



The Bar Council

Meeting of the Bar Council
Minutes of the Tuesday 16 April 2024 at Inner Temple, Lecture Hall
Crown Office Row, London EC4Y 7HL

Present:

Samuel Townend KC	Chair of the Bar	STKC
Barbara Mills KC	Vice-Chair of the Bar	BMKC
Lorinda Long	Treasurer	LL
Victoria Prentis KC MP	Attorney General	VPKC
Rt. Hon Emily Thornberry MP	Shadow Attorney General	ETMP
Nick Davies	Programme Director at the Institute for Government	ND
Cassia Rowland	Assistant IG	CR

Members in attendance (in alphabetical order):

Adam Baradon KC (ABKC), Andrew Twigger KC (ATKC), Barbara Connolly KC (BCKC), Caroline Rees KC (CRKC), Charlie Woodhouse KC (CWKC), Deshpal Panesar KC (DPKC), Heidi Stonecliffe KC (HSKC), Hugh Mercer KC (HMKC), Jacob Hallam KC (JHKC), Jaime Hamilton KC (JHKC), James Roberts KC (JRKC), Jason Pitter KC (JPKC), Fenner Moeran KC (FMKC), Kirsty Brimelow KC (KBKC), Leon Kazakos KC (LKKC), Michelle Heeley KC (MHKC), Nicholas Johnson KC (NJKC), Richard Honey KC (RHKC), Stephen Kenny KC (SKKC), Tana Adkin KC (TAKC), Tony Singla KC (TSKC), Winston Hunter KC (WHKC), Abigail Bright (AB), Aoife Kennedy (AK), Alice Hands (AH), Amanda Jepson (AJ), Andrew Howe (AH), Anton van Dellen (AvD), Amrit Dhanoa (AD), Asad Maqsood (AM), Brittany Buckell (BB), Cathrine Grubb (CG), David Bunting (DB), David Taylor (DT), David Sheridan (DS), Dilpreet Dhanoa (DD), Edite Ligere (EL), Emma Southern (ES), Emma Walker (EW), Guy Williamson (GW), Hannah Smith (HS), Faisal Sadiq (FS), Gaynor Wood (GW), Ivor Collett (IV), James Paterson (JP), John-Paul Swoboda (J-PS), Kate Lumsdon (KL), Leanne Targett-Parker (LT-P), Linda Turnbull (LT), Lucinda Orr (LO), Maddy Charlesworth (MC), Martyn McLeish (MML), Michael Harwood (MH), Mike Jones (MJ), Michael Polak (MP), Minka Braun (MB), Ruth Kirby (RK), Rory Brown (RB), Paul Adams (PA), Petar Petrov (PP), Peter Grieves-Smith (PG-S), Philip Stott (PS), Reagan Persaud (RP), Samantha Singer (SS), Sara Ibrahim (SIb), Sarah Fearon (SF), Sean Jones (SJ), Shazia Akhtar (SA), Shobana Iyer (SI), Shoshana Mitchell (SM), Simon Regis (SR), Simon Atkinson (SA), Tahmina Rahman (TR), Tomas McGarvey (TMG), Yaa Dankwa Ampadu-Sackey (YDA-S)

THE BAR COUNCIL

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In attendance:

Carolyn Entwistle	Director of Services	CE
Isi Onwukwe-Anyadike	Governance (minutes)	IOA
Jamie Shaw	Head of Strategy, Planning and Governance	JS
Phil Robertson	Director, Policy	PR
Piran Dhillon-Starkings	Advisor to the Chair	PD-S
Nikita Feifel	Public Affairs Officer	NF
Sally Burnell	Director of Communications	SB
Kathryn Stone OBE	Chair of the BSB	KS
Mark Neale	Director General, BSB	MN

Apologies were received from:

Eleena Misra KC, Anushka Kangesu, Alex Matthews, Mirza Ahmad, Rebecca Dix, Jo Martin KC, Michael Bowsher KC, Saira Kabir Sheikh, Carl Brewin, Alex Gunning, Abi Hobson, Emma Hughes, Jasmine Chen, Natasha Shotunde

1. Conflicts of interest and announcements

None noted.

2. Minutes of the last meetings and matters arising

The minutes from the meeting held on 3 February were APPROVED as an accurate record subject to amendments to the apologies list.

3. Statement by the Chair of the Bar Council

The Chair highlighted the following points from his report:

Post Office

The recent Post Office scandal was an exceptional case and a great miscarriage of justice. The government's proposals would, however, cut across the separation of powers. The draft exoneration bill would grant the decision on appeal (that would ordinarily rest with the Court of Appeal) to a combination of Parliament and a Minister; it is not clear this provides the exoneration that victims deserve. The Lord Chancellor is considering ways to proceed with legislation.

Bar Standards Board

The BSB hired Fieldfisher to undertake an end-to-end review on how well the BSB's enforcement system operates from first receipt of concerns about barristers' conduct through to final decisions being made on sanctions to be imposed by staff. Fieldfisher surveyed both complainants and barrister respondents, and both indicated major concerns

regarding timeliness of the processes. Fieldfisher have made a number of recommendations to improve performance targets. In a review of performance indicators, BSB had indicated that they may be unable to meet 25-week timeliness targets for conduct investigations, proposing instead to aim for 38-week turnaround times in some instances. The BSB have been requested to revisit this.

Officer Elections 2025

The nomination period for the Officer Elections is open until the 26 April 2024. The voting period commences on 3 May, concluding 7 May 2024. Results will be communicated to the Bar Council no later than 21 May 2024.

Upcoming events

The Law Society and Bar Council together are hosting the Shadow Lord Chancellor, Shabana Mahmood MP, who will deliver a lecture on the Rule of Law (Monday 22 April, 6:00 PM at Gray's Inn).

The World Bar Conference 2024, 15-17 May which will be held in Belfast and Dublin.

4. Bar Standards Board Report

Kathryn Stone OBE, Chair of the BSB took her report as read. She highlighted the following:

Fieldfisher Review

Fieldfisher performed a thorough end to end review of the BSB's policies, systems and processes and commented on the Independent Decision-Making Body and the Bar Tribunals and Adjudication Service. They recognise the hard work and commitment of BSB's people and conclude that work approaches are in line with that of other regulatory bodies, but they offer a number of recommendations for improvement. The BSB Board has agreed in principle to most of the recommendations and have referred the others to BTAS and the IDB for their consideration. It was noted that while the BSB must improve the quality of their processes, they must never compromise on the quality of decision-making. Bar Council were urged to read the report in full.

Consultations

The BSB deadline for responses to the consultation about amending the definition of academic legal training has been extended to 29 April, to allow more time members of the bar to express their views.

The Equality Rules consultation will be published next month. Bar Council members were encouraged to use this opportunity to give the BSB their views on these important issues.

5. Statement by the Chief Executive

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

- i) Authorisation to Practice is coming to an end. Current estimates are that funds have increased by £500,000 since 2023.

- ii) The KC Appointments panel interviewed for two new lay members. 126 applications were received.
- iii) In February, the Bar Council launched its first on demand cybersecurity course for the Bar in conjunction with business partner, Mitigo. The training is designed to help Chambers and barristers identify common cybersecurity threats and how to respond to them. The Bar Council will be developing a second course designed for pupil supervisors, with more courses to come after that.

6. Programme Director at the Institute for Government

Nick Davies, Programme Director at the Institute for Government provided a presentation about performance in the criminal justice system. Nick Davies shared the findings from the Institute for Government's Performance Tracker 2023 and highlighted the following:

Services

According to the IfG's annual report looking at the performance of 9 public services, performance is worse in almost all services than they were ten years earlier with probably the biggest falls in performance in hospitals and prisons. Performance has declined further with the biggest reductions seen in hospitals and criminal courts, where there had been a substantial and mutual growth in backlog of cases since the pandemic and over years of capital spending restrictions. Due to this, workforce satisfaction and retention levels have decreased.

Police

Since 2019 the government has successfully increased the number of police officers by 20,000 in the short term, which was a drain on the productivity of police forces due to the supervision required for those new officers. But the evidence is that those new recruits are now starting to become more productive.

Real time spending on courts in England and Wales fell by about 1/4 between 2010-2011 and 2017-2018 in real terms then increased by 20% up to 2012, before falling 10% in 2023 though spending on judiciary and staff.

Funding

While additional funding has been provided to some services, the relative tightness of spending plans - and inflation over recent years - means most services won't be able to return to pre-pandemic performance levels by the end of this spending review period, which is March of next year. The government will be setting their spending plans for the next spending review period from April for 2025 and onwards.

Over the three-year spending review period, it is expected that inflation means that court spending is expected to fall by 2% in real terms between 2023 and 2025.

Crown Court

Crown Court receipts fell by more than 30% in 2022. In 2023, receipts were still 8% below pre-pandemic levels, partly attributable to a surge of cases following the reversal of

magistrates extended sentencing powers. Also, demand has come from increased complexity of cases.

There has been an increase in the number of ineffective trials, which accounted for roughly 10% of cases. In recent years this has almost doubled, to around 19% of cases. Courts are making less use of available sitting days: usage is currently down to around 2.8 hours per sitting day, compared to 3.5 hours per sitting day pre-pandemic. Problems with buildings and technology are likely contributors.

Criminal legal work

There are notably fewer criminal lawyers, owed to two main factors:

- The decline in the number of sitting days and,
- The relatively poor remuneration of criminal legal work.

There was a 10% decline in the number of full-time criminal barristers between 2017-2018 and 2021-2022.

There has been a reduction in excess of 40% in the number of magistrates. There had also been a reduction in the number of judges. The official case backlog is well over 90,000 compared to the state of the backlog at the start of the pandemic. Longer backlogs mean victims and defendants are waiting more time until they can have their cases closed.

Prisons

Prisons are at operational capacity, and there are currently not enough staff. The staff they have are insufficiently experienced. Prisoners are detained for a huge amount of time every day and there is limited access to rehabilitative activities. Violence has started to increase following the substantial drops as a result of pandemic related lockdowns and self-harm in women's prisons is increasing.

There is a notable capacity problem in prisons, which is increasing. MoJ predictions show prison population rising to 96,000 in the next year and 106,000 by 2028, whereas the capacity is 98,000.

Recommendations

- i) A new multi-year budget for each public service,
- ii) A long-term capital expenditure programme,
- iii) A shift towards prevention,
- iv) A stable long-term policy agenda, and
- v) An improved approach to setting pay, workforce planning and enhancing working conditions.

Charlie Woodhouse requested a review of civil court effectiveness.

Kirsty Brimelow KC queried what is being done to encourage more junior barristers to join the profession and complete legal aid work. The realism of securing government commitment to a multi-year spending budget on the legal sector was also questioned. Nick

Davies noted that it is the intention of all the main political parties to write a three-year spending review as a standard, though this was disrupted by the pandemic and the government has been operating on one-year emergency funding budgets. Now it is an election year, this multi-year spending budget is further delayed, though anticipated by March 2025. Work is ongoing to encourage and promote the work of the bar to juniors, and this will be heavily influenced by available funding at the criminal bar.

Piran Dhillon-Starkings queried what more the Bar Council and other organisations can do to highlight the need and importance of increasing the budget for legal related public sector work, as crime and justice is always low on the list. Nick Davies noted that funding and priorities tend to be led by public demand, to incentivize a funding increase the public will need to understand and pressure the political parties to do so. As it is an election year it is a prime time to do so.

A copy of these findings can be found on the [IGf website here](#).

7. Shadow Attorney General

Rt. Hon Emily Thornberry MP, Shadow Attorney General addressed the Bar Council to share her thoughts on the challenges ahead for the next government.

Rt Hon. Emily Thornberry MP began her address by thanking the Attorney General Victoria Prentis KC MP for her ongoing support and professionalism in her role.

Justice System

If Labour wins the next election it will be the most difficult inheritance for any incoming government since Clement Attlee took office after the war in 1945. The Labour government will do their best not to go into the election making promises that they know will prove impossible to deliver on at the next parliament.

A danger for the Labour government would be to give up hope and accept a permanent decline of public services. It should be accepted that the status quo in all the areas of public sector decline is unacceptable and will take a long time to repair. The Labour incumbent will look to Clement Attlee's achievements in the face of a post-world war state. The country is approaching the 75th anniversary of one of its greatest achievements, the introduction of the Legal Aid and Access Act, July 1949 founded by a former Labour Attorney General, Sir Hartley Shawcross. It is "a bill which will open the doors of the courts to all persons who wish to avail themselves of British justice without regard to their ability to pay", this continues as a necessary part of a functioning society. It is vital that the legal system in the UK is protected as a priority, and it cannot only work for the wealthy: it must be fair and accessible for all. It is also vital that the reputation of the legal system is protected as a whole, to allow the country opportunities to continue presenting the UK as the best place in the world to agree contracts, resolve disputes, and pursue claims. It will take a long time to rebuild the capacity of the legal profession to fill the gaps.

Access to justice

Access to justice will take a long time to repair -as will be restoring the court backlog, and prison overcrowding.

The Labour government will seek to sit down with the experts to understand the true scale of issues impacting the legal field and to make decisions on how to address these collaboratively.

Proper support for victims

A priority is addressing the timings for justice in our courts and representation for those who cannot afford it. Punishment based on the crime and not on the availability of prison places, a legal profession where young entrants can plan a career for their lives and not assume that they end up with burnout.

Deshpal Panesar KC noted how edifying it is to hear cross-party respect. DPKC queried what Labour's priorities will be for employment law. Rt. Hon Emily Thornberry MP noted that it will take time for courts to be functioning properly again; this applies for all aspects of the law.

Faisal Sadiq noted that when the government releases consultations or requests responses, it oftentimes seems as though a decision has already been made before responses are considered.

Abigail Bright queried whether Rt. Hon Emily Thornberry MP had visited Highbury Youth Court. Rt. Hon Emily Thornberry MP has not visited the Youth Court, though is aware of the ongoing issues and liaises with the local magistrates. Work will also need to be done to address mental health in youngsters: numerous youths mental health problems will end up in the criminal courts and it is important to divert them at an early stage through proper investment in support and resources.

Kirsty Brimelow KC queried how to increase funding into the publicly funded and criminal justice and civil justice bar, and engage young people to join. Rt. Hon Emily Thornberry MP noted that it is difficult to determine the available budget for these services, however, the Labour government are committed to expressing their appreciation for the work lawyers do and will publicly say as such.

8. Midland Circuit Leader Report

Michelle Heeley KC, Midland Circuit Leader provided a report to the Bar Council and highlighted the following.

Crime

The Midland Circuit have experienced a 12% reduction in the number of barristers who are willing to undertake RASSO cases. That's reflected with a wider drop of 10% of general criminal barristers. The Circuit are experiencing a significant increase in crime, in particular

in knife crime, and that is causing huge issues and pressures on the court backlog. The backlog is further exacerbated by the poor state of the courts and the lack of investment in them, which means courts are physically unable to open causing further delays.

Meetings

The Circuit recently met with the Lady Chief Justice and was joined by both the Lord Chancellor and the Shadow Lord Chancellor, who gave the Circuit the opportunity to speak informally and explain firsthand the problems they are facing.

The Shadow Labour frontbench have also agreed to meeting with the Circuit.

Recruitment and retention

It was noted that a primary concern is recruitment, and therefore members of the Circuit are focusing on outreach by visiting universities and schools to encourage a career at the criminal bar.

The Circuit annually pay for scholarships covering the full bar school fees for A number of individuals from underrepresented backgrounds.

How to maintain long-term career development is also a real concern on the Circuit, as in 2024 only two KCs were appointed. The Circuit are launching a mentoring scheme, focused on mentoring members into more senior positions of silk, High Court Judge, and recorders. The rate of retention is a concern, particularly for women at the criminal bar. Methods to address this were being investigated.

9. Bar Council Strategic Plan 2024-2029

The Bar Council Strategic Plan, 2024-2029 was APPROVED.

10. Advocate annual report

Sharif Shivji KC, Chair of advocate provided a report highlighting his vision for the future of the charity. The following was highlighted:

Overview

Advocate is a pro bono charity which provides free representation and advice. The charity operates in every area of law before every court and tribunal, across the entire country. Advocate is funded by the bar, mostly through donations through the Authorisation to Practice/ renewal of practising certificate fee donations. Advocate assist the most vulnerable members of our society in cases in order to ensure that justice is done. The charity coordinates the pro bono efforts of the bar across the country through links with chambers and the Bar.

Advocate leads in the access to justice sector and many organisations consult on such issues. The Attorney General was thanked for launching a list for recognising those who are

involved in pro bono. Advocates sit on the Steering Committee for the Attorney General's Pro Bono committee.

It was noted that there is huge and increasing demand for advocates' services, the significant cuts in funding for frontline advice agencies in the last decade means that more litigants are yet to come. The bar currently cannot meet the demand for pro bono work.

Priorities

The first objective is to ensure that barristers' pro bono efforts are devoted to the cases where they can make the biggest difference.

The second objective is a greater use of technology, getting the right information out of vulnerable litigants who are often unfamiliar with technology to the right lawyer, to the right expert swiftly. This allows for huge opportunities in terms of access to justice.

The third objective is ensuring that there is good pro bono coverage across the country, with more representation being offered outside of London.

Yaa Dankwa Ampadu-Sackey queried how advocates can ensure counsel are not double booked in cases, and queried how vulnerable clients can be best supported given the increase in demand for representation. Sharif Shivji KC noted that the advocate system is built to avoid any double booking of counsel: advocate support is only deployed when it is most needed.

The Bar Council were encouraged to participate in the London Legal Walk, 18 June 2024.

11. Law Reform Committee

Edite Ligere, Vice-Chair of the Law Reform Committee presented the committee report which she took as read. She highlighted the following:

- The Committee has responded to 10 consultations and calls for evidence.
- The 2023 essay competition was launched in July 2023. The essay competition closed in October 2023 and was delivered with a total of six prizes awarded to applicants. A total of 87 essays were received, a significant increase on previous years. Winners were invited to a prize-winning reception at the Law Reform Committee Chair's chambers in January 2024 with certificates handed out to the winners.
- The Annual Law Reform Lecture was delivered on 22 June 2023 and took place in-person and online with a subsequent drinks reception.

Planned activity for the next quarter

- The Committee will continue to respond to Government, Law Commission and other consultations and calls for evidence as they arise.
- The Committee is exploring funding options for the 2024 Law Reform Essay Competition.

- The Committee is planning the 2024 Annual Law Reform Lecture
- The Committee will be continuing to develop and consolidate constructive relationships with Specialist Bar Associations.

12. Equality Diversity and Social Mobility Committee

This report will be taken at the next Bar Council meeting.

13. Education and Training Committee

Jacob Hallam KC, Co-Chair of the Education and Training Committee presented the committee report which he took as read. He highlighted the following:

A Pupil Survey was launched on Tuesday 12 March. The report showed that 86% of respondents had a positive pupillage experience but more work is needed to support pupils. This is an encouraging response from such a high percentage of pupils.

14. Any Other Business

No requests to discuss any other business not covered by the agenda had been received by the Chair.

End.