



**Bar Council AGM meeting
held on Saturday 16 September 2017 in the Bingham Room, Gray's Inn**

Present:	The Rt Hon Jeremy Wright QC MP	Attorney General, Chair of the AGM
	Andrew Langdon QC	Chair of the Bar
	Andrew Walker QC	Chair Elect
	Lorinda Long	Treasurer

1. Minutes of the last meeting and matters arising

The Attorney General, The Rt Hon Jeremy Wright QC MP opened the AGM saying that it was a great privilege to chair the meeting. He said that he had three initial areas to address:

- 1) Referring to a discussion held earlier in the Bar Council meeting about the 'shrinking' junior Bar, he said that he would find a breakdown of the statistics, showing the areas that young barristers are leaving from across the Bar, very useful as it might identify some underlying headlines 'scarier' than the overall headline.
- 2) Acknowledging that some members of the Bar Council pay close attention to the media, the Chair said that they might have noticed that he has put out a Call for Evidence on Social Media in Criminal Trials and he appealed to the members of the Bar Council to let him have their thoughts as to whether or not this is an issue.
- 3) Lastly, the Chair personally thanked members 'for all the work that barristers do and that the Bar Council does'. He conceded that the Government sometimes finds it hard to heed what the Bar has to say but was clear that the Government needs to hear it. Speaking as a constituency leader, the Chair also thanked members of the Bar Council and wider Bar for all the pro bono work they do for constituents.

Handing over to the Chair of the Bar, Andrew Langdon QC, the Chair of the AGM praised the Chair of the Bar for doing the Bar proud in the way he leads.

2. Chair's Address

The Chair of the Bar began by saying that it would pay members of the Bar Council dividends to look at the Bar Council's new Annual Report which has been produced by Luke Robins Grace, Senior Public Affairs and Communication Adviser, who took a few weeks to produce an extremely professional piece of work that demonstrates the work of the Bar Council over the last year.

Noting that this was the AGM meeting, the Chair of the Bar explained to members that the focus would be on 'looking back'. Saying that he would like to take a moment to think about the work of the Bar Council and whether the Bar Council is concentrating on the right things, the Chair of the Bar explained that it was not his intention to 'rattle off' a list of accomplishments this year but to give members a flavour of the work that has taken place.

Brexit

Of course, Brexit has dominated most work activities. The Chair of the Bar said that he could not overstate the impact that the Brexit Papers had on the Government and on the status of the Bar Council as an organisation. There have been a series of roundtable meetings in which people have listened to silks at the top of their fields and civil servants have described this as 'gold dust'.

Media attacks on the judiciary

The Chair of the Bar asked those in attendance to recall the attack on the judiciary of last year where the Bar Council passed a resolution calling on the Lord Chancellor to condemn the attacks. The motion picked up a huge amount of momentum, led to public legal education initiatives and generated positive press attention. Describing such activity as 'being at the heart of what we do', the Chair explained that there had been a feeling, particularly amongst those working in the courts, that the Bar Council had focussed on issues away from the daily experiences of barristers for too long.

Circuit visits

During the first part of 2017, the Chair of the Bar and Vice-Chair of the Bar (now Chair-Elect of the Bar), Andrew Walker QC, undertook a series of circuit visits to ascertain, first-hand, how the Bar is feeling in relation to matters such as the small claims court and fixed recoverable costs. The Chair of the Bar said that he is sure that the effort was worthwhile and had a direct impact on the Jackson report as it is clear that Lord Justice Jackson changed his mind about some aspects. The Chair of the Bar cited this as a good example of government listening to the Bar.

AGFS

Turning to the topic of AGFS, the Chair of the Bar reported that the Bar Council is 'fighting our corner' with the government at times on an almost weekly basis. The Bar Council is more than mindful of the young Bar and acknowledge that some practitioners will be unhappy as they will, if they continue with the same case mix, because there will be some who lose in any cost neutral scheme which redistributes how the money is spent.

McKenzie Friends

On the subject of McKenzie Friends, the Chair of the Bar explained that the research commissioned by the Bar Council has, in one sense, revealed that the situation is not

as worrying as anticipated. On the other hand, the fact that there is a huge body of unregistered people providing services remains a concern.

Direct access

The Chair of the Bar reported that the Bar Council discussed its approach to direct access work during the year and took its steer from the Bar Council following discussions at its March meeting. As a result, the direct access strategy has been updated. Direct access work will, inevitably, grow and statistics reveal that a third of the people visiting the direct access site are doing so for a second time and that property and then employment are the most important topics. While older members of the Bar may not be in favour of direct access, the junior members tend to embrace it more widely.

Legal professional privilege

The work carried out on the LPP Bill by the Bar Council's Investigatory Powers Working Group was noted by the Chair of the Bar.

Vulnerable witness training

With regards to vulnerable witness training, the Chair of the Bar explained the need to train 5000 barristers. The Bar Council is coordinating training with the Circuits and Inns to achieve this very large task which needs to be carried out as otherwise, there is a risk that something less palatable will be introduced. Ellie Cumbo, Head of Policy: Legal Affairs, Practice and Ethics, and Phil Robertson, Director of Policy, are the Bar Council staff members leading on this.

Consultations

The Bar Council has produced 70 consultation responses in the last year on topics including future bar training, whiplash and fixed recoverable costs, and the Chair of the Bar reported that he is very proud of this output. Noting that these, sometimes complex, responses 'don't take five minutes', the Chair of the Bar gave thanks to all the 'busy practitioners' who have taken the time to contribute and made the point that it should be emphasised that some of this is an example of the Bar Council doing the 'boring, stale stuff' that no one else has the time to do on behalf of the profession.

Ethical enquiries hotline

During the last year the ethics hotline received over 6000 calls. Some 200 ethical documents are soon to be available on a readily working website that the Bar Council is aiming to have ready by the date of the Bar Conference.

Manifesto for Justice

This year the Bar Council produced a 'Manifesto for Justice' which has made an impact and will be useful in terms of informing future strategy.

Ethnicity and Diversity and Corporate Social Mobility

The Chair of the Bar reported that an enormous amount of work has been carried out in ethnicity and diversity and social mobility and thanked Robin Allen QC, Chair of the Ethnicity and Diversity and Corporate Social Mobility Committee and Sam Mercer, Head of Policy: Ethnicity and Diversity and Corporate Social Mobility Committee for all their efforts. Examples of work in this area include four different mentoring schemes and outreach initiatives with students, including the joint effort with the Citizenship Foundation on the Bar Mock Trials which the Chair of the Bar described as ‘inspiring and brilliant’.

Court reform

The Chair of the Bar explained that court reform is a ‘big thing on our watch’. There are worries about online courts, flexible operating hours, virtual hearings and the risk of case officers with too much delegated judicial power.

Court reform is an area that the Bar Council is prioritising as it has a responsibility to respond to the proposed changes.

Evidence giving at parliamentary committees

The Chair of the Bar reported that some Bar Council members, including himself, have given evidence at parliamentary committees during the year. He said that input at such sessions is a critical part of what the Bar Council provides.

Rise in practising certificate fees

2017 has seen a 12% hike in PCF costs to cover the defined pensions scheme deficit. The Chair of the Bar acknowledged that this had not been an easy decision to take and said that he had been very impressed by, and proud of, the way in which the GMC and Bar Council had reacted to the initial proposal.

Sitting Hours Protocol

The Chair of the Bar reported that the Sitting Hours Protocol, introduced in 2017, is proving useful in advancing our arguments but admitted that it has not yet got the traction that it should.

New premises

The Bar Council is in the process of finding accommodation for the Bar Council from 2019 as the Bar Council’s contract with the owners of the current building is coming to an end.

Working Lives Survey and communications strategy

The Chair of the Bar mentioned the Working Lives Survey issued in June. He also explained that there has been something of a communications revolution in recent

months as the Bar Council has made the decision to reduce the amount of email communications in favour of including the majority of information in Bar Talk.

International work

Describing international work as 'one of the things we do best'. The Chair of the Bar admitted that he had been sceptical about its value when he first arrived but said that he had quickly understood why the Bar Council carries out international work when he began to travel to other jurisdictions. Citing the intervention in Poland and rule of law issues as examples of important international work, the Chair of the Bar informed attendees that he and Andrew Walker QC had addressed 120 Cypriot lawyers only last weekend at the English-Cypriot Law Conference. The links that have been formed with the Cypriot Bar are valuable to the work of the Bar Council.

On the horizon

Saying that there are 'new times' ahead, the Chair of the Bar said that he had been delighted by the thoughts that have already begun to emerge. The new Commercial Director, Isabel DiVanna, has some real challenges to deal with and the staff are preparing to move to a new premises in 2019. A new strategic plan will be launched in April 2018 and committees, circuits and staff have already contributed to the planning of this. Last week, a two-hour strategic planning session was held with officers and past and future chair(men) and the Bar Council is confident that it will be delivering a comprehensive strategic plan to the profession on schedule.

Max Hardy thanked the Attorney General for chairing the AGM and for articulating his concerns on the shrinkage of the young Bar. Referring to the Attorney General's Social Media and Juries Report, he suggested that it might be helpful if the Bar were to be reassured that there is no threat to the right to trial by jury. Turning to the earlier Bar Council discussion on the non-payment of junior barristers at the Magistrates Courts, he described the situation as 'outrageous'. Lastly, he suggested that, with regards to McKenzie Friends, the solution is as simple - if people are receiving payment then they have no rights of audience unless they are regulated.

The Attorney General and Chair of the AGM acknowledged that Max Hardy might have a point with regards to McKenzie Friends and said that the government might take interest. He also sought to reinforce his own concerns about a shadow industry that doesn't do any favours to the profession. On the subject of the Magistrates Court, the Attorney General said that one of the reasons why this is so pernicious is because it is deterring people from joining the Bar. He suggested that there may be a role for those who are Heads of Chambers to make it clear to clerks that this won't be accepted and checking mechanisms put in place to ensure that it doesn't and said that he will have a think about what the government could do. Lastly, the Attorney General assured those in attendance that there is no threat to right to trial by jury and said that, instead, he intends to reinforce the jury system. However, he explained that jurors

doing their best to follow instructions are nonetheless stumbling across social media and this needs to be considered.

Rick Hoyle acknowledged that the Bar Council has done a lot of work on wellbeing, particularly in relation to the pressures on the young Bar, but he reported that he had attended a recent event at which no one had heard of the Bar Council wellbeing initiatives. He said that he wished to flag the Bar Council's excellent wellbeing website (<https://www.wellbeingatthebar.org.uk/>) which offers a wealth of information, including help and resources, for barristers to point their constituents to. To this, the Chair of the Bar said that he found it hard to believe that anyone at the AGM would not have heard of the wellbeing programme, but acknowledged that there will be other people who have not and that we need to publicise it widely.

One of the AGM attendees reported that Professor Cheryl Thomas of UCL has done a fantastic piece of work on jurors in relation to Facebook. The Chair of the Bar replied that he is aware of Cheryl Thomas' work and revealed that he has asked her to speak at the November Bar Council meeting.

Rachel Spearing said that 2017 will mark the 32nd annual Bar Conference and young Bar Conference and said that she is grateful to the organising team, which she is chairing, for pulling together to create a fantastic line up. Explaining that the communications around the conference have been more muted this year, Rachel Spearing appealed to those present to communicate the importance of attending to other barristers. This year the conference, the theme of which is 'One Bar: Threats, opportunities and strengths in an age of change', is not just about information sharing, it is a platform designed to offer the opportunity to change and challenge the landscape. The app is being used to provide greater accessibility, to upskill people, to take the temperature of issues and to obtain feedback. She finished by saying that the it is not simply a one-day educational event but a really important conference.

3. Treasurer's Report

The Treasurer, Lorinda Long, said that she did not intend to go into great detail as she hoped that those in attendance had already read the statement of accounts. She explained that David Botha, Director of Finance, and Michael Jeans, Chair of the Audit Committee, were both present to take any questions.

Lorinda Long began by reporting that since 2015, the annual value of PCF collected has grown £2m/18%. Mainly this is due to the one-off pension related rise in 2017 raising £1.3m but the natural growth of fees and earnings and barrister numbers has added £0.6m, whereas other fee price rises have added only £0.1m/1.25%. Prior to 2015, fee levels had been stable since 2013.

Outlining the accounting processes, Lorinda Long said that Accounts are audited, reviewed by the Finance Committee and the Audit Committee, approved and then published on the Bar Council website.

Referring to the 2016/17 financial results headlines, Lorinda Long reported that the Bar Council achieved a pre-tax operating surplus of £304k. Shortfalls in 2016 PCF collections forced cost reductions in year but the overall surplus, including non-operating activities was £684k. This includes investment gains & actuarial pension adjustments. In addition, the Bar Council holds £3m in reserves (down from £3.2m in 2015/16) and the defined benefit pension scheme result was better than expected. Therefore, there are no necessary changes to the current plans.

Lorinda Long continued saying that cash levels have risen from the surplus and from the 2017 PCF increase to fund the pension. The Bar Council collected funds in March 2017 for payment in April and this will show in the 2017/18 accounts. The PCF collections in March have enabled the Bar Council to fully fund the 2017/18 budget, create the planned pension scheme provision and protect the budget against some shortfalls in other funding.

The following key risks have been added this year, all of which have mitigating actions in place.

- Threat to Approved Regulator status and funding from government policy decisions.
- Risk that income from PCF may fall due to a reduction in the size of the Bar.
- Risk of failure of cyber and information security safeguards leading to accidental or malicious security breaches.
- Pension scheme results cast doubt on the financial resilience of the organisation.

The Attorney General, chairing the AGM, thanked Lorinda Long for all the work she does on the Bar Council finances and invited to new Chief Executive, Malcolm Cree, to speak.

4. Chief Executive's Report

Malcolm Cree began by saying that he has been trying to get to know the profession via a series of visits to chambers and the courts and by meeting many Bar Council members and stakeholders. He said that he has been impressed by the Bar Council staff who are 'committed, resourceful people'.

In terms of work ahead, Malcolm Cree said that his priorities will be to assess the long-term health of the Bar and Bar Council and develop the new strategic plan.

Observing that the Bar Council 'punches well above its weight' and serves the Bar well, Malcolm Cree said that he has noticed that when the Bar Council goes public, it is very effective and he praised the Brexit papers and Manifesto for Justice as examples.

Malcolm Cree acknowledged that there are problems within some areas of the business. The new strategic plan, which will span the next five years, will link aims,

objectives and values and incorporate a new commercial strategy. He also acknowledged the need for the Bar Council to become more sophisticated in the way it communicates and recommended BarTalk to those present.

Explaining that BRF take up has decreased this year, Malcolm Cree finished with an appeal to those in attendance to plug BRF payment to their immediate work colleagues and other barristers with whom they are in contact.

The Chair of the AGM asked whether anyone present had any other business for the AGM. There was no other business reported and the AGM was concluded.