales.

He extended a very warm welcome to the Leader of the Bar, the Attorney-General, the Rt. Hon. Dominic Grieve QC MP, whom he thanked for his consistent support for the Bar, shown in his attendance at Bar Council and in Government, and for the Bar's values. He also welcomed Oliver Heald MP, the recently appointed Solicitor-General. The Bar always enjoyed a good relationship with him when he was a member of the Opposition Justice team and more recently as the Chairman of the Society of Conservative Lawyers. The Chairman wished Mr Heald well in his new Office and expressed hope that he will be able to support the Bar, and to attend our Bar Council Meetings in the way his predecessor did.

The Chairman also thanked Edward Garnier QC MP, the former Solicitor-General, for his support for the Bar and its values. He wished him well as he returns to the back-benches, and hopefully back to practice and congratulated him on his impending Knighthood.

The Chairman also welcomed the new Secretary of State for Justice, Chris Grayling MP, the first non-lawyer to hold the Office of Lord Chancellor. The Chairman expressed the view that, with respect, there is a very heavy burden on his shoulders, in fulfilling his responsibility in maintaining and promoting the Rule of Law, in securing the integrity of the Justice system, in ensuring effective access to justice and in promoting the public interest. The legal profession may perhaps sometimes be forgiven for thinking that this Government under-estimates the importance of the Justice system to society, to our way of life, to the economy, and to the national well-being, and sees the Ministry of Justice simply as a spending Department.

The Chairman expressed the belief that the last Secretary of State and Lord Chancellor, Kenneth Clarke QC MP, understood the importance of the Justice system, although he had a rather misguided view about how to maximise the benefits afforded by some parts of it. It is the Chairman's suspicion that the Prime Minister may live to regret the day that he was so unceremoniously removed from that office, on grounds of political expediency, the Justice Secretary having delivered so fully on this Government's agenda. Whatever disagreements the Bar may have had with Ken Clarke, the vast contribution he has made to public life over a number of years should be acknowledged, and the Bar wish him well in his new role.

Welcomes were also extended to Helen Grant and Jeremy Wright to their new roles at the Ministry of Justice, replacing Jonathan Djanogly and Crispin Blunt. As the implementation of the Legal Aid, Sentencing and Punishment of Offenders Act begins in the spring next year, it is hoped that they will have uppermost in their mind the importance of doing nothing further to undermine the already stark incursions upon access to justice.

The Chairman also extended his thanks to the other leaders of the Bar, for all the invaluable work they have done for the Bar and for the Bar Council, and for acting in their respective representative roles. In that capacity they are the means through which the voices of their constituents can be heard and through which their constituents can be made aware of all that the Bar Council is doing on their behalf.

The Chairman referred to each of the Circuit Leaders; to all the Chairs of the SBAs; to the Chair of the YBC; to the Co-Chairs of the EBC and to the Chairs of all of the various Bar Council Committees, all of whom, together, are too numerous to mention individually, for all the help, time and expertise that they have given *pro bono* to the Bar and the Bar Council over the last year, in addition to their work for their respective associations and constituencies.

The Chairman paused for a moment to note how unfortunate it was that apparently the only subscribers in attendance at this AGM were Bar Council members. He asked everybody to think about what could be done to encourage attendance and engagement by the profession and how Bar Council members can foster interest within their constituencies.

The Chairman took this opportunity of having a “Halle Berry” moment to also thank the three Directors of the Bar Council, Vanessa Davies, Oliver Delany and Mark Hatcher, for all the support and help they have given him over the last year; for their support for the Bar and their wise counsel, the Chair and Vice-Chair of the BSB are similarly thanked.

Special thanks were also extended to Toby Craig, Bar Council Head of Communications, for all the work he has done in establishing not only a highly effective Communications team, but also a detailed Communications Strategy for the future. It has been clear throughout his time as Chair, and before that as Vice Chair, of the Bar Council that communications are at the very heart of all the organisation does. It has to get messages out, get them across to the public, ensure that they are listened to, and understood. The Communications team is delivering on that requirement.

The Chairman also took a moment to note the passing of certain members of the profession since the last AGM. Although unable to account for all of those whom the Bar has sadly lost in the last year or so, he made specific mention of the following, who will have been known to many and whose passing should be noted as a great loss to the Bar.

- Lord Archer of Sandwell QC, former Solicitor General;
- Lord Hooson QC, former Leader of the Wales and Chester Circuit and Liberal MP for Montgomeryshire;
- Beryl Cooper QC, former member of the Criminal Injuries Compensation Board;
- Claire Miskin, Bencher of Middle Temple and Recorder on the Western Circuit; and

- Harold Sebag Montefiore, Deputy Circuit Judge and former Bar Council disciplinary committee member.

Representational annual report

This year, for the first time, the Bar Council has published its first ever Annual Report, focusing solely on its representational activities. *Representing the Bar* reports performance against the Bar Council's three-year Strategic and Business Plan, which the Bar Council approved last year.

A hard copy has been made available at the meeting and will shortly also be available on the Bar Council's new website. The Chairman urged everybody to read it and to distribute it amongst all constituencies and went on to highlight some of the matters in the report.

Bills & legislation: LASPO

For the Bar the most significant Bill which went through Parliament during this last year has been LASPO. In response to LASPO, the Bar Council established a Bill Group, ably lead by Stephen Cobb QC, and Harriet Deane of the executive. That Group devoted considerable time, effort and resource to opposing what it saw as the most egregious elements of the Bill. The Government suffered 13 defeats with principled amendments to the Bill in the House of Lords, each one of which, except one, was reversed when the Bill returned to the Commons.

The Civil Justice Council in the Executive Summary to their report, presented to the Lord Chancellor and the Lord Chief Justice in November 2011, stated the effects of the cuts in no uncertain terms. They said:

“Even if all the recommendations we make are acted upon, they will not prevent the reality that in many situations, as a result of the reductions and changes in legal aid, there will be a denial of justice.”

They continued:

“There must be no misunderstanding about this. Put colloquially, the recommendations are about making “the best of a bad job.””

Bills & legislation: Crime & Courts Bill

On 9 May 2012, the Queen's Speech included an announcement that the Government would bring forward the Crime and Courts Bill during the current parliamentary Session. Premised on 'demystifying' the justice system, the purpose of the Bill, apparently, is to effect major reforms to the criminal and civil justice systems; the creation of a National Crime Agency, the introduction of cameras in court; reforms to the structure of the single county court and family court system; and the introduction of "tipping" in the selection of judges, so that, where there are two applicants of equal merit, it will be permissible to favour, and hence to appoint, the applicant from the less well represented section of society.

The Bill has already been introduced into the House of Lords and is expected to receive royal assent in spring 2013.

Bills & legislation: Justice & Security Bill

The purpose of this Bill was said to be to "strengthen oversight of the security and intelligence agencies, allowing the courts, through the limited use of closed proceedings, to hear a greater range of evidence in national security cases."

As the House of Lords prepared for the Report Stage of the Bill, the Bar Council issued a press release condemning the Government's planned extensions to the use of Closed Material Proceedings, thereby endorsing the arguments of Liberty, Reprieve and the Special Advocates who participate in these proceedings.

Crown Prosecution Service: CPS Panels

The introduction of the new CPS Panels for Prosecutors initially caused some concerns. The difficulties which had arisen were effectively and efficiently addressed with the assistance of the CPS itself, the Circuit Leaders and the Criminal Bar Association (CBA).

Crown Prosecution Service: CPS Graduated Fee Scheme C

The removal of page count as a determining factor in the assessment of fee entitlement was designed to reduce CPS costs, and was not expected to have significant effects on the majority of fees paid. However, the new fee scheme had a substantial adverse effect on those the fees of those practitioners who are involved in paper heavy complex fraud cases. The Bar Council and the CBA have been liaising and working with the CPS to ameliorate the problems that have been thrown up.

Legal Services Commission

The Bar Council, and chambers, have been pleased with the very positive working relationship which has developed with the LSC, particularly through the good offices of Matthew Coats, the LSC's new Chief Executive. He is a man who wants to understand the issues and find the solutions to improve efficiency in making payments. The LSC is expected to become an Executive Agency of the Ministry in Justice in the spring of next year and the Chairman expressed confidence that with Matthew at the helm the Bar Council will be able to work together on new arrangements for delivering publicly funded legal services.

Price Competitive Tendering (PCT)

The Chairman stated that at every meeting he has in Whitehall, in Westminster, with the Law Officers with other Ministers, he is reminded that Price Competitive Tendering (PCT) in publicly-funded work has merely been postponed, not permanently shelved. The Government said as much on 1 December 2011 in a Written Ministerial Statement. The Government says they want to see

how the Bar can adapt to meet the challenges posed by PCT. He has therefore reconvened the Strategy and Trouble Shooting Groups, members of which include the Vice Chair and Vice Chair-Elect of the Bar Council, the Circuits, the CBA, FLBA, commercial practitioners and members of the Bar Council executive. The group is there to assist the Bar in addressing the new and difficult challenges ahead and to facilitate change where it is asked for assistance.

Quality Assurance Scheme for Advocates (QASA)

The deadline for responses to the fourth consultation on QASA is 9 October 2012. The Chairman has previously told the profession that the Scheme, as presently formulated, continues to contain objectionable elements: Plea only Advocates; grading of cases by solicitors and the inclusion of Silks within the Scheme. The objections have been made, but those elements remain. The BSB has made it clear that it intends to introduce QASA across all areas of legal practice. It is for those reasons that he has written to the Chairs of Specialist Bar Associations (SBAs) and to all Heads of Chambers (HoCs), encouraging them to put in responses to this Consultation. He encourages all Bar Council members to ensure that they submit their own responses in good time.

Referral fees

The Bar may be forgiven, perhaps, for thinking that some mountains are simply too difficult to climb. That, sometimes, is how the Chairman feels when he talks with the Legal Services Board (LSB) about how insidious, and contrary to the public interest, and to the consumer interest, referral fees are. That they are contrary to the public and the consumer interest is not in doubt. What is in doubt is whether the LSB will ever understand that. However, the Bar Council will continue to make the arguments and communicate with all those who share its concern as well as those who at present do not. Referral fees must be stamped out.

Bar Barometer and Barristers' Working Lives

The Bar Barometer, published in January of this year, is produced by the Bar Council's Research Department. This publication will help the Bar Council and BSB to develop and implement informed policies which are relevant to the requirements and needs of barristers. The Bar Barometer is also intended to be a useful source of statistical information for those with an interest in the Bar, from practitioners to the wider legal services market, as well as current and aspiring Bar Professional Training Course (BPTC) students.

This year also saw the publication of 'Barristers' Working Lives', the first in a series of biennial surveys of the Bar. The 2011 survey gave practising barristers the opportunity to describe their current work situation and future career plans, as well as their views about their working life and the profession.

Chief Executive Officer

The Bar Council has decided, after a significant period of debate and reflection, to seek a new Chief Executive. A draft job description has been prepared and is being reviewed. Steps are being taken to arrange for the appointment of head-hunters to assist in that endeavour.

BARCO

The Bar Council is about to launch the pilot of its escrow services account for the handling of clients' payments; this marks a significant investment in the future of the Bar. The initial launch event will be held in London on Thursday 27 September, followed shortly thereafter by launches in the Circuits.

International

The Chairman has been on a number of trade and values-driven missions overseas, on which he has reported in his written Bar Council Statements. These have been posted at regular intervals on the Bar Council website for all to read.

Final thanks

The Chairman said that his statement had gone on quite long enough but it would be not just remiss, but actually wrong of him not to acknowledge the very great assistance which the Chairman's Office and he, in particular, has been afforded.

The Chairman gave thanks to Maura McGowan QC, the Vice Chair, who keeps him sane, tells him all about criminal law, and explains the role of the true advocate. She has been a pleasure to work with for the first eight months of his year as Chair; he hopes that will continue for the rest of his year. He knows she will make a great Chair next year. He also thanked Stephen Collier, our Treasurer, for all his help as he continues his busy schedule as Chief Executive of a leading healthcare group.

The Chairman gave special thanks to Charlotte Hudson, the Chairman's Office Manager; Victoria Carpenter, the Chairman and Directors' PA and Sarah Riley, the Chairman and Directors' Projects Officer. Without them the Chairman's Office would have difficulty functioning. The Chairman believes the Bar is now benefitting substantially from a Chairman's Office which is well-organised and managed by Charlotte.

There were no questions for the Chairman.

3. TREASURER'S REPORT

The Treasurer introduced the *Annual Report and Accounts 2011/12*, which will be published on the website in the next few days; hard copies were provided at the meeting for those present. The Treasurer explained that he would pick up on the highlights of the previous 15-month reporting period.

In terms of the activity undertaken, this falls broadly into two categories: representational work, which is relatively predictable in terms of expenditure, and the regulatory work which resembles more of a "start-up" and brings with it unexpected challenges, particularly as the regulatory activity is in part led by the Legal Services Board and therefore not under the sole direction of the Bar Council. The BSB's creation and development has been an exciting and pacey journey, which is by no means completed.

The accounts represent a 15-month period, although 12-month comparators have been provided at pages 41-44. The overall position is presented on page 14 and shows a surplus for the period of just under £200,000.

The Treasurer asked Bar Council to consider the challenges posed to the budget by the current pension position (as outlined on pages 32-33); the potential financial exposure arising from the COIC disciplinary tribunals matter (page 37) and the programmes of work which carry significant new areas of expenditure e.g. entity regulation and QASA (page 22).

Moving forward, there are a number of issues to be borne in mind:

- Growth at the Bar is stuttering, whether measured by the size of the practising Bar or the level of fees earned;
- Continuing pension scheme costs;
- A requirement to build back the Bar Council's depleted reserves;
- Regulatory spend / cost push by the Legal Services Board;
- Income pressure on the Bar Council, such as the reduction in the Inns' subvention.

These issues will place continued pressure on the Practising Certificate Fee (PCF). The Bar Council continues to look for efficiencies, but the increase in cost push and the reduction in income reduce the impact on the PCF of any efficiencies made. The Treasurer urges all member of the profession to respond to the upcoming PCF consultation and to step back from individual positions and take a broad view of the fairest way to levy the PCF across the Bar as a whole.

The Attorney General asked if there were any questions for the Treasurer.

Andrew Walker QC asked for clarification in respect of the Inns' subvention; is it anticipated that this will continue to reduce to nothing? The Treasurer confirmed that this is the case, although the timetable is unclear. Therefore, prudent assumptions have been made about the continuing reduction given that some £385,000 will be lost next year alone. The Chairman reminded Bar Council that the loss will in time be of the whole £1.4m and this will have a direct impact on the PCF. The Inns are aware of this but most Inns have decided that there are other activities that they would prefer to spend the money on. Practitioners who have concerns about this may wish to take it up with their Inn.

Lord Alex Carlile QC said that, from the point of view of the junior criminal Bar whose standard of living is falling due to fee reductions, the Bar Council will have to make a very convincing case that the PCF is value for money at all. The Treasurer expressed sympathy for those areas of the Bar which are most challenged financially and stressed that this is why the PCF consultation is so important in order to ensure that the system of applying the levy is as appropriate as it can be.

Guy Fetherstonhaugh QC asked whether a decision had been made for the Bar Council to accept financial liability for the COIC disciplinary tribunal problems. The Treasurer replied that this had not been decided and that whilst every penny of internal spend is being monitored, no determination of where costs (whether directly or indirectly incurred) should fall has been made. The BSB Director will report to GMC at a later date on this matter.

4. ACTING CHIEF EXECUTIVE'S REPORT

Vanessa Davies (VLD), Acting Chief Executive, prefaced her report by making clear to all present that she was addressing the meeting as the Acting Chief Executive under the rotational arrangements agreed by the Bar Council in May 2011; as the CEO statement focuses on internal organisational matters relating largely to the BC as Approved Regulator and employer of all staff, whether working for the BSB, Central Services or Representation and Policy, it remains entirely appropriate for her to make this statement. The other Directors, Oliver Delany and Mark Hatcher, have shared those responsibilities and VLD thanked them for their hard work and collegiality.

VLD asked Bar Council to recall last year's reports at the AGM about the continuing issues relating to the DB pension scheme. Work to resolve these issues is continuing and negotiation and formal consultation with staff over changes to the scheme are in place. Such negotiations always have the potential, in any organisation, to unsettle staff and dampen morale, and this will be no exception.

VLD also reminded members of the human resources action plan, in the wake of the disappointing outcome of the staff survey; major progress has been made against this plan. A Board member HR Champion has been appointed to help foster improved practice; a range of policies – for example on recruitment and training have been revised and updated. Most significantly, a comprehensive pay and grading exercise using industry standard methodology, and drawing on a staff consultative group, has been undertaken and implemented. The Bar Council now objectively evaluates all staff roles against the skills and knowledge required to do the job, and benchmarks the salary against the market for the not for profit and public sectors in London and the South East. A number of policies and procedures have been adjusted to complement the system as well. This represents a major step forward in the accountability and transparency of the way the Bar Council operates as an employer. It was also a huge piece of work and VLD gave thanks to the HR team of Georgina Holton, Andrew Mulder and Jo Lisowska for their professionalism and hard work.

The next step in the HR plan will be to develop and introduce a competence framework and to improve the performance appraisal and management system to line up with it. This will be undertaken - as indeed everything else will be as the organisation develops – drawing on a set of core values: integrity, excellence, fairness, respect, and value for money. Members will hear more about this as 2012/13 progresses. A staff attitude survey will be undertaken before Christmas 2012 to help evaluate improvements we have made since the 2010 survey.

Other organisational work has concerned business continuity planning and health and safety reporting: in both areas the aim has been to achieve appropriate levels of management of risk and of reporting and scrutiny through the (somewhat complex) governance structures.

The first real fruits of investment in new IT systems have been realised this year. The new core database has gone live, and the most obvious manifestation of this to members will have been in the on line authorisation to practise exercise earlier this year. If any organisation were to claim it had introduced an IT system on this scale without any problems at all, that organisation would be exaggerating. There were glitches, but overall the project has been a big success and the vast majority of barristers have been satisfied – and indeed compliant - with what is now a statutory

authorisation process. A schedule of improvements to make in time for the 2013 renewal season is in place and actions against it are underway.

VLD ended her report by saying that whilst a number of significant steps forward have been made this year, there remains very considerable work to do over the next few years to develop the organisation into a modern, effective and efficient regulatory and representative body, serving the public and the Bar – against a very challenging external environment. The staff are loyal and hardworking, collectively and individually committed to meeting those challenges and VLD asked that gratitude to them be recorded.

6. QUESTIONS

There were no questions. However, the Chairman did remind those present of the Annual Bar Conference taking place on 10 November and encouraged everyone to take advantage of the early bird rates which end on 25 September.

Charlotte Hudson
Manager of the Chairman's Office
17 September 2012