



The Bar Council

**Minutes of the Bar Council meeting
held on Saturday 6 July 2019 in the St David's Conference Suite, the Principality
Stadium, Cardiff**

Present: Richard Atkins QC Chair

Apologies for absence

Apologies for absence were received from: Dr Mirza Ahmad, Robin Allen QC, Colin Andress, Nicholas Bacon QC, Kieron Beal QC, William Boyce QC (alternate attended), Shelley Brownlee, Alexandria Carr, Ivor Collett, Catherine Collins, Geoffrey Cox QC MP, Quentin Cregan, William East, Francis FitzGibbon QC, Lucy Frazer QC MP, Lisa Hancox (alternate attended), Neil Hawes QC, Matthew Howarth, Michael Jennings, James Keeley, Rachel Langdale QC, Tom Leech QC, Lorinda Long, Athena Markides, Eleanor Mawrey, Martyn McLeish, Eleena Misra, Francesca O'Neill, Francesca Perselli, Amanda Pinto QC, Michael Polak, Patrick Rappo, Nigel Sangster QC, Benjamin Seifert, Joe Smouha QC, Gordon Stables, Jessica Stephens QC, John-Paul Swoboda, Sonia Tolaney QC (alternate attended), Anton van Dellen, Nicholas Vineall QC Emma Walker, Grant Warnsby, Matthew Weaver and Henry Webb.

The following did not attend and did not send apologies: Neil Baki, Celina Colquhoun, Michael Duck QC, Richard Gibbs, Caroline Goodwin QC, Christopher Henley QC, Rupert Jones, James Kitching, Rebecca Murray, Charlotte Pope-Williams, Eason Rajah QC, Rachel Spearing and Rhodri Thompson QC.

59 further members attended

1. Minutes of the last meeting and matters arising

The Chair welcomed members of the Bar Council to a 'piece of history' as, for the first time, the meeting was held outside London in Cardiff on the Wales and Chester Circuit. He said that he was very grateful for the huge effort made by those in attendance to get to the meeting.

The Chair thanked the Leader of the Wales and Chester Circuit, Paul Hopkins QC, the Circuit Administrator, Abi Hobson, and the members of the Wales and Chester

Circuit, for the 'fabulous' dinner hosted by the Circuit at Cardiff Castle the evening before.

The Chair reminded members of the Bar Council of the planned 125 Years of the Bar Council celebratory event being held at the Guildhall on 9 July 2019.

2. Statement by the Chair

The Chair reported that Robert Buckland QC MP, the previous Solicitor General, has been succeeded by Lucy Frazer QC MP.

Andrew Spink QC, former Chair of COMBAR, has been succeeded by Sonia Tolaney QC.

Mrs Justice Slade, a former Chairman of the Bar Council's Sex Discrimination Committee, retired from the High Court Bench on 13 May.

Referring to the Bar Council subscriber elections timetable, the Chair asked members of the Bar Council to encourage colleagues to apply.

On the subject of the Legal Services Board's (LSB) consultation on the Internal Governance Rules (IGRs), the Chair explained that the Bar Council has made more submissions and is awaiting a response.

The Chair reported that he had recently visited the International Criminal Court in The Hague with a view to forging better links there.

ID cards for counsel are to be rolled out in more courts including Canterbury, Croydon, Milton Keynes and Newcastle, with more to come. Progress is being made.

The minutes of the meeting on Saturday 11 May 2019 were approved.

3. BSB Report

Baroness Blackstone, Chair of the BSB, presented the BSB Report. She was joined at the meeting by Vanessa Davies, Director-General of the BSB.

Adding her thanks to the Wales and Chester Circuit for the dinner the evening before, Baroness Blackstone said that the BSB had been grateful to be included.

Baroness Blackstone encouraged all members of the Bar Council to give their views on the BSB Handbook and what the review of the Handbook should cover. The BSB are keen to hear from those who find it difficult to engage with the current Handbook, as well as those who have suggestions as to what positive aspects should be retained. The BSB wish to gauge the extent of the changes that are needed.

The new transparency rules took effect from 1 July 2019. All self-employed barristers, Chambers and BSB entities are required to publish information about the services they offer, the fees they charge and the means of redress available to clients. The Bar has

until January 2020 before the BSB start to check on compliance. Meanwhile the BSB's focus is on ensuring those groups are aware of the new rules and that they comply with them.

On 3 July 2019, the BSB published new statistics on the Bar Professional Training Course (BPTC), including information on students in 2017 as well as those in the preceding two years. Covering several years of data, the report is an important one that has highlighted some interesting statistics. For example, the report found that those UK/EU graduates from BAME backgrounds, who enrolled between 2013 and 2017, are less likely to have begun pupillage despite having similar educational attainments to those students who did. 44 per cent of them from white backgrounds had commenced pupillage, compared to around 23 per cent of the BAME cohort with the same degree class and BPTC grade. Baroness Blackstone acknowledged that this is a worrying statistic for all those who want to promote diversity.

4. Commission on Justice in Wales

Lord Thomas of Cwmgiedd apologised for not being at the dinner the previous evening. The Commission on Justice in Wales was set up by the Welsh Government to review the operation of the justice system in Wales. It aims to promote better outcomes in terms of access to justice, reducing crime and promoting rehabilitation; ensure that the jurisdictional arrangements and legal education address and reflect the role of justice in the governance and prosperity of Wales; and, to promote strength and sustainability of the Welsh legal sectors and maximise its prosperity in Wales. The Commission comprise eight other commissioners and a small secretariat of eight other commissioners, including one young member of the Bar from Swansea who has proved to be outstanding.

The approach of the Commission has been to look and see what the problems are. Submissions were received from some 200 people and it held oral sessions at which around 150 people gave evidence.

The engagement has been particularly valuable and the Commission has been lucky to receive information that has allowed it to focus on the real problems of the justice system. The Commission's report will aim to cover the position of legal advice, the civil justice system, family justice, court locations, information technology and the state of the Welsh courts. Acknowledging its wide remit, Lord Thomas warned that he was unable to divulge the conclusions but reassured members of the Bar Council that they are based on evidence. A discussion in terms of "jurisdiction" would be an unhelpful approach as it was an issue divided into distinct questions such as whether there should be legislative devolution, separate professions, a separate judiciary. However, Wales has a legal history of its own. Referring to the evidence, Lord Thomas then said that it would not surprise members of the Bar Council to learn that the Commission have found the state of legal aid and advice to be a huge problem, magnified due to the huge distances between legal centres in Wales.

Lord Thomas continued by reporting that the Commission has looked into the third sector - housing and social welfare law – and has found that funding is a ‘complete and utter mess’. Referring to the criminal justice system, he said that, whereas in 2010 the Ministry of Justice spent 46% of its budget on prisons, this figure is now 57% with a smaller amount of capital to apply it to. There are also real concerns about the perception of the criminal justice system. 46% of witnesses say that they would never be witnesses again.

The Commission has also looked at the dramatic fall in crimes that are being prosecuted, as well as prisons and probation. Wales has a disproportionately high amount of people in prison.

The Commission has explored the experiences of other centres for a more rational approach to sentencing and has compared Wales with other similar size countries, for example the Baltics. Legal aid and alternative dispute resolution are matters of concern.

Wales has the highest percentage rate of putting people into care than anywhere else in the UK. More is spent on legal aid and other legal costs because of this. Wales, like England, has seen a number of court closures and there is a real problem with information technology in the remaining courts. In terms of people working in the courts, the Inland Revenue pays salaries that are 15% higher. Therefore, there are problems retaining and recruiting people.

Further concerns are about the rural areas in Wales.

360 barristers practice in Cardiff. There is an overwhelming amount of evidence against dividing the right to practice in England and Wales.

The Commission has also looked at education, specifically the necessity of educating people about Welsh law and legal education in Welsh. The Commission are recommending that a Law Council be set up to bring the professions and the universities closer together in providing legal education and continuing education.

Evidence has shown that the problems experienced in England are magnified in Wales due to the high levels of poverty. There is no evidence of any strategic approach to the justice system. Devolution in Wales has gone through four stages without any reason for this. The issue is complicated but there is a need to make the system work. Lord Thomas listed initiatives such as community safety partnerships and youth/women’s justice groups but emphasised that there are difficulties trying to get Whitehall to understand that there is a government in Cardiff pursuing different policies to those in Whitehall and these have to be aligned with the criminal justice system. For example, Wales was the first country to have a Children’s Commissioner. There is a Welsh Tribunal system with a structure and a president.

Speaking of the clear need to strengthen the Bar in Cardiff, Lord Thomas underlined the need to develop more work opportunities in Cardiff. He suggested that more work should be done locally and not taken to London.

Lord Thomas finished by concluding that the Bar should see it as one of its public service tasks to try and encourage a strong Bar in Wales.

One of the barristers from the Wales and Chester Circuit, referring to the undesirability of placing barriers in practice between England and Wales, asked whether the Commission had looked at the set up in Western Australia. Lord Thomas replied that the Commission has looked fairly broadly at other arrangements throughout the world.

The Chair welcomed members of the Wales and Chester Circuit to the Bar Council meeting. Lord Thomas explained that what the Bar in Wales does not want is for members of the Bar to come to Wales for cases but do nothing for the local area. The Commission are looking, long-term, at what is important for Wales. Those who come to Wales need to be giving something back. There is a huge pressure worldwide to develop strong local Bars. There are too many Silks in London who travel worldwide outside of London to practice without giving anything back; if this does not change, you strengthen pressures for exclusion of the Bar to practice in other jurisdictions. Giving back is critical for the bar. This is essential worldwide, but is equally applicable to specialists who practice in England and Wales from London without giving anything back to the places where they practice.

Martin Nelson reported that the Supreme Court will shortly be sitting in Wales for the first time. He asked Lord Thomas whether he thought anything could be done by the judiciary to ensure that more Welsh appeals are done in Wales. Lord Thomas replied that while this would be ideal, it would be difficult at the Court of Appeal. Trying to run a system in London causes problems when sending people outside of the capital but the country, as a whole, is far too London-centric. The Court of Appeal sat outside London many times in the 1890s, but this practice stopped and, although it was revised in the early 2000s, financial cuts impinged heavily. This is not, however, solely a Welsh problem.

Alison Pickup raised the issue of legal advice deserts in Wales and asked what can be done given policy and geography. Lord Thomas reported that much was done by Third Sector organisations such as Shelter and other similar organisations. When legal aid was cut, nothing was put in its place and funding for legal aid and the third sector needs to be looked at as an integral part of the system. Most legal advice problems are straightforward. Whether the charity approach is the right approach is a question to be answered. The report is near completion and the intention is to publish it in the Autumn, with the work having been completed this month. It is likely to be a long, bi-lingual, document.

The Chair said that he was grateful to Lord Thomas for coming to address the Bar Council.

5. Statement by the Chief Executive

Malcolm Cree recorded his own thanks to Paul Hopkins QC, Abi Hobson and the Wales and Chester Circuit for hosting the meeting.

Addressing the members of the Bar Council, Malcolm Cree reported that the Bar Council team has been working closely with the Ministry of Justice, Crown Prosecution Service (CPS) and Attorney General's office on the two fees reviews. He expressed gratitude to the CPS team for their input and said that the Bar Council has retained friendly relations with the team at the Ministry of Justice (MoJ). Now it is time for the Bar Council to focus on the state of the criminal justice system. The Bar Council needs to be a voice that is heard.

Internally the Policy and Communications and Marketing Teams have been restructured. Malcolm Cree said that he is confident that the restructure will be of benefit to the work of the Bar Council.

Meanwhile, the office is being 'gutted and refurbished' as the staff continue to work. Malcolm Cree advised that this may affect business continuity to some extent.

Malcolm Cree reported that Professor Stephen Mayson is conducting a review of Legal Services Regulation. This major review is due for publication at the end of the year and its conclusions could be interesting. Malcolm Cree said that, as with the outcome of the IGRs consultation, he would keep members of the Bar Council informed.

The Chair explained that criminal fees are taking up a lot of the Bar Council's time. Last year, staff time was taken by AGFS, but it did result in money being put into the system. This year, work started with the CPS to try to improve fees. The Criminal Bar Association subsequently launched a ballot and an offer came from the CPS, who agreed to pay fees for the second day of a trial. An increase in fixed fees was also part of the offer. The MoJ haven't yet put any more money into the system but have agreed to accelerate parts of the review. The CBA launched another ballot with 60% in favour of adjourning action. The Bar Council is continuing to work closely with the CPS and MoJ to maintain relations and to make sure that six-month review stays on track and the longer MoJ review is accelerated as agreed.

The Chair reassured members of the Bar Council that he is not ignoring other issues of importance to the Bar. He reported that he had recently visited the Legal Aid Agency in Jarrow to discuss issues relating to fees concerning the Family Bar. The Chair of the FLBA, Frances Judd QC, was able to dial into the meeting. He encouraged members of the Bar Council to get in touch if they have concerns about fees for family practitioners.

The Chair handed over to Max Hill QC, Director of Public Prosecutions, who said that he was delighted to be in attendance.

6. Criminal fees

The following is a transcript of the speech delivered by Max Hill QC at the Bar Council meeting:

Opening

Bore Da. It's a pleasure to be here in Cardiff for what the first Saturday morning meeting outside of London. As you know, the CPS maintains a comprehensive presence here in Wales, with our offices in Cardiff, Swansea and Mold. I spent Monday and Tuesday of last week here in Cardiff, with all of our teams.

Much has happened in the six months since I spoke at the Council meeting in January, so I want to use this opportunity to reflect on that time, and look ahead to what comes next and our future relationship.

I said in January that we were committed to reviewing the prosecution fee schemes, and listening to the arguments you put forward. I hope you see – from where we are now – that we have kept our word.

The topic of fees is of course on everyone's minds, and I will spend some time on that this morning – but before I do I want to make a more general point. I've made it before, but I think it bears repeating, particularly at a time when some have called the professionalism of our relationship into question.

The CPS relies on and recognises the significant contribution of the Bar to the service we provide to the public. We are part of the same effort and we need to continue to work closely together. I want to continue the effective balance that was struck by my predecessor in terms of internal and external advocacy, and which is set out in our Advocacy Strategy.

We have just published our CPS annual report and accounts. I have my copy with me today. In my foreword you will see recognition of the unique value the Bar brings – it is right to highlight that, and it is a sign of things to come. I want to go further in developing the relationship between the CPS and the Bar, which is the other topic I will cover today.

I have one more very important thing to say before I move on, though. I cannot stand here without mentioning the exclusion of members of the employed Bar from the Wales and Chester circuit. I am very pleased to hear that a recent ballot on Circuit has produced the right result, although I understand there is a technical challenge to the outcome, which I hope will be dealt with at speed. If we are to have a constructive relationship, our starting point must surely be that employed and self-employed barristers make an equal contribution to the delivery of justice?

Having moved personally from the self-employed Bar to the CPS – some way into my career, admittedly – I can see clearly the benefits of connections between the two, and indeed the disadvantages if the two exist in vacuums, unaware of the abilities, experiences and challenges of the other.

Fees

Turning, then, to fees.

I welcome the outcome of the ballot, though recognise the differences in opinion still evident from the result.

It is worth reminding ourselves of what is happening.

From 1st September:

- *all fixed fees will be increased to the level of the Advocates' Graduated Fees Scheme, which sets payment levels for defence advocates;
this significantly increases the fees payable for many crown court hearings, most notably appeals, committals for sentence and trials stood out. It also sees an end to the £46.50 mention fee, which nearly doubles under the new scheme;*
- *continuation fees ("refreshers") will be paid from the second day of trial, rather than the third day;
this not only provides additional remuneration for day two of a trial but also – in keeping main hearing fees as they are – provides an automatic increase to many brief fees;*
- *continuation fees in long running trials will not be reduced from day 41;
this provides a consistent level of remuneration in the longer cases;*
- *we will pay full fees from the first day of the trial, updating the definition of the start of the trial;
this revises our existing interpretation so that it properly reflects the way trials are now listed and case managed in the Crown Court;*
- *and we will make payment at the conclusion of the trial or other hearing where sentence is adjourned;
this firms up what many CPS Areas have already been doing on request and provides much greater financial certainty for counsel, particularly those engaged in our longer and more complex casework.*

As we said we would, we listened carefully to the requests made, and in some respects we went further, to reach an interim position that sees significant increases in the fee scheme and key adjustments to make our approach fairer.

This package will put more money in the pocket of every single barrister who prosecutes for the CPS.

It is the best outcome for prosecution advocates in 20 years – it is unprecedented, and it is the result of months of work by my team at the CPS.

As you might be aware, I have not been personally involved in the detailed discussions or work, for reasons of propriety given my previous roles at the Bar. But the review has been led, excellently, by our Chief Executive Paul Staff, and he and the wider team deserve significant credit for what they have achieved.

Of course the wider review continues, and will lead to a business case for wider reforms. The outcome of that business case is of course dependent on the government's spending review. The CPS is staffed by civil servants. You should know by now that we cannot make statements on spending in advance of the spending review. What I can say however is that we will proceed with the review with the committed intent to resolve as many of your outstanding issues as is possible.

Another outcome of the review will undoubtedly be a firm commitment that, together, we will keep our remuneration arrangements under regular review.

When I say our remuneration arrangements, I mean those relating to CPS fees. I must say here that your discussions on defence fees are rightly with the Ministry of Justice – they are not something we can influence in the CPS. You must maintain a strong relationship with MoJ.

I also want to highlight that it was not our decision to link the prosecution and defence schemes. As a number of commentators have made clear, including the former Chair of the CBA, Francis Fitzgibbon QC, the decision to link action over defence and prosecution fee schemes was made by the Criminal Bar Association when it held the first ballot this year. The joint proposal from Government simply recognised this and made accelerated offers in respect of each separate review. With those offers having now been accepted by ballot, the work of the two reviews must continue. The best outcome for the Bar will be achieved by positive and collaborative engagement by the Bar at all levels with the two ongoing reviews.

Reflections

I want to pause at this significant point and reflect on the process of the last six months.

As I have said, I was clear in January that the CPS was absolutely committed to reviewing fees, to listening to your concerns and to acting on them where we could do so. We have been absolutely true to our word.

Detailed and positive work was happening throughout the early months of the review during the Spring, in our private discussions with the Bar Council and Criminal Bar Association. We had made significant progress. But for obvious reasons we could not announce any positive news to the profession until we were sure that the outcome could be delivered.

In light of this real progress, it was unfortunate that our work overlapped with the announcement of the first CBA ballot – and that we were not given advance notice of that ballot. I am however pleased that, following a second ballot, the interim offer has been accepted and we can now get on with implementing it and completing the review.

However, we need to be clear that the timing of that first ballot was more likely to put the progress we had made in jeopardy than help to secure a positive outcome.

It seems to me – as someone who, at different times, has led both parties in this discussion – that we should have been able to reach this conclusion without two ballots for strike action, and the stress they bring for all concerned.

Much has been said about the need for a united Bar over recent months and I wholly agree that the Bar is most effective when everyone comes together as one, with a unified voice – across the Bar Council, the CBA and the six circuit leaders. I cannot help thinking that on issues which are of such critical importance to so many, that single unified voice still needs to be found.

Relationship

Which brings me to my wider point, which is the relationship between the CPS and the Bar.

I know that, right across the CPS, we are proactively engaging with the Bar to build and maintain a positive relationship and, ultimately, support you to support us.

This takes on many forms and includes help and assistance with the Advocate Panel process, training on things like Egress and DCS, joint engagement with the police, and secondment opportunities. These examples are all in addition to the more regular meetings and engagement which look at how we all operate and perform so we can work better together, such as the CALCs, or Circuit Advocate Liaison Committees.

Having been involved in the CALC (or JASC as it was then) during my time as Circuit Leader, I was really pleased to see that, under my predecessor, its remit was extended to focus not only on the selection of advocates to our Panels and disciplinary matters, but also the wider relationship across each Circuit.

Whilst confident in the effectiveness of CALCs – and I thank the Circuit Leaders for their continued commitment to that engagement – we have recently reminded our senior leaders in each Area of the importance of maintaining close and regular links with the Bar and of them taking ownership to identify and address issues promptly where they arise through discussions with chambers, Heads of Chambers and their clerks or Practice Directors.

Those are discussions which already happen in many Areas but I want those conversations to happen universally so that we can improve the way we work together and be clear about how issues should be addressed when they arise.

Issues raised by the CBA

Which brings me on to one of the more disappointing features of the on-going talks on fees. And that has been the very public and, in my view, unnecessary airing of a small number of

very specific complaints, which have been presented as indicative of a general lack of respect from the CPS towards the Bar.

This could not be further from the truth. The CPS is very proud of the role it plays within criminal justice and of the working relationship it enjoys with our key stakeholders, including the Bar. Our values are very important to us and treating everyone with respect and behaving professionally are integral to that.

I do not believe I could have been any clearer on the value and contribution you bring and the importance of us having an effective working relationship. From all that I have seen and heard in the past 8 months since becoming DPP – and indeed before that during my time at the Bar – that is a view held right across the CPS and at all levels.

That is not to say there are never problems and disagreements on individual issues that need addressing. And it is not to say that we will always be able to agree on absolutely everything.

But where there are issues we want to know about them so that we can act to resolve them – professionally and promptly.

Equally, if there is a wider respect issue we want to know about. Having discussed the issue with Bar colleagues around the country, it certainly does not seem to be an issue everywhere; indeed the reverse is true and the relationship is generally a really strong one.

The CPS must obviously be clear with you about how matters should be escalated in order to deal promptly with any concerns as soon as they are raised. We must also acknowledge if we make a mistake, and put it right. But the Bar must also choose the right route for resolution and not use isolated incidents as symptomatic of something which they are not.

The fees review is bringing engagement and consultation on an unprecedented level, with Bar representatives at Steering Group and Project Board level and a series of reference groups being held across all six Circuits over the next few months. With two events per circuit and up to 50 people at each event, there will be an opportunity to hear from up to 600 of you on the issues affecting you and the ideas you have to address them. Similar events will also be taking place with the Young Bar and chambers clerks.

I want us to continue, and further strengthen, this engagement. So we will develop the steering group into an ongoing forum to discuss issues of common interest. This will be chaired by our Chief Executive and attended by our directors of legal and business services.

And we will replicate this locally, with our Area Business Managers becoming more involved in local engagement with chambers – and standing ready to work with you to resolve any problems that arise.

So we will provide the structure, but for this to work we need the Bar to provide representatives to engage with us. I understand that that may be difficult, but it is necessary if we are to have genuine engagement.

We also need you to put some faith in that structure, so we all have the confidence that when issues arise we can discuss and resolve them together.

Closing

I hope you recognise that on fees we have listened, and acted.

The most pressing issues you raised with us have been dealt with.

And we will continue to listen as we complete the wider review by the end of September – leading to a business case for further reforms.

As we do so I hope we can work together, collaboratively and constructively, for the benefit of us all. Thank you.

Mark Fenhalls QC said that he had looked at the CPS' recently published annual report and noticed that the number of cases brought by the CPS has fallen significantly from 894,791 in 2011/12 to 494,811 in 2018/19. He enquired as to whether the CPS is doing its job in bringing cases.

Before answering the question, Max Hill QC explained that significant financial cuts over the period from 2010 are a component of the CPS's work. He then listed a few statistics. The CPS has helped to recover £97.7M in proceeds of crime in the last financial year. 19.9% of CPS staff are BAME, 10.1% are disabled and 5% are LGBT. Turning to the question, he said that there are a complicated set of reasons as to why the case numbers are falling. First, there are around 6000 staff at the CPS which is a loss of 30% since 2010. This leaves a hugely dedicated, highly skilled group of expert prosecutors working under stress. Each one is handling between 65 and 110 cases. 100 live Crown Court cases are being managed by a single reviewer. Secondly, despite incidents of reported crime, there has been a sharp fall in cases brought to the CPS. The CPS is demand led – it has no power to demand that the police investigate more. Max Hill QC said that he thinks there will be a 'bounce back' to a certain degree but not without serious challenge. Referencing Cressida Dick, Commissioner of the Metropolitan Police Service, he said that there are serious resourcing issues for the police. The CPS needs to continue to stand ready to deal with the demand. Max Hill QC said that he would argue that the CPS is not London-centric. There are many Welsh prosecutors and lawyers in Cardiff. The CPS is reviewing the way in which it deals with fraud-related crime. It is simply not possible to say comprehensively why the crime cases are falling but the blame should not be put solely on the CPS.

Mark Fenhalls QC said that the figures are down some 400,000 since 2011/12. He asked about the extent to which this might be down to the CPS rather than diversion schemes and police action and enquired as to whether any analysis has been carried out. Max Hill QC replied that the CPS is not a body that holds national statistics. When looking at the specific areas of crime, it is clear that there are serious issues and that there have been fundamental issues in the way that police deal with reports of

crime. It is more difficult for a demand led organisation to know what is coming. In the main, cases are falling in the Magistrates Courts.

Turning to the subject of the review, Max Hill QC said that it was not for him to predict the outcome but said that it will be looked into if the CPS takes too long. Promising that the CPS will 'grip' this issue by expanding its role in the system, Max Hill QC explained that although the CPS cannot demand that the police investigate cases, it does have action plans. Many cases are being administratively finalised, and this is made to look as if these are decisions on the part of the CPS or decisions not to charge. This is not the case, the CPS continues to escalate concerns and ask what has happened to the action plans.

Tim Devlin said that Max Hill has said much about the CBA's handling of the reviews, but the real problem was pressures on the CPS due to the budget. For instance, when a criminal barrister is instructed, they are required to provide an advice on the sufficiency of the evidence. If that barrister provides advice but does not do the trial, they receive no payment for that advice, which is unfair. Often, even if the barrister does prepare the trial, there is no reply to some of the things asked for in the advice. As a result, there is increased pressure on barristers to jump through a greater series of hoops. There is too much work for too few people in the CPS to do. Max Hill QC replied that there is a suggestion of a link between the perception of delay and the severe pressure prosecuting teams are under. He sought to reassure members of the Bar Council that this is not evidence of a lack of respect on the part of the CPS, rather it is evidence of wider stresses across the system.

Max Hardy said that the CPS's handling of rape cases is a hot topic. He suggested that there is scope for an imaginative, interventionist CPS approach in terms of media and communications. Whilst the topic being discussed on the Today show has helped to create awareness, its audience is small. An 'understanding legal deserts' documentary or road shows may be things to consider. Max Hardy said that the CPS's handling of rape cases is a hot topic. He suggested that there is scope for an imaginative, interventionist CPS approach in terms of media and communications. Whilst the topic being discussed on the Today show has helped to create awareness, its audience is small. An 'understanding legal deserts' documentary or road shows may be things to consider. Max Hill QC replied that the CPS has a network of ICEMs (Inclusion and Community Engagement Managers) present in each area. They meet with a lot of school groups. Community engagement is important as the consensus is that the CPS can't work in a vacuum but beyond that it is vital that the CPS takes the stakeholders with it. Max Hill QC acknowledged that the CPS needs to be more sophisticated in its approach to crime but made the point that the CPS is not the Crown Diversion Service, it exists in order to prosecute.

The Chair thanked Max Hill QC and said that he wished to pick up on a couple of things. Saying that he reads, with considerable sadness, members of the Bar blogging/tweeting negative things about the Circuit Leaders, he made it clear that any

suggestion that the Circuit Leaders act in their own interests are misguided. Circuit Leaders all put in hours of work and all regularly attend the Circuit Advocacy Liaison Committees (CALCs).

The Chair then touched on PRIDE. Describing the Chair of the Young Bar, Athena Markides, who was attending PRIDE in London on behalf of the Bar Council at the same time as the Bar Council meeting, as a 'star', the Chair said that he wished to record his appreciation to her. He also praised the Bar Council Treasurer, Grant Warnsby, also at PRIDE, saying that he does a huge amount of work for the Bar Council.

Addressing the members of the Bar Council, the Chair explained that the Bar Council is happy to discuss any issue that they wish. He encouraged members to let him know if there is anything they wish to raise.

7. A role for former Chairs of the Bar Council

The Chair explained that Michael Jennings, a member of the Bar Council who was absent from the meeting, had originally proposed that there should be a continuing role for former Chairs of the Bar on Bar Council at a Bar Council meeting last year. His concern was that the Bar Council loses the expertise of the Chair once he or she finishes their term in office. At the time, it was agreed that an options paper would be presented to the Bar Council in 2019.

Tim Devlin suggested that discussion of the item should be postponed until the proposer is available to speak to the paper in person and for reasons of timing. Alison Padfield QC then suggested that, as it seemed that the proposer was no longer attending Bar Council, the issue be shelved unless any other member wanted to raise it.

The Chair decided that the item should be postponed until the next meeting and the Head of Governance agreed to contact Michael Jennings to ascertain whether he would be able to propose the item in person.

8. Bar Pro Bono Committee: Change of title and remit

Leanne Targett-Parker, Chair of the Bar Pro Bono Committee, thanked those from the Wales and Chester Circuit for arranging the dinner and meeting in Cardiff. She invited members of the Bar Council to approve the change of title and remit for the Bar Pro Bono Committee outlined in the proposal paper.

Explaining that the Bar Pro Bono Committee was established in 2016, Leanne Targett-Parker said that she joined the Committee in 2017 and became Chair in 2019. Unfortunately, some elements of the original remit are no longer relevant, and the Committee felt that there were three options open to them.

The first option – to disestablish the Committee – was not popular. This left the members with two further options: to leave it as it was or change the remit. The latter proved the most favourable option and, at its meeting on 2 May, the BPBC agreed that the Committee should become the Pro Bono and Social Responsibility Committee, with the amended remit subject to Bar Council approval. This proposal went to the GMC on 20 May 2019 where the proposals were adopted and the matter agreed to go to the Bar Council for approval.

Leanne Targett-Parker explained that while the Committee could have simply rebranded itself as the Social Responsibility Committee, especially as pro bono is implied in the term ‘social responsibility’, it felt strongly that pro bono is a strong enough limb of its work to be included in the new title. Members also felt that, given the history of the Committee, it would be preferable to retain the term ‘pro bono’ in the title. Pro bono work is not only a large area, it is also an interesting one.

Leanne Targett-Parker drew the attention of members of the Bar Council to paragraph 7 of the paper which outlined the Committee’s work programme. She pointed out the changes to the remit listed in the paper and asked members of the Bar Council to approve those and the change of title.

The members of the Bar Council voted unanimously to approve the proposed changes to title and remit.

9. International Committee

Steven Thompson QC, Chair of the International Committee, presented the International Committee Report. He thanked members of the Wales and Chester Circuit for inviting him to Cardiff.

Acknowledging the long length of the report, Steven Thompson QC said that he hoped members of the Bar Council had read it in advance. He explained that there have been lots of changes in the last year. He has taken over from Amanda Pinto QC as Chair in the last year. Amanda Pinto QC lead huge changes and carried out some amazing work in promoting international work. Meanwhile, in terms of Bar Council staff, the Jessica Crofts-Lawrence recently left the International Team and she has been succeeded by Stephanie Brown.

Steven Thompson QC said that he wished to speak about three points and then mention upcoming events.

- 1) Business Development Work – Steven Thompson QC said that this speaks for itself. There are interest groups for different areas, but the team is small. Therefore, it tends to focus on different countries for 2-3 years. This year there is a trip to Mexico and Colombia. The team continues to work with China, which is controversial but worthwhile, and, work is ongoing with Russia,

Kazakhstan, Poland and Cyprus. In addition, there is ongoing Brexit work. The International Team also produces profit-making publications.

- 2) Rule of Law Work – The Committee and International Team continue to work to ensure that lawyers around the globe are supported. An annual Rule of Law lecture takes place each year and work is undertaken to write letters to support international lawyers and legal professions. The International Team are involved in arranging the Opening of the Legal Year and encouraging Bar Leaders around the world to take part. There are ongoing yearly trips to the International Bar Association (IBA) Conference and help is given to those who want comparative assistance with documents.
- 3) International Liaison Work – The International Committee and Team work closely with the IBA, CCBA, SBAs and Bar Human Rights Committee (BHRC).

Turning to upcoming events, Steven Thompson QC reported that there are trips to Mexico/Colombia, Cyprus and Seoul in September.

For the Rule of Law lecture, the Committee is hoping to secure a very interesting female speaker: the first female President of the High Court of Ethiopia, Chief Justice Maeza Ashenafi. She famously defended a case that has been turned into a film, 'Difret' directed by Angelina Jolie.

Steven Thompson QC finished by encouraging members of the Bar Council to get involved with the work of the International Committee. He made the point that there are very few areas of law are not open to international work.

10. Legal Services Committee

Derek Sweeting QC, Chair of the Legal Services Committee, presented the Legal Services Committee Report. He began by thanking those members of the Bar Council who had sponsored him on his recent 85 mile walk/endurance challenge in the Isle of Man and reported that he had raised £5k for Advocate.

Describing the report as 'short', he said that he wished to pick out a few highlights.

1. Court Reform – The Legal Services Committee has successfully lobbied Parliament and government on the Courts and Tribunals (Judiciary and Functions of Staff) Bill. As a result, the Act now, importantly, includes a provision requiring the Rules Committees to consider attaching a right of reconsideration to any power delegated to an authorised staff member, and to give their reasons to the Lord Chief Justice if they chose not to do so.
2. Online Court – An Online Procedure Rule Committee (OPRC) is being established to support the increased use of electronic means to conduct proceedings. While the Legal Services Committee supports this in principle, there are some concerns about the size and composition of the OPRC and the

Legal Services Committee are of the opinion that the move to increased use of electronic means to conduct proceedings should not be at the expense of access to justice or the quality of justice. There is also an issue as to whether or not proposed rule changes should require the concurrence of the Lord Chief Justice.

Derek Sweeting QC thanked all those members of the Bar Council who helped with the blitz listing survey. He reported that he and Darryl Allen QC, Chair of the Personal Injury Bar Association (PIBA) were shortly to meet with representatives of HMCTS in London, and is confident that the Bar will see changes in listing practices as a result. The Legal Services Committee have funding to establish an academic research programme. There are already projects underway in the criminal courts so at the moment the proposal would be to concentrate on civil listing. We are heading in the right direction in both jurisdictions. A big 'fall off' in cases being listed in the criminal courts should mean that things get easier, however, the decline in sitting days is likely to have an adverse effect and may negate the efficiency gains that might otherwise be expected.

Sam (not Stuart as written in the report) Townend, in consultation with criminal members of the Committee has drafted and submitted a Bar Council response to the Criminal Procedure Rule Committee invitation to comment on the proposal to make new rules to provide for the exercise of judicial functions by authorised court officers. Derek Sweeting QC explained that these are judicial functions being delegated to Crown Court staff. He acknowledged that in some cases these may be a step forward but said that there are concerns around which functions are to be delegated, what safeguards are in place and which decisions can be reconsidered. These reforms and changes need to be seen in the wider context of a process that is being implemented across the justice system. The starting point in the rules is not to identify exactly what has been delegated but rather to allow general delegation. We need to be careful that this does not lead to an erosion of the independence of decision making.

Derek Sweeting QC finished by reporting that the Bar Council's court dress guidance is to be updated to bring it in line with current practices.

11. Any other business

There was no other business reported.

The Chair reminded members of the Bar Council that the next meeting is on 7 September and that it will be followed by the AGM.

