



The Bar Council

## Meeting of the Bar Council

### Minutes of meeting

Saturday 4 February 2023, 10am

Gray's Inn and via MS Teams

#### Present

Nicholas Vineall KC	Chair of the Bar	NVKC
Samuel Townend KC	Vice Chair	STKC
Lorinda Long	Treasurer	LL
Michael Tomlinson KC MP	Solicitor General	MTKC
Max Hill KC	Attorney General	MHKC
Kathryn Stone OBE	Chair of the Bar Standards Board	KS
Mark Neale	Director General, BSB	MN

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#### **Members in attendance (listed alphabetically)**

Mizra Ahmed (MA), Shazia Akhtar (SA), Simon Atkinson (SA), Elaine Banton (EB), Minka Braun (MB), Abigail Bright (AB), Kirsty Brimelow KC (KBKC), David Bunting (DB), James Corbet Burcher (JCB), Mark Chaloner (MC), Maddy Charlesworth (MC), Nick Cherryman KC (NCKC), Ivor Collett (IC), Celina Colquhoun (CC), Barbara Connolly KC (BCKC), Melissa Coutino (MC), Madeleine Deasy (MD)(Alternate for Harry O'Sullivan), Dilpreet Dhanoa (DD), Sarah Fearon (SF), Sarah Gerrard (SG), Alex Gunning KC (AGKC), Neil Hawes KC (NHKC), Kim Hollis KC (KHKC), Richard Honey KC (RHKC), Shobana Iyer (SI), Anneka Jenns (AJ), Amanda Jepson (AJ, Alternate for Birgitte Hagem), Leon Kazakos KC (LKKC), Ruth Kirby KC (RKKC), Kate Lumsdon KC (KLKC), Alex Matthews (AM), Cait McDonagh (CMD), Martyn McLeish (MML), Christina Michalos KC (CMKC), Barbara Mills KC (BMKC), Eleena Misra (EM), Shoshana Mitchell (SM), Yasmin Omotosho (YO), Lucinda Orr (LO), James Paterson (JP), James Keeley (JK), Charlotte Pope-Williams (CP-W), Paul Powlesland (PP), Faisal Sadiq (FS), Saira Kabir Sheikh KC (SKSKC), Natasha Shotunde (NS), Philip Sissons (PS), Heidi Stonecliffe KC (HSCC), Philip Stott (PS), Linda Turnbull (LT),

Andrew Twigger KC (ATKC), Sunny Virk (SV), Guy Williamson (GW), Gaynor Wood (GW), Charlie Woodhouse (CW), Luke Wygas (LW)

**In attendance:**

	Sally Burnell	Director, Communications and Marketing	SB
	Carolyn Entwistle	Director, Services	CE
	Phil Robertson	Director of Policy	PR
	Jamie Shaw	Head of Strategy, Planning and Governance	JS
	Hannah Sandring	Assistant to the Law Officers, Attorney General Office	HS
	Fran Riding	Private Secretary to the CEO, CPS	FR
	Michael Thomas		MT
<b>Minutes</b>	Isi Onwukwe-Anyadike	Committees Governance Officer	IOA

**Apologies were received from**

Simon Anderson, Yaa Dankwa Ampadu-Sackey, Lorna Badham, Michael Bellis, Dilpreet Dhanoa, Birgitte Hagem (Alternate Amanda Jepson), Matthew Howarth, Winston Hunter KC, Mike Jones KC, Sean Jones KC, David Joseph KC, Steven Kenny KC, Ben Lynch KC; Hugh Mercer KC, Philip Moser KC, Caroline Rees KC, Simon Regis, Jo Sidhu KC, Hannah Smith, Kate Spence, Leanne Targett-Parker, Owen Thomas KC, Emma Walker, Joanne Kane

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**1. Conflicts of interest and announcements**

The Chair welcomed Michael Tomlinson MP, Solicitor General, to the meeting and invited him to say a few words. The SG thanked the Bar Council for inviting him to the meeting.

The Chair congratulated all of the newly elected silks on Bar Council.

One declaration of interest was noted: Kathryn Stone as a non-executive Director at CPS. Kathryn would be presenting the BSB assurance report and this presented no conflict of interest in the determination of the Chair.

The Chair welcomed members to the primarily in-person session and highlighted the opportunity for networking after the formal meeting.

## **2. Minutes of the last meetings and matters arising**

The minutes from the 12 November 2022 meeting were approved as an accurate record.

## **3. Statement by the Chair of the Bar Council**

The Chair began his Statement with thanks to Sam Townend KC for his support in capacity as Vice-Chair.

The Chair's Statement was received and noted, though Nicholas Vineall KC highlighted the following:

Press reporting on Barristers and their role in cases continued to be of concern. Members heard that it was vital that the press report accurately on cases and judgments, while making clear that Barristers would not be associated to the causes of their clients, as this would undermine the cab rank rule.

There would be no Bar Conference in 2023, due to a steady decrease in attendee ticket sales and sponsor involvement over several years. The Bar Representation Committee will be convening an Annual Bar and Young Bar Conference Working Group, whose purpose will be to review the existing format of the event and make a series of recommendations designed to ensure that, going forward, it is met with better engagement from the profession, is more desirable to sponsors, and is therefore able to generate a better level of income and profit.

The BRF is a voluntary payment which all members are encouraged to pay on top of their practicing fee. The renewal of the Authorisation to Practice Certificates are upcoming, and therefore Bar Council members were encouraged to emphasise the value of the BRF and the importance of paying it across their Chambers and Firms.

The 2024 Bar Council Officer Election Timetable was announced. Submissions for proposals will open from 3 April 2023.

## **4. Statement by the Solicitor General**

Michael Tomlinson KC MP began his Statement by thanking Bar Council and its members for all the work they do and participations with SG. Particular thanks were given to Mark Fenhalls KC, 2022-2023 Chair of the Bar, Nicholas Vineall KC and Sam Townend KC.

Michael Tomlinson KC MP highlighted his immediate priorities in capacity of SG:

**Press reporting and contempt:** Michael Tomlinson KC MP wishes to work alongside the Bar Council in finding a solution to how the Press report on Barristers. Contempt cases are

common, and similar concerns of ensuring those who work in Criminal Justice are paid appropriately for the work they complete. Michael Tomlinson KC MP, alongside the Attorney General are aware of the ongoing duties and challenges from the profession, and the value of the work done.

**Regulation:** the Solicitor and Attorney General have listened to the concerns of the profession on this. They will be engaging directly with the LSB on this.

**Diversity:** the Solicitor and Attorney General continue to work on improving diversity statistics across the whole Government Legal Department. As published within the 2022 Government Panel Report, there is more work to be done and they are eager to do so.

## 5. Statement by the Director of Public Prosecutions

Max Hill KC began his Statement with thanks to The Chair and the Bar Council.

It was noted that the bond of the CPS and Bar Council was longstanding, and critical to addressing immediate and long-term challenges facing practitioners both locally and nationally. The CPS value the Bar Council's active engagement.

Proper remuneration of barristers is a key priority. In the Autumn of 2022 there had been an increase of fees for Defence Barristers; as of Friday 3 February 2023 it was also confirmed that the CPS would further increase funds to ensure parity with defence fees, an increase of 15%. The Autumn settlement came before a Legal Aid Review; consequently, this didn't include fee increases with the new settlement. A strong evidence-based decision was presented, and the Treasury approved this increase. This increase will be introduced with a shortened timeframe of two months. The CPS will benefit from continued communications with Bar Leaders regarding the details of these fee changes.

Max Hill KC reported that he hopes to work with the Bar Council in addressing the caseload backlog. It was acknowledged that there have been a range in factors causing this backlog; system overload, having the right skills and experience in place, and fostering an environment of progression. A new handbook and guidebook for judges was announced for publication, focused on robust case management.

The importance of having a healthy and growing Junior Bar was highlighted. The Junior Criminal Bar includes self-employed and inhouse crown advocates, all providing a high-quality service. The CPS remain committed to the whole profession from across the mixed economy for growth in all advocates.

The Advocate Panel provides a framework for the profession which remains a consistent support. The current 2020-2022 membership will be extended by two further years,

deferring the refresh to 2026. This time will be used to review how to bring in new talent onto the Panel.

It was reported that the Public Prosecutions are investing more into in-house clerking. A role was created for a Clerking Manager, they are tasked with reviewing allocation of work, strengthening employment links, and feeding into ongoing engagement and development plans. This role will be used to ensure all values are upheld and practitioner expectations are met.

It was reported that poor performance will be handled appropriately when and where it occurs. How to respond is an ongoing discussion, as well as applauding works of excellence. An updated guidance on performance management is in the pipeline; the Circuit Liaison Committee will deal with account referrals.

Equitable briefing practice is critical for improving diversity. The key EDI briefing principles and expectations are to support all bar leaders, encourage prosecution advocates to anonymously declare protected characteristics, and to focus on access proportionality. It was highlighted that the Western and North Eastern Circuit are leading the way in terms of diversity reporting. A third of Circuits had yet to complete this data reporting.

It was reported that Public Prosecutions are curating some targeted outreach initiatives encouraging those from disadvantaged backgrounds into Treasury Counsel. A pilot pathway access scheme was held in 2022 and will be repeated in 2023.

Kirsty Brimelow KC thanked Max Hill KC for his presentation and work on parity for defence legal fees. Kirsty Brimelow KC queried whether the timeframe for implementing the 15% uplift can be expedited quicker. Max Hill KC applauded the Criminal Bar Association (CBA) for their communication and working alongside CPS on this issue. It was reported that the details of the payment uplift have not yet been finalised, and the implementation is unknown. The two months' timeframe is an estimate but speeding this along will be investigated.

James Keeley commended the work the CPS has done to date on the payment uplift and diversity work. James Keeley endorsed and emphasised the need for the payment uplift to be expedited where feasible. James Keeley requested the diversity monitoring form to be reshared across the profession. Max Hill KC will share the details for this questionnaire.

Heidi Stonecliffe KC noted that in a recent article in The Times, Andrew Cayley KC, Chief Inspector of the CPS suggested that practitioners were only able to act with independence as members of the self-employed bar. This is understandably disheartening for employed barristers, as the entire bar prides itself on independence. Heidi Stonecliffe KC noted that it would be important for Max Hill KC to actively engage to distil any misunderstandings of the inhouse employed bar.

## 6. Bar Standards Board Report

Presented by Kathryn Stone, Chair of the BSB, the report to assure Members of the ongoing efficacy of arrangements for the regulation of the profession and to update on key BSB activities since the last report. Since the report the following activities have been engaged: Kathryn Stone shared that a survey of EDI at the bar reported that the bar is becoming increasingly diverse and the BSB view the new data with cautious optimism. Most notably the 2022 survey revealed that the proportion of pupils who are women had increased by 3.3 percentage points, to 59.9%. It was highlighted that women of colour remained underrepresented at senior levels, underpinning that more work is yet to be done. Bar Council were encouraged to continue to collect and reflect upon diversity data.

The BSB are in the process of completing their Business Plan for the year ahead. The key priorities identified: a commitment to improving performance levels without compromising quality for expediency; operational performance; to collect, collate and allocate emerging risks in line with regulatory objectives; and to ensure that everyone working at the BSB is committed to their values. There has already been a noted improvement in productivity. Once the Business Plan is finalised it will be published and cascaded.

Kathryn Stone extended an invitation to Bar Council to attend the BSB Roundtables which are being hosted across England and Wales.

Members noted the important need to ensure that social mobility is appropriately captured and reported on in the BSB reports. The BSB are seeking to widen the diversity reporting questions to include information on childhood schooling and whether free school meals were received, as well as average household income at the age of 14.

Ivor Collett queried why there was a 54% increase in reports about the conduct of barristers being dealt with compared to 2020-21. Mark Neale, Director General reported that this increase is due to a range of factors varying from more complex cases to social media generating public intrigue. Within the BSB Annual Report it highlights that a great majority of reports received don't require action, of the 2,000+ reports a year, c150 are taken forward for investigation, consistently ranging from 5-7% investigations.

The Digital Comparison Tool (DCT) was discussed. Charlotte Pope-Williams queried how the DCT will be fact checked and safeguard those from minoritized backgrounds who are likely to be higher targets of scrutiny. NS queried whether a consultation was undertaken and why the EDSM Committee was not engaged. It was reported that the concept for the Digital Comparison Tool had been a strategic initiative handed down by the LSB. All members were encouraged to engage and provide feedback on the developing project, both positive and negative.

## **7. Circuit Leader Report (Northern)**

Jaime Hamilton KC shared the Northern Circuit's priorities and ambitions for the year ahead.

All barristers who practise on the Northern Circuit will be assisted and supported with their individual ambitions. There is a perception that it is more difficult for members to take silk when outside the city areas, and work will be undertaken to dispel this myth and offer practical support to those wishing to take this next step.

Jaime Hamilton KC will be engaging with seven Supreme Justices at the Preston Combined Mess during Circuit Visits w/c 6 February.

It was noted that alongside ensuring payment parity and remuneration for the criminal courts, other issues require addressing: updating court systems, facilities, and decreasing the ongoing backlog.

## **8. Statement by the Chief Executive**

This was noted.

## **9. Treasurer's Report**

Lorinda Long presented the February 2023 summary accounts.

Members heard that the forecast out-turn for the GCB at December 2022 was a surplus of £275k. The previously reported deficit position has been reversed due to the release of funds previously earmarked for the DB Pension Fund (Deficit recovery plan). Without this fortuitous event the GCB would have been facing a deficit. Overall, the financial position of the entity was considered satisfactory.

## **10. Remuneration Committee**

Jason Sugarman KC presented the Remuneration Committee report. The following points were highlighted:

- Following the Criminal Legal Aid Review (CLAR), the Advisory Board has been established.
- It is vital that accurate data is collected from practitioners, as barristers should be appropriately paid for the work they do.

- The Remuneration Committee are currently advertising for new members to join, particularly juniors and women. Anna Soubry MP will be joining the committee.

## **11. Employed Barristers Committee**

Stuart Alford KC commenced his statement with thanking Mike Jones KC, previous chair of the EBC.

The following points were highlighted:

- The Employed Bar Report is being finalised and includes nine new policy recommendations. The Report is intended to be a successor to the [2016 Snapshot Report](#), and the recommendations it makes will provide the direction and momentum for the Employed Barristers' Committee over the next 12-24 months.
- A joint seminar between Inner Temple, the Judicial Appointments Commission, and the Employed Barristers' Committee entitled Judicial Pathways for the Employed Bar: first steps towards a judicial career will be held on 28 February.
- The Committee are keen to engage with Director of Prosecutions. Those who may be able to support the Committee were encouraged to reach out.

## **12. Pro Bono and Social Responsibility Committee**

Samantha Singer commenced her statement with thanks to Leanne Targett-Parker, previous chair of the Pro Bono and Social Responsibility Committee.

The following points were highlighted:

- It was highlighted that undertaking Pro Bono work is not intended to substitute the needed work for Legal Aid. Pro Bono work is additional voluntary work needed.
- Members of the Bar were encouraged to record their hours of Pro Bono work completed throughout the year, the aim is for practitioners to undertake 25 hours of Pro Bono work a year.
- The Committee have designed a pilot programme to support Afghan refugee lawyers. The Committee are in the process of delivering a pilot with 3 chambers and a partnership with Law G (due to start Feb '23).
- Paul Powlesland will liaise directly with the Committee on considering creating with a specific scheme for Pro Bono work focused on climate change work.



### **13. Procedure for dealing with allegations of misconduct by members of the Bar Council and associated amendments to the Constitution of the Bar Council**

The Chair presented a paper from the Head of Strategy, Planning and Governance to set out the Bar Council's process and procedure for dealing with allegations of inappropriate behaviour ("misconduct") made against a member of the Bar Council, and the responses it may make if misconduct by such a Member is established. It was noted that Inns and Chambers were introducing similar procedures, and it would be appropriate for Bar Council to have its own appropriate and proportionate procedures in place. The procedure was reliant on self-reporting, but action may be taken if Bar Council were made aware by other means of misconduct or police investigations against any of its barrister members.

Members were requested to:

- Review and approve the procedure following agreement by the General Management Committee, and
- Adopt, by way of extraordinary resolution, the proposed associated amendments to the Constitution.

On review, Faisal Sadiq KC suggested that

within the amendments to the Constitution, reference to the date of the procedure's approval should be included.

**AGREED** It was agreed that this amendment would be adopted.

There was discussion around points of detail within the procedure, namely around:

- Item 2.2 with what would constitute a "formal investigation by the police",
- Item 2.3 with what would be defined as "allegation of misconduct".

The Chair assured Members that the procedure had been subject to careful and considered review and was supported by the General Management Committee.

The procedure outlines that the Chair, the Chair of the Ethics Committee and CEO have authority as a panel to deem reported acts matters of misconduct or not, taking account of all the relevant circumstances including but not limited to the nature and seriousness of the allegations and any safeguarding issues arising. Determinations of this panel would be subject to the right of appeal. To better ensure diversity is considered it was suggested that the Chair of EDSM joins the Appeal panel.

The Chair highlighted that the powers to suspend must be exercised in a neutral way and will not be for low level misdemeanours.

**AGREED** It was agreed that the Appeal Committee will include the chair of EDSM.

Whether the threshold of reporting was severe enough was discussed. It was queried whether item 2.2 “investigation by the police” should be changed to “charged by the police”. It was agreed that the wording would remain unchanged given the length of time before a formal charge may happen, and suspension or disciplinary action would only be triggered in circumstances of misconduct and would be subject to the right of appeal.

**AGREED** Following a vote by show of hands and by majority, the Bar Council agreed to adopt the Procedure for dealing with allegations of misconduct by members of the Bar Council (subject to amendments as aforementioned).

**AGREED** Following a vote by show of hands and by majority over two thirds, the Bar Council agreed an extraordinary resolution to adopt the revised wording of the Bar Council constitution (subject to amendments as aforementioned).

#### **14. The Young Bar – working practices, professional development and support**

Michael Harwood shared the priorities for the Young Bar Committee for the year ahead:

- Improving visibility across the wider bar, Michael Harwood will be engaging with SBAs and the wider profession to understand what is needed and wanted from juniors to improve working practices;
- Maintaining and improving International partnerships;
- Bullying and Harassment;
- Continuing to advocate for environmentally sustainable policies, and
- Remuneration and fees, particularly in the magistrates’ courts.

The life at the Young Bar Report has been published, it highlighted that the junior end of the profession are less satisfied post-pandemic. It was noted that a sixth of young barristers are looking to leave the profession, this is due to less professional development opportunities and less opportunities to interact with colleagues and mentors since covid.

Bar Council reporting tools, such as Talk to Spot were highlighted and members were encouraged to engage with anonymous reporting of bullying and harassment.

The Chair highlighted that it is also the role of senior members of the bar to share the responsibility of stamping out bullying from the judiciary and colleagues.

#### **15. Any Other Business**

None noted.

## **16. Upcoming Meetings**

The next meeting would be held on Tuesday 25 April 2023 in a hybrid format.

**End.**