



The Bar Council

Minutes of the Bar Council meeting

**Saturday 9 September 2023 at 10.00 at The Bar Council
289-293 High Holborn, London WC1V 7HZ**

Present

Nick Vineall KC	Chair of the Bar	NVKC
Samuel Townend KC	Vice Chair of the Bar	STKC
Barbara Mills KC	Vice Chair Elect 2024	BMKC
Lorinda Long	Treasurer	LL
Victoria Prentis KC MP	Attorney General	VPKC
Max Hill KC	Director of Prosecutions, CPS	MHKC
Moira Smyth KC	Chair Bar of Northern Ireland	MSKC

Members in attendance- in person and via Teams:

Tana Adkin KC (TAKC), Stuart Alford KC (SAKC), Barbara Connolly KC (BCKC), Neil Hawes KC (NHKC), Michelle Heeley KC (MHKC), Winston Hunter KC (WHKC), Richard Honey KC (RHKC), Leon Kazakos KC (LKKC), Stephen Kenny KC (SKKC), Hannah Markham KC (HMKC), Jo Martin KC (JMKC), Eleena Misra KC (EMKC), Philip Moser KC (PMKC), Caroline Rees KC (CRKC), Mary Prior KC (MPKC), Heidi Stonecliffe KC (HSKC), Charlie Woodhouse KC (CWKC), Dr. Mirza Ahmad (MA), Shazia Akhtar (SA), Simon Atkinson (Sat), Yaa Dankwa Ampadu-Sackey (YDA-S), Elaine Banton (EB), Michael Bellis (MBe), David Bunting (DB), Minka Braun (MB), Abigail Bright (AB), Rory Brown (RB), Mark Chaloner (MC), Nick Cherryman (NC), Ivor Collett (IV), Melissa Coutino (MC), Rebecca Dix (RD), Celina Colquhoun (CC), Maddy Charlesworth (MC), Amrit Dhanoa (AD), Dilpreet Dhanoa (DD), Sarah Fearon (SF), Michael Harwood (MH), Sara Ibrahim (SI), Shobana Iyer (SIy), Mike Jones (MJ), Susan Jones (SJ), Joanne Kane (JK), James Keeley (JK), Kate Lumsdon (KL), Louise McCullough (LMC), Cait McDonagh (CMD), Martyn McLeish (MML), Shoshana Mitchell (SM), Lucinda Orr (LO), Yasmin Omotosho (YO), James Paterson (JP), Reagan Persaud (RP), Michal Polak (MP), Francesca Perselli (FP), Paul Powlesland (PP), Simon Regis (SR), Faisal Sadiq (FS), Natasha Shotunde (NS), Samantha Singer (SS), Anna

Soubry (AS), Kate Spence (KS), Philip Stott (PS), David Taylor (DT), Leanne Targett-Parker (LT-P), Linda Turnbull (LT), Emma Walker (EW), Guy Williamson (GW), Luke Wygas (LW)

In attendance:

Sally Burnell	Director, Communications & Marketing	SB
Malcolm Cree CBE	Chief Executive, Bar Council	MC
Richard Cullen	Director of Finance	RC
Carolyn Entwistle	Director of Services	CE
Isi Onwukwe-Anyadike	Governance and Committees Manager	IOA
Phil Robertson	Director of Policy	PR
Jamie Shaw	Head of Strategy, Planning and Governance	JS
Wilf White	Director for Communications and Public Engagement, BSB	WW
John Phipps	Private Secretary to the Director of Public Prosecutions	JP
Joshua Rampton	Assistant Private Secretary	JR

Apologies:

Andrew Twigger KC, Kim Hollis KC, Saira Kabir Sheikh KC, Alex Matthews, Hannah Smith, Gaynor Wood, Sahar Farooqi, Simon Anderson, Abi Hobson, Grey Dorey, Sean Jones, Jonathan Dingle, Christina Michalos KC

1. Conflicts of interest and announcements

There were no conflicts of interest declared.

2. Minutes of the last meetings and matters arising

The minutes from the meeting held on 20 June 2023 were approved as an accurate record.

3. Statement by the Chair of the Bar Council

The Chair highlighted the following points from his report:

- i) The 2024 Subscriber Elections are underway. The nomination period is open 7 September 2023 - 21 September 2023, voting is open from 5 October 2023 - 19 October 2023, and results are published soon thereafter. The Chair encouraged members to use their influence in reaching out to SBAs, Circuits and colleagues to stand for election where they are suitable.
- ii) The Bar Council Meeting dates for 2024 have been set. Members were encouraged to make a note of the dates.

4. Bar Standards Board Report

Kathryn Stone OBE, Chair of the BSB highlighted the following points from her report:

- i) As noted in the BSB Annual Report the key focus for the BSB 2022-23 was to improve the timeliness of operational work without sacrificing quality in performance. In this respect, progress has been made with twice the number of investigations being closed in the second half of the year compared to the first half.
- ii) The BSB have employed Fieldfisher to review its enforcement system, and to ensure processes are operating as efficiently and effectively as possible.
- iii) The Chair of BSB and Director General have been travelling to meet barristers in every circuit to discuss how to encourage best practice in the way chambers promote standards, equality and access. Circuit visits will continue, to discuss the next steps in the process. KS encouraged honesty from members during these visits as they help improve data collection of information.
- iv) The BSB are undertaking a Pupillage Recruitment research project and have commissioned an organisation called Community Research to undertake research into the approaches taken to the recruitment of pupils. Views from the wider membership were welcomed. The aim of this research is to ensure the BSB are offering best opportunities to the widest range of students, and to support providers of pupillage. The BSB have been reviewing the criteria for their compulsory course in advocacy during pupillage and working on the criteria for a new compulsory course in negotiation skills.
- v) A revised Social Media Guidance and Guidance on the Regulation of Non-Professional Conduct will be published later in the month.

5. Statement by Chief Executive Officer

Malcom Cree, CEO of the Bar Council highlighted the following points:

- i) It was reported that the Bar Council are in a period of high staff turnover particularly in the junior end. There have been three staff members returning from parental leave, and gaps are being filled rapidly.

- ii) Following a 2022 cyber security attack, new cyber security measures have been implemented. A comprehensive set of measures have been introduced to reduce the risk of reoccurrence.

6. Bar Council Risk Register

The Chief Executive Officer noted that the Risk Register was recently reviewed by the Audit Committee. There is one new risk about the potential for losing money through investments with Barclays, where the bulk of the Bar Council's reserves are held. The investment is there to mitigate the risk of inflation eroding the value of cash holdings.

Three risks have reduced:

- i) Non-staff costs increasing owing to inflation,
- ii) BRF (the BRF has increased for the first time in years as the number of people subscribing has increased), and
- iii) The impact of the defined benefit pensions scheme.

A risk has increased on the Risk Register due to the reduction in payments from the Inns. MC explained that the Inns are under financial pressure of their own and are quite keen to reduce their costs wherever they can. Traditionally costs have been at c£250,000; last year that was reduced to £214,000. Bar Council secured funding by presenting appropriate work which the Inns could examine in areas such as outreach and education. In conjunction with COIC the Bar Council have set up a programme to provide a strategy for work going forward, which should bring in c£100,000. Inns will also start charging the BSB which will equate to c£300,000 per annum.

7. Treasurer's Report

Lorinda Long, Treasurer, shared the draft accounts for 2022-23. The following overview was provided:

A deficit budget had been planned as part of the strategy to mitigate the impact of increases in the PCF to the profession. The majority of non-recurring variances have arisen in the BSB, such as additional recruitment costs, recovery plan and the enforcement review.

Income is at £23.9 million, a positive variance of £707,000. This is due to late and additional PCF collections of £194,000 additional BRF payments of £84,000 and additional regulatory income of £416,000. Staff costs have increased to £324,000. Non staff costs have also

increased to £174,000, this is mainly due to the BSB enforcement review and their recovery plan. There has also been an increase in the LSB fee due to increased activity.

There has been a modest improvement on the budgeted deficit for the year of £80,000.

8. Draft Accounts

It was reported that the draft accounts are for approval and authorisation and will be reported at the AGM immediately following the Bar Council meeting. The financial statements were approved unanimously.

9. Director of Public Prosecutions, CPS

Max Hill KC, Director of Public Prosecutions presented a report to the Bar Council. MHKC began by thanking the Chair and the wider Bar Council, noting that in his role he has seen firsthand the importance of the CPS and Bar Council working together. It was highlighted that it is vital to continue to be considered as 'one Bar' as every barrister's contribution to the profession is equally valuable.

Allocation of work

- i) The CPS have invested significantly in their CPS clerking function. They have sought to professionalise the role of their clerks and strengthen links with local chambers. The goals are to have better engagement on performance, progress and development of advocates.
- ii) The CPS have published a briefing principle that's designed to set out the factors that the CPS will consider when selecting advocates and dealing with returns. These principles emphasise the importance of equality of opportunity.

Diversity

- i) MHKC thanked his colleagues at the CPS and the Bar who have worked tirelessly to champion EDI within the profession. The CPS EDI statement is an essential building block for creating new frameworks against, wherein progress can be measured and scrutinised. Support for development and progression has continued, due to the support the CPS offer advocates who seek to join the CPS Panel and on outreach initiatives.

- ii) The CPS have launched the Treasury Council Pathway, which is now in its second year, seeking to identify and support talented advocates from underrepresented groups who aspire to become the Treasury Council of the future.
- iii) The CPS now offer advocates dealing with distressing case work a 24/7 free and confidential wellbeing help line.

Remuneration

- i) In 2019 a commitment was made to review fee arrangements, as of 2023 spending pressures remain though a 15% increase to all CPS fee rates was awarded, and 80% of GFS payments fell under this new scheme. This is the second time in over four years funding was secured to enable significant investment into prosecution fees.
- ii) It was stressed that good quality, effective advocacy that offers flexibility, resilience and sustainability is the goal of the CPS.
- iii) The panel by numbers continues to rise, however the criminal bar has contracted over certain years when demand has increased, especially those with specialist case work. For the CPS to operate they need high quality advocates who are committed. All cases require a well briefed prosecution advocate who is proactive, fully prepared and ready to progress matters if need be. It is vital for the profession to be prepared to adapt and remain committed to working constructively. MHKC suggested that the profession work together to halt and reverse the decline in numbers seen in recent years across the criminal bar. This means that the criminal bar must be seen as attractive for incoming members and ensure the brightest and diverse professionals are welcomed.

MHKC expressed thanks to the Prosecution for all the work they undertake.

Rebecca Dix expressed her thanks for the recognition of the importance of having 'one Bar' as this makes a big difference to the profession, especially those moving from the employed to self-employed bar or vice versa. Making a move from the employed bar to the self-employed bar is not a fluid transition, and it was queried how this can be improved to increase flexibility of work. MHKC noted that the movement between the bars is becoming more flexible and will continue to be so by not having a glass ceiling on the profession. The CPS have generated many reports over years and new ideas are welcomed. The CPS and the Bar must remain open to the flexibility of members moving across from self-employed and employed bar and are trained appropriately where needed. This is the future of the bar.

Philip Stott expressed thanks on behalf of the self-employed bar for attracting more resources inwards. PS noted that he agrees that to improve trial effectiveness recruitment of new talent is vital, though this is a long-term goal. What the CPS are doing in the short-term to address the issue of trial ineffectiveness was queried. MHKC highlighted that the effects of COVID and virtual working during the pandemic taught the CPS a lot about working in silos. It was noted that MHKC has not witnessed any other jurisdiction worldwide who achieved what the UK were able to achieve through its digitised processes. It is important to spend more time collaborating where necessary to keep things working and moving forwards. There are several problems that need addressing; listings are now being stood up to the maximum within current, judicial capacity and finding appropriate prosecution advocates. Factors that need to be considered is the prioritisation of certain types of cases, to increase money into the criminal bar, and ensuring advocates are available to cover cases and triage cases where necessary.

Tana Adkin KC stated that the lack of advocates in the criminal courts is something that's occurred after decades of failed investment and the sacrifices made by the independent criminal bar, the action they took resulted in the increase in funding, which the CPS matched. TAKC extended her thanks on behalf of the Criminal Bar Association, all its members and the wider bar for the support they were given financially and emotionally in their strike action, which then prompted more funding to come in. By the point of the financial uplift being introduced many had already left the profession, and therefore a priority for the criminal bar is stabilising its current membership and training deficit. The CBA are hoping to offer a course to help prosecutors and provide free education so that they can get onto the RASSO lists at the CPS.

Maddy Charlesworth highlighted the importance of focusing on not just recruitment but also retention in the profession. Retention of members is an issue, paired with those leaving due to retirement. A strategy on retention of good talent was suggested. MHKC noted that in his tenure of Director there has been an increase of 40% in headcount into the CPS: this is unprecedented recruitment achieved. The CPS are now actively entering their retention phase, which focuses on providing support for practitioners. Strategic thinking will apply to the bar and CBA and relies on flexible career pathway options. It is the role of members to encourage colleagues of the positive virtues of the work they undertake.

10. Chair of Northern Irish Bar

Moira Smyth KC, Chair of the Northern Irish Bar presented a report to the Bar Council.

MSKC provided a background of the Bar in Northern Ireland as the self-regulator for members operating as an independent referral bar. There are currently 690 self-employed barristers at the bar. Annually, 20 new barristers are called for the start of term. As of 2023, two thirds of the bar are Male and one third female. In more senior positions there are 105 silks, 18 of which are female. The Northern Irish Bar have more work to do to improve these statistics.

They operate a library system, anchored to the Bar library located in Belfast which provides full library service, desks, offices, IT, library, and parking. Members of the Bar of Northern Ireland serve for a two-year term, and elections are held to determine its next membership, commencing next in May 2024.

A membership survey was conducted coming out of COVID and the response showed that members overwhelmingly wanted to return to in person work. Overwhelmingly, with thanks owed to site link, the bar have bounced back: the library and courts are back to what they were pre-COVID in terms of in-person attendance.

MSKC listed the plans and priorities for the Bar of Northern Ireland:

- i) To improve the diversity of the bar, including support to overcome socio-economic barriers for those entering the profession (and being able to stay in profession),
- ii) To develop policies to enhance retention rates at the bar, and
- iii) To retain self-regulatory status. The bar is trying to demonstrate a proactive approach to this. A Working Group has been set up to review disciplinary processes by introducing recommendations to improve transparency.

MSKC listed the key issues being faced by the Bar of Northern Ireland:

- i) Legal aid budget, and
- ii) Growing frustrations with the criminal bar, in terms of rates of pay and timeliness of payments which impacts legally aided practitioners. Many haven't seen an increase in rates of pay for a of couple decades. Some payments have up to six-month long delays.

The Bar and Bar of Northern Ireland will continue to work together in addressing these issues.

MSKC thanked the Chair and wider officers for their ongoing support and communication.

It was noted that the World Bar Conference is taking place in May 2024 with the Irish Bar. Members were encouraged to attend if possible.

11. Ethics Committee

The Ethics Committee report was received and noted.

12. Education and Training Committee

The Education and Training Committee report was received and noted.

13. Any Other Business

James Keeley noted that the court backlog continues to grow. It was suggested that to reduce the backlog it is important to have and recruit experienced judges and recorders in the crown court, those who had rigorous training (not only at pupillage but throughout their career). This would ensure that once an advocate is appointed, they are able to start the role effectively and immediately. JK noted that the bar continues to become more diverse with thanks to Bar Council and the Inns.

14. Upcoming Meetings

The next Bar Council meeting will be held in Leeds **25 November 2023**.