



**Minutes of the Bar Council meeting
held on Saturday 5 November 2016 at BPP (Lecture Theatre)**

Present:	Chantal-Aimée Doerries QC	Chairman
	Andrew Langdon QC	Chairman Elect
	Lorinda Long	Treasurer
	Robert Buckland QC MP	Solicitor General
	Alison Saunders	Director of Public Prosecutions

Apologies for absence

Apologies for absence were received from: Robin Allen QC, Gemma de Cordova, Melissa Coutinho, Diana Deju, Courtenay Griffiths QC, Max Hardy, Susan Jacklin QC, Michael Jennings, Rupert Jones, Michael David Jones, Jenny Josephs, Christopher Kennedy QC, James Kitching, Athena Markides, Justin McClintock, Paul Mendelle QC, Bill Mousley QC, Gordon Nardell QC, Thomas Payne, Richard Posner, Giles Powell, Angharad Mary Price, Angela Rafferty QC, Laurie Rabinowitz QC, Brie Stevens-Hoare QC, Christopher Tehrani QC, Greg Williams, Jeremy Wright MP QC.

The following did not attend and did not send apologies: None.

68 further members attended.

1. Minutes of the last meeting and AGM

The Chairman wished Bar Council members good morning and said that she hoped they would enjoy the new venue. She thanked the Director of Public Prosecutions, Alison Saunders, and the Solicitor General, Robert Buckland QC MP, for attending.

The minutes of the meeting and AGM held on 17 September were approved. One correction was made to the list of those present.

2. Statement by the Chairman

The Chairman said that she wished to highlight a couple of items from her statement.

The Bar Council has issued a press release expressing concern about the attack on the judiciary following the Brexit article 50 hearing. The attack is dangerous and undermines both the judiciary and the democratic rights of the country. There has been a fair amount of coverage

on the news and radio from people expressing concerns about the attack on the judiciary and individual judges. The Chairman noted that it is one step further to comment on the personal lives of individual judges and expressed disappointment that the Lord Chancellor has not spoken on the subject to date.

The Brexit working group have now produced two papers, one on the importance of cross border judgments and the other on the Bar Council's position on access to the EU legal services market post-Brexit. These will be distributed to members shortly.

The BSB's consultation on Future Bar Training (FBT) is currently live and the Chairman said that she wished to flag the concerns of the Bar Council that the consultation does not refer to the COIC/Bar Council proposal. She and Derek Wood CBE QC, Chair of the Board of Governors of the Council of the Inns of Court Advocacy College, have requested a meeting with the Chair of the BSB, Sir Andrew Burns to discuss this matter further.

The Investigatory Powers Bill is now between the House of Lords and House of Commons and it has a third hearing on 31 October 2016. The Chairman explained that the Bar Council has now done as much as it can and she thanked Gordon Nardell QC, Peter Carter QC and the wider working group for their work.

The Chairman reported that she had recently attended a productive meeting on the subject of AGFS, between Government and the Bar Council and the Bar Council is close to bringing discussions to a close. It appears likely that the Government may consult by the end of the year. Thanks were given to Richard Wright QC and Professor Martin Chalkley for the huge amount of work they have carried out.

The Chairman reported that there was a fantastic turnout for the elections with no categories uncontested. She congratulated those who have been elected and thanked everyone who stood.

Stephen Morris QC, a former member of the Bar Council, has been appointed to the High Court.

The Chairman asked members to note the reports of those who have been appointed to external bodies under the new nominations and appointments process introduced this year. It is important that the Bar Council has a fair and transparent system for nominating barristers for positions in external bodies and each appointee is asked to report to the Bar Council on a yearly basis.

There have been a number of leavers and joiners in the last couple of months. The Chairman thanked all leavers adding Harriet Brown to the list in her statement and she welcomed 'joiners' Francis Fitzgibbon QC, Angela Rafferty QC and Janet Bignell QC to the Bar Council.

The Bar Council has secured a continued £250k subvention from the Inns of Court going forward. In return the Bar Council will badge two areas of activity. Although the Bar Council will continue to carry out the work in these two areas and to take ownership, it is happy to recognise the contribution made by the Inns. It should also be acknowledged that COIC are giving each circuit £3k to assist with the costs of vulnerable witness training.

Returning to the subject of the press attack on the judiciary, Tim Devlin asked the Chairman if she had heard whether the Lord Chancellor is planning to say anything. The Chairman replied that she had not and referred the question to the Solicitor General.

The Solicitor General was clear that no one in Government supports or condones attacks on judges. Some of the coverage has been disappointing and there is no question that those in Government are bound to uphold the rule of law. The Government is disappointed by the decision but this does not mean that it will interfere or tamper with independence. Furthermore, no ministers would condone personal attacks.

Louisa Nye thanked the Solicitor General for his 'encouraging and important' words, however, she queried why this message has not been said more publically. The impression given to the public is that it does not matter. In reply, the Solicitor General said that he understood her point but explained that the Government is best advised to avoid involving itself in a running commentary on press stories.

Francis Fitzgibbon QC made the point that the Lord Chancellor took an oath to uphold the rule of law. He argued that there is a heavy burden on her to speak in public. The Solicitor General replied that the Lord Chancellor is aware of her duties and said that her remarks on taking her oath are a statement of this. He assured Bar Council members that he would relay the comments to her.

Gerard McDermott QC spoke of the duty on barristers to 'speak out'. The press attacks clearly undermine the law and frustrate democracy. Criticising Sajid Javid for expressing the opinion that the judges were trying to 'thwart the will of the people', he also described the Daily Mail's headline on Friday as 'outrageous'. The Solicitor General thanked Gerard McDermott QC for his words but explained that he had read the transcript of Sajid Javid MP's interview and it is clear that he was talking about applicants. He also urged Bar Council members to place any credence on 'tittle tattle' spread by the journalist Sam Coates. For those with doubts, the Attorney General had to be present at the hearing because he occupies a high policy position. His absence from deliberations would have been strange – he was fulfilling his constitutional role.

Andrew O'Byrne asked the Solicitor General whether a response from Government can be expected. The Solicitor General was clear that he had heard what was being said and that Bar Council members could take his words as the views of Government.

Saying that the House of Lords made previously an enquiry on whether or not the Lord Chancellor should be required to be a lawyer, he asked the Chairman if the Bar Council could consider writing to the House of Lords inviting them to revisit this debate. The Chairman agreed to this.

A Bar Council member described the comments made in the media concerning the sexuality of the Master of the Rolls as an 'outrageous disgrace'. She said that she could not impress how much something needs to be said publically by the Lord Chancellor. The Solicitor General replied that he agreed entirely with her description saying that the phrase he would use is 'beneath contempt'.

Richard Atkins QC made the point that fewer than five weeks ago the Lord Chancellor stood in the Great Hall at Westminster Cathedral and said she was going to do all she could to uphold the rule of law and to maintain the independence of the judiciary. He asked the Solicitor General to remind her of this.

Philip Marshall QC reported that the Family Law Bar Association, for which he is Chair, have taken steps to condemn the attacks. He said that he was not happy to be told that the Government will not respond to 'tittle tattle'. It is 'inexplicable and incomprehensible' that the Lord Chancellor has chosen not to state her objection. He noted that she will have to say something at some point and suggested that if she does not, the Bar Council pass a resolution regretting her breaching of her oath. It is the public that needs to hear this, not the lawyers who already know it is unacceptable.

The Chairman added that the attacks have not just been from the 'popular press', headlines in the Telegraph could be construed as inviting an aggressive review of the judges. Given this, it is even more important that the Lord Chancellor speaks out.

Amanda Pinto QC spoke of the 'phenomenal reputation' of the British legal system. For the Government not to speak out about the independence of the judiciary – the most important selling point – is a backwards step.

Another Bar Council member said that unless the Lord Chancellor speaks out now, the attacks will get worse. Already judges in the Supreme Court have been attacked and she told the Solicitor General that it is not good enough to say 'we agree with you' and not make a public statement.

Andrew Langdon QC summarised the discussion saying the Lord Chancellor needs to say something robust very soon. She needs a sense of the meeting and if she chooses not to say something, we want to know why.

The Chairman asked members if they wished to pass an immediate resolution inviting the Lord Chancellor to respond. The Bar Council members were in unanimous agreement that an immediate resolution should be passed and the Chairman agree to produce a draft form of words and report back later in the meeting.

3. Treasurer's report

The Treasurer, Lorinda Long, began her update by drawing members' attention to the PCF consultation to be launched next week. She said that she would give her presentation about the PCF in 2017/18 and then summarise the financial plans for 2017/18.

Prior to the meeting, members were all sent a copy of a paper outlining the pensions deficit and the proposal to fund this via an increase in the pensions contribution. Lorinda Long explained that the Bar Council is able to fund its normal operations in 2017/18 through the existing PCF however there is a need to increase fees to address the legacy defined benefits scheme that closed in 2013. If this is not achieved, the deficit will persist. A 12% increase is sought but she emphasised that this will be solely for the pensions deficit.

The aim is to collect an additional £1.3M per annum from the increase to pay off the deficit by 2021. Over time, there may be an opportunity to buy-out the scheme liabilities entirely but only when the value of the fund meets the falling costs of a buy-out. This could take more than ten years and Lorinda Long said that she would report back to the Bar Council on a regular basis.

The Bar Council expects to report a net deficit in the organisation's financial accounts at March 2017 due to the pension scheme deficit. August's BOE base rate reduction has increase the current value of pension liabilities by c£10M. This increase would offset the general reserves of £3.5 leading to an overall net deficit. Given the current uncertainties in the financial market, advice has been sought from the auditors to ensure that the Bar Council is able to satisfy concerns.

The fund will be audited and reported as part of the audited annual accounts and PCF collections will be received in March 2017 with the payment out to the scheme made in April 2017.

Richard Hoyle said that he understood that the pensions deficit would be the subject of intense discussions but enquired about how the period of 2021 had been arrived at. He asked if the period could be longer. Lorinda Long replied that the timeframe is dependent on an agreement with the pension Trustees. A longer period was explored but it was decided that it would not adequately deal with the situation. Andrew Walker QC said that 2021 is a longer period that the Trustees would have liked.

Lorinda Long continued by saying that the current situation is out of the control of the Bar Council control due to the way that the financial markets have been working and she cited Brexit and the American elections as examples of issues affecting the markets. The Chairman informed members that there is a possibility that things might improve in line with the markets. If so, future Bar Councils may take a different view. However, it is important that Bar Council members are aware that this may not be the case.

Richard Hoyle further asked whether the Bar Council are confident that the fund managers are doing a good job. To this, Stephen Crowne, Chief Executive, explained that the pension fund is the responsibility of the Trustees. In terms of the Bar Council's own fund, the Bar Council is building a reserve to reduce the deficit. There is a genuine prospect that this may be reduced if the financial markets improve.

Richard Hoyle noted that the PR exercise around the PCF rise will need to take a delicate approach given that the PCF is compulsory. Barristers may decide not to pay and he said that he hoped there is a plan in place for the best possible 'buy-in'. Lorinda Long reassured Bar Council members that the Bar Council have been working on putting plans together.

Another member asked if the 12% is to be applied at all levels. Lorinda Long confirmed that it will be.

Rachel Spearing talked about 'good governance' and requested assistance for those who are in positions where they will need to explain the reasons for others. For example, those feeding

back information to the wider circuit. She asked whether the pensions regulator is aware. Lorinda Long confirmed that the regulator can, and may, step in if an agreement is not reached with the Trustees to which Rachel Spearing asked whether the pensions regulator has the power to take action that the Bar Council cannot control. Lorinda Long replied in the affirmative.

A Bar Council member said that he finds the problem troubling and wondered whether or not the problem would have arisen if more frequent valuations had been taken. Lorinda Long replied that there is nothing to gain from an annual valuation. Indeed, had a valuation been taken in September this year, the Bar Council would be in a worse position. There is now a three year plan to take us to 2021.

The Chairman drew to the attention of Bar Council members paragraphs 3.5 and 3.6 of the proposal paper. The Aviva annual valuations reflected a surplus but a valuation in September would have shown a deficit. This demonstrates how quickly the problem has arisen.

Amanda Pinto QC raised concerns about adding to the cost for other reasons, for example, the costs of the regulator. She reminded members of the need to be aware of the stringent circumstances barristers are currently in. To this, Lorinda Long replied that the intention is to keep the PCF at the current level for all other costs.

Sir Andrew Burns reported that the BSB and its Board have been very much involved and the Board is comprised of a number of barristers. Given the importance of this issue, the BSB has made a commitment to keep its costs at the same level.

The Chairman explained that the Bar Council and BSB have reached an agreement whereby the BSB will share any losses in an equal proportion should we under collect on PCF.

Richard Atkins QC praised Lorinda Long and David Botha for producing an excellent paper. However, he acknowledged that it is unlikely that the vast majority of barristers will not read it when it is published. He asked that consideration is given to trying to condense the reasons for the increase and the possible 'knock on' effects into a single page paper that Circuit Leaders can use to explain the issue to circuiters.

Andrew Morgan enquired about whether any consultations have taken place with those at the employed Bar. At a time when budget in government departments are severely restricted, 12% appears to be a lot of money. The Chairman replied that no consultations have taken place with the employed Bar to date, however, the Bar Council is aware of the issue and further discussions are planned.

Tim Devlin recounted a conversation that he had recently had with a 69 year old barrister who cannot afford to retire as he does not have a pension. The barrister therefore wishes to continue in practice for as long as he is able to pay the PCF. He asked that consideration is given to the impact of telling barristers that they will be increasing the PCF payment by 12% to pay for the pensions of others and warned that the message will not be well received. Many older barristers who have not made pension provisions will resent it.

The Chairman thanked Tim Devlin for his contribution saying he had a good point and John Elvidge QC enquired whether there is any merit in considering barristers in those circumstances not paying. Stephen Crowne suggested that a question reflecting this issue could be put in the consultation paper.

The Chairman asked members to approve the proposal on the basis that the Bar Council will give further consideration to this issue and whether or not such an option is viable. If it proves viable then the Bar Council will report back. If not it will proceed as proposed.

ALQC urged members to look carefully at the figures. For those earning under £60k per year, the increase amounts to £13. He made it clear that he does not consider that 12% is not a lot but asked members to reflect on this saying that we are in a different place from where we were a few years ago.

The Chairman said that she understood that the Bar Council members had approved the proposal on the understanding that the viability of some barristers not paying is at the discretion of the officers.

Lorinda Long then talked briefly about the 2017/18 budget plans. The operating plans assume no additional PCF fee increase and so expenditure plans are in line with 2016/17 levels. Expenditure plans are £0.3M smaller than 2016/17 budget and up £0.1M against 2016/17 forecast. Direct costs and overheads are both lower than 2016/17's budget. These plans enable the Bar Council and BSB to deliver their strategies and allow for essential investment plans to continue.

The BSB spend plans are level on the 2016/17 budget and will allow the BSB to maintain a "satisfactory" outcome against LSB Regulatory Standards Framework. While the Bar Council spend plans are lower than 2016/17 budget levels, the strategic objectives are not compromised. The Bar Council has current investment plans to replace the core database and functional applications will continue so that we can deliver savings from 2018.

In summary, the PCF proposal and budget plans allow prudent funding to meet the essential needs of the DB scheme and sufficient funding to allow a tight operating budget for 2017/18. Shortfalls in income will have to be met with cost reductions as we have no capacity to absorb funding reductions and large unplanned cost increases would likely require changes to current spend plans. However, the plans generate cash to facilitate investment in infrastructure and into a new office facility for 2019 though the Bar Council may have to consider putting a temporary and short term overdraft facility in place for 2017 and 2018 to provide operational flexibility and to protect long term investments.

The Chairman thanked Lorinda Long for all her hard work acknowledging the often unsung role of the Treasurer which, unlike the Chairman and Vice-Chairman, is an unpaid post. She also gave thanks to Stephen Crowne and David Botha.

Returning to the resolution that Bar Council members agreed to pass earlier in the meeting, the Chairman read out her draft wording:

The Bar Council of England and Wales condemns the serious and unjustified attacks on the judiciary arising out of the Article 50 litigation. It regrets the lack of public statement by the Lord Chancellor condemning these attacks and calls upon the Lord Chancellor to do so as a matter of urgency. A strong independent judiciary is essential to a functioning democracy and to upholding the rule of law.

The Bar Council members gave unanimous approval to the passing of the resolution as drafted by the Chairman.

4. BSB report

Sir Andrew Burns, Chair of the BSB, presented the BSB report. Also present from the BSB were Vanessa Davies, Director General, and Naomi Ellenbogen QC, Vice-Chair.

Sir Andrew Burns said that he wished to begin by expressing full support for the resolution that had just been passed. He noted that the press attacks on the judiciary is an important topic that the BSB also feels strongly about.

CPD and Future Bar Training (FBT)

The BSB is currently meeting barristers up and down the country to talk about the new CPD scheme and plans for FBT. Sir Andrew Burns reported that he and Vanessa Davies have enjoyed meeting people and are grateful to the Circuit Leaders for organising such well-attended events. The BSB has faced close questioning as expected but the audiences have come away with a better understanding of the topics. However, there remains a need to finalise the CPD guidance and the BSB is taking on board all comments in relation to this. On the whole, there appears to be a general welcome for a more autonomous system that requires less close supervision.

The plans for the FBT are about flexibility and affordability. Currently the preferred option is the 'managed pathways' approach which has been deliberately designed to be as inclusive as possible. Sir Andrew Burns said that he has been perplexed by some perceptions that the BSB is trying to exclude options from its consultation paper. The paper is illustrative and the COIC/Bar Council model has been looked at. A meeting is planned with the Bar Council's Education and Training Committee next week and then a further meeting with Bar Council representatives is scheduled for 21 November. Sir Andrew Burns sought to reassure members that the mind of the BSB is not closed on this matter. The results will be analysed in the New Year after which the BSB will decide how to proceed.

The Professional statement

The BSB have published a revised version of the professional statement which now includes the threshold standard and competences. The threshold standard is the standard to which competences should be met. Sir Andrew Burns said that he believes that the professional statement is an important part of the BSB reforms.

Annual Bar Conference

Sir Andrew Burns reported that the BSB had enjoyed taking part in the Conference. The BSB participated in a Bar Council Ethics panel on new ways of working and led a session on Alternative Business Structures (ABS). Both models went well but it would be fair to say that many barristers do not understand what an ABS model might offer. Sire Andrew Burns explained that the ABS model is a flexible model that offers the possibility of a 'one stop shop' and plays a role in meeting the need of consumers of legal services.

Report of the Independent Observer

The BSB has recently published a report by the Independent Observer, Isobel Leaviss. The BSB are pleased to report that the Independent Observer finds that the BSB is thorough and fair in its complaints handling practices. However, the BSB recognises that there is always room for improvement.

On the subject of the press attacks, Ruth Hughes made the point that the coverage surrounding the sexuality of the judges involved in the hearing is unacceptable. Turning her attention to FBT, she said that she understands that the preferred solution is managed pathways but she is worried about students from low socio economic groups finding it difficult to understand the system. Concerned that the BSB does not understand its constituents, she asked Sir Andrew Burns whether he has read the 'Baby Barrister blog' as he promised to do at the start of the year.

Sir Andrew Burns admitted that he had not yet read the blog and promised that he would do so. He noted that the way that the BSB explains and presents FBT is critical but explained that currently the BSB is trying to complete a study that takes into account all needs, makes sure that standards are right, and, ensures that proposals are London-centric. The idea is to devise a structure that will meet the broader aims. No one particular proposition is certain. The field is competitive – there are plenty of providers and the BSB is alert to the need to manage this.

Naomi Ellenbogen QC noted that diversity issues and the positives and negatives of the current educational system need to be borne in mind. She reported that the responses received so far from students have been positive.

Picking up on the point made by Ruth Hughes about social mobility, Lorinda Long said that student find it hard enough to understand the current system. A managed pathways approach will be even harder to understand and there is a danger that students from a non-typical background may choose a simpler legal path, for example, the path to becoming a solicitor. She asked that consideration is given to this point as there is a difficulty in attracting students to the Bar. On the point about being London-centric, she noted that there is no mention of online learning in the BSB consultation paper and made the point that the BSB

should be recognising online learning more as it is becoming increasingly common. She finished by requesting a Young Bar meeting with the BSB so that those barristers on the Young Barristers' Committee who have recently completed the BPTC have the opportunity to give a useful prospective to the BSB.

Sir Andrew Burns made the comment that pupillages are 'like work experience' which was not well received by the audience. Guy Fetherstonhaugh QC challenged the perplexion that Sir Andrew Burns had referred to early saying that last year there was a consultation paper that shaped the current consultation paper and the Bar Council were clear that there should be a two stage system. The first stage would be carried out online and focus on evidence and procedure and then, if the students passed the first stage, the second stage would be classroom-based and focus on ethics and advocacy. This two stage proposal was put to the BSB with the support of the BSB and the BSB understood this. In the current consultation paper, attention has been paid to the Chancery Bar Association's model but there is no mention of the Bar Council model. Because of this, the Bar Council has no idea what the BSB think of its model and are of the opinion that because it is not put forward as an option, the BSB does not wish to hear what the profession thinks of it.

Vanessa Davies reiterated that the Bar Council's Education and Training Committee are meeting with the BSB this week to discuss this issue. None of the options are badged as being owner by anyone as that would be unhelpful at this stage. The BSB note that there was an option supported by the Chancery Bar Association but it does not badge it. The point of the consultation is to allow those involved to come up with an option.

Richard Hoyle said that he has concerns about the methodology. While it is not helpful to be too London-centric, most of the providers are based in London yet there is only one feedback session being held in London and he suggested that more London sessions are scheduled. He also made the suggestion that consideration be given to the weighting apportioned to respondents as some should carry more weight than others and this is not something that the BSB appears to have acknowledged. Such errors in the methodology could lead to trouble for the BSB.

Richard Gibbs said that he was staggered by the reference made by Sir Andrew Burns regarding pupillage as 'work experience'. He made the point that it is difficult to have faith in the regulator when such fundamental aspects are misunderstood. Expressing dismay at the errors made in the methodology, he said that he was further disappointed that Sir Andrew Burns had said something so fundamentally incorrect.

Sir Andrew Burns apologised for his mistake and promised to both talk to his colleagues and read the blog with a view to becoming better informed. However, he urged members not to condemn the process because of his mistake.

5. Chief Executive's report

Stephen Crowne drew to the attention of the Bar Council three governance issues, the first of which is outlined in Annex 5a. At the previous Bar Council meeting, members agreed in

principle to greater flexibility for the Chairman to take decisions on casual vacancies but requested that the executive revise the wording. The wording has now been revised and is set out in paragraph 2.5 of Annex 5a. It has been agreed by the GMC subject to Bar Council approval.

The Bar Council members approved the revised wording and subsequent change to the Bar Council Constitution.

The second governance issue, set out in Annex 5b, asks members to agree to an increased membership of members of the Commercial Bar Association by one. At the previous Bar Council meeting, members agreed that the ComBar Chair should become an ex-officio member of the Bar Council but referred the issue about the number of ComBar representatives on Bar Council back to the executive. Further analysis has been carried out and GMC are in agreement that the membership of ComBar is comparable with the membership of the other SBAs who have two representatives on Bar Council.

The Bar Council members approved the proposal to increase Bar Council membership of ComBar by one.

Annex 5c sets out further revisions to the Standing Orders. It was previously agreed that there should be separate Standing Orders for the joint Bar Council and BSB committees, namely the Emoluments, Audit, Finance and Chairmen's Committee. Since then the Chairmen's Committee has reviewed the appointments processes to ensure that the BSB processes mirror their own Standing Orders and that the Bar Council processes mirror these. The revisions seek to ensure that all appointments to joint committees are consistent with the Nolan principles and that, where appointments are linked, they are made jointly by the Chairman of the Bar and Chair of the BSB.

The Bar Council members agreed the further revisions to the Standing Orders for Joint Committees.

Stephen Crowne finished his report by thanking BPP and, in particular James Juggalah, for allowing the Bar Council free use of the venue.

6. Pro Bono Unit

The Chairman introduced Jess Campbell, Chief Executive of the Bar Pro Bono Unit, to the members.

Jess Campbell said good morning to the members and began her report by talking about funding. The Bar Pro Bono Unit receives a significant amount of funding from the Inns for which it is very grateful. This year is the first year that over 50% of the Bar has donated and this is very encouraging as over £240k has been contributed. This is the means by which the Bar Pro Bono Unit funds its work and it is analysing who has contributed to know where there is potential for greater funding.

Jess Campbell gave particular thanks to ComBar and the Employment Lawyers Association both of which support the Unit financially. In addition, over 150 individual donors give to the Unit, the Access to Justice Foundation provide a grant for travel to Chambers and front line agencies outside London, and, the Legal Education Foundation's Justice First Fellowship is currently funding two members of staff who will undertake family pupillages in 2017.

In terms of staff fundraising efforts, Jess Campbell mentioned that she had recently completed a 400 mile country wide cycle ride to thank barristers and agencies who have worked with the Bar Pro Bono Unit over the past 20 years. Other members of staff have run marathons and 10ks to raise funds.

£10k is received from the Bar Council which is used to fund Bar in the Community which in 2016 launched a scheme whereby barristers mentor advice givers. The Unit has updated its IT infrastructure so that it is more up-to-date and accessible for barristers who are applying for the scheme.

From a budgetary perspective, the Unit is facing a deficit this year but this will be cleared in April when the Authorisation to Practice £30k funding is received.

The Unit now has a pro bono management consultant and a recent restructure has culminated in task-based workers who are split between three teams. A new number and email addresses have been introduced (caseworker@barprobono.org.uk, 0207 092 3971). The Unit hopes that the changes will provide a continuous, more dedicated service that will, in time, also provide administrative support. Caseworkers are experiencing increased teamwork allowing them to better celebrate success.

A dedicated IT Manager is now focussing on introducing better hardware and rebuilding the database. A new online application for applicants to use will be piloted in December and a new casework management system is to be launched in March.

The Fundraising Department has been restructured to include a new Head of Fundraising and Events and another assistant post. Gift aid recovery is being launched as a project and Jess Campbell asked members to make others aware of this. The Unit is aiming to report back more.

This year the Unit has 3703 active volunteers which is an increase of 219 since last year. In addition, the Unit have experienced a 6% increase on new applications since last year, most of which are, predictably, in the family area of law but there are also more cases in employment, property and immigration. This represents a significant increase since 2015.

Jess Campbell also reported a decrease in the South Eastern Circuit and London area though the statistical gateway is not yet comprehensive. The Unit continues to receive the majority of its referrals from the Citizen's Advice and MPS offices.

A slight increase in litigants in persons has been recorded by the Unit and when the new online application form is in place the Unit will no longer require someone to sign a referral, instead, direct referrals will be accepted.

Up to October this year the Unit has placed 731 pieces of work. The total in 2015 was over 900 pieces of work and so the Unit is on track to meet or beat this. Reasons why cases have not been taken on include 11% of cases being referred at too short notice. This highlights the need for process improvements. The development of a 'permissions to appeal' scheme is going well and the Central London Family Court has partnered with the Family Law Bar Association and chambers around London.

Looking to the future, the Unit have made changes that will allow it to shift the emphasis from applicants to volunteers. The Unit is aiming to engage more with the SBAs to explore what more can be done.

The National Pro Bono week next week will highlight the work of all pro bono agencies. The Unit continues to collaborate with other organisations through the Litigants in Person Support Strategy. The Unit is exploring ways to promote early engagement with the Bar to encourage more pro bono. This will involve getting the Inns, SBAs and Circuit Leaders involved so that they can feed back awareness to their constituencies but also what might prevent local Counsel from engaging with pro bono.

Jess Campbell finished by reporting that the National Pro Bono Centre lease expires in 2020 and the Unit is looking for the right building to house more pro bono organisations.

Philip Marshall QC said that he commends and applauds the schemes. He suggested that members of the Bar may be prepared to act with increased administrative support and noted that some of the schemes referred to sometime have barristers on standby who are not signed up. He wondered if this was something that the Unit could take forward.

Jess Campbell explained that Pro Bono Connect currently focusses on the commercial side of things but said that she saw no reason why the Unit could not look at extending it to family cases. Support is provided and is available through CILEx. The Unit is currently overwhelmed but it does want to engage more on this topic.

Louisa Nye thanked Jess Campbell for the focus that the Unit has put on the Young Bar and for welcoming one of the members of the Young Bar onto the Pro Bono Unit Board. It is very much appreciated.

7. Court Reform and Judicial Independence

The Chairman presented her court reform update note attached as Annex 6. She said that she wished to present a three-fold report focussing on:

- 1) The sense of scale;
- 2) How this is being coordinated; and
- 3) Concerns about transparency in terms of seeking to engage with members and appointing members to groups.

Asking members to read the update note, the Chairman reported that a meeting was held recently and a working group, chaired by Andrew Langdon QC, will be set up as a result. The aim is to pull in all SBAs, Circuit Leaders and the Young Bar to ensure a coordinated approach across the board. The Bar Council needs to be aware of developments and of individual concerns when they arise.

8. Ethics Committee

Andrew Walker QC, Chair of the Ethics Committee, presented the Ethics Committee report, attached as Annex 7. He explained that the Bar Council has a responsibility for ethics work. Examples of this are the ethical enquiries service and members answering enquiries, and the provision of documentation for Bar members. On average the ethical enquiries helpline receives 500 calls and 60 emails per month. The numbers are encouraging as they demonstrate that members of the Bar are interested in using the service and that those administering the service are 'getting it right'. He thanked the Bar Council staff for their work saying that the amount of staff answering calls has been extended so that all the Policy Team are now trained to take enquiries. It is hoped that the increase in staff has led to an improved service but Andrew Walker QC encouraged members to let him know if they do not find the service helpful.

The Ethics Committee are also focussing on new areas of work and new ways of practice and information about this can be found in the second page of the report. Andrew Walker QC said that he would be happy to talk to any members of the Bar about additional documents that the Ethics Committee should consider producing.

This year the Ethics Committee have been working hard on communications with the Bar. For example, a special ethics issue of BarTalk was published and members are currently working on the production of an article for The Barrister on a piece of Ethics Committee work. The Ethics Committee are keen to do more work of this nature.

The anti-money laundering guidance published recently will have an additional element. The updated guidance document was published in January 2016 as the first stage of a two stage document. The second stage will involve including additional practical guidance and scenarios.

Further issues and areas of activity are listed in paragraph 3.7 of the report and include Government and HMRC activity which may have an impact on barristers' professional duties and/or on legal professional privilege and BSB proposals in relation to modes of practice.

Talking about increased communication with the Inns, Andrew Walker QC reported that the Bar Council recently learnt of the ethics report produced by the Inns of Court Advocacy College and expressed disappointment that the Ethics Committee were not made aware of this in advance. He said that he hoped that increased communication with will lead to more effective coordination of ethics work.

Andrew Walker QC recorded thanks to Ellie Cumbo, Head of Policy: Legal Affairs, Practice and Ethics and Ethics Committee Executive, and to the Vice-Chairs.

Amanda Pinto QC said that she wished to emphasise that the Ethics Committee produces fantastic papers that are very difficult to find on the Bar Council website. She is convinced that calls to the ethical enquiries line would be reduced if the papers were more accessible and asked whether this can be taken forward. Stephen Crowne explained that there is a process in place for looking at the key areas to improve on the website. While he cannot promise a major overhaul of the site, the Communications Team are looking closely at what can be done to improve access.

Turning to the topic of the recent Bar Conference, the Chairman thanked Louisa Nye, Gerard McDermott QC, Lois Clark and Petra Majzlikova for all their efforts in organising it. Just under 600 delegates attended. To this, Gerard McDermott QC added that the staff were 'magnificent' in dealing with all the administrative work.

9. Legal Services Committee

Derek Sweeting QC, Chair of the Legal Services Committee, presented the Legal Services Committee report, attached as Annex 8. Pointing out the amount of consultations responded to and guidance documents produced, he said that the work of the Legal Services Committee 'speaks for itself'.

Work this year has been largely dominated by the Briggs Review, online courts and court reform. It is clear that this will require future work for other committees and while the Legal Services Committee will continue to take the lead, it is conscious of the need to engage more in a way that will not co-opt the Legal Services Committee into endorsing each and every reform. Taking a lead role in such topical issues means that the Legal Services Committee sometimes finds itself neutered in making criticisms.

Drawing the attention of members to the report, Derek Sweeting QC noted that the paragraphs on McKenzie Friends and Solicitors' Agents are indicative of the position in which the Bar finds with regards to funding. However, there are positive developments in both areas. A recent judicial paper on McKenzie Friends is 'a bonus' as it sets its case against paid McKenzie Friends. The Bar Council have commissioned Leanne Smith of Cardiff University to research the experiences of those who have used McKenzie Friends and paid McKenzie Friends themselves. This research, due to be published in January, will be written from an independent standpoint and for the first time, proper evidence about McKenzie Friends will be available.

Solicitors' Agents are another topic discussed previously by the Bar Council. Since the last report of the Legal Services Committee, the *McShane v Lincoln* judgement, which answers all the points in the favour of the Bar Council, has led to the updating of evidence. Presently, the Legal Services Committee is seeking to get the guidance published as a case report in itself – it is a helpful direction of travel.

Derek Sweeting QC reported that he will be visiting HMCTS next week with a view to discovering what is being planned for the professional engagement groups. He will report back in due course.

Referring to the issues surrounding McKenzie Friends, a member of the Bar Council suggested exploring the options for an online service looking at representation. Derek Sweeting QC answered that the Legal Services Committee might want to propose that within the new online court system there is something that can be 'clicked on' to engage a member of the Bar. However, we are not currently in a position to set up our own system and a more sophisticated system is required. It is a bit of a concern that the direct access portal does not come up at the top of a web search for cheap representation.

The Chairman reported that she has recently been put in touch with a French lawyer who has experience of building such functionality successfully.

Duncan McCombe said that this point was raised in a meeting with Lord Justice Briggs who wasn't against the idea. It appears that it is already in the mind of those responsible to developing the new online court that any system would direct people to barristers. Derek Sweeting QC said that he has already talked to Lord Justice Briggs. The issue, however, is where the button to click on would be placed. It needs to be effective and to be able to compete with those with more sophisticated systems.

The Chairman brought the discussion to a close thanking Derek Sweeting QC and 'one of the busiest committees this year' for all their work.

10. Young Barristers' Committee

The Chairman introduced Louisa Nye, Chairman of the Young Barristers' Committee, to present the Young Barristers' Committee report, attached as Annex 9. Thanking Louisa Nye, in attendance at her last meeting as Chairman of the Young Bar, for all her hard work, the Chairman said that it has been fantastic working with such an incredibly busy and productive chair.

Louisa Nye thanked the Chairman for her kind words. She acknowledged that it has been a busy year and said that she wanted to do credit to the work of the Young Barristers' Committee who have had a very wide agenda to deal with. The amount of work being carried out is astonishing and has included the continuing development of the Young Bar Hub, Young Bar Toolkit, the change in definition of 'Young Barrister' to seven years' post qualification and more engagement work. Indeed there have been a number of highlights and no lowlights!

The definition of a 'young barrister' was changed in a unanimous Bar Council meeting in April – as noted in paragraph 2.4 of the Report.

A series of meetings have been held with senior judiciary and others, which are set out in paragraph 2.1 of the report. The Young Bar is looking forward to meeting with the Solicitor General and Attorney General.

In relation to policy work, the Young Barristers' Committee has put out a magistrates' court fees survey to determine what fees are being paid, and to discover the causes of

non-payment. This was sent out to recipients on 1 November and 137 responses have been received to date.

The Young Bar have been very involved in the response to the Briggs Review and subsequent developments. The Young Barristers' Committee has also been working closely with the Education and Training Committee on third sixes, more specifically the treatment of barristers doing third sixes, with a view to producing guidance and ensuring that they are properly looked after.

A huge amount of international work is being carried out by the Young Barristers' Committee and Louisa Nye thanked members of the International Policy Team, Christian Wisskirchen and Jessica Crofts-Lawrence, noting that the Young Bar has travelled 'all over the place'. She described working with barristers across the world as 'fantastic' and noted that they share similar frustrations and concerns.

Talking about the fixed fees survey, Louisa Nye said that anyone who carries out work to the value of under £250k is being encouraged to fill in the survey. There is a need for information to be collated so that a full evidenced based response can be made to any consultation in due course. Members were urged to fill in the survey.

Louisa Nye reported that members of the Young Barristers' Committee have been involved in the Wellbeing programme throughout. She noted that she was very pleased to see their efforts come to fruition in the Wellbeing Portal. A seminar in Birmingham is imminent.

In terms of events more widely, there have been a number of seminars held this year based on the Young Bar Toolkit and featuring a variety of excellent speakers each of whom are named in the report. Louisa Nye said that she is very grateful to all of them.

The Young Bar Half-Day Workshop entitled 'The Specialist Advocate' at which Andrew Langdon QC spoke and Lady Justice Black delivered a keynote speech, was held earlier in the year during June. It focussed on the skills required to be a good advocate and included ethics sessions for criminal, civil, family and the employed bar.

The Annual Bar Conference and Young Bar Conference was a huge success. Caroline Wilson delivered a great speech and thanks very given to all those who ran sessions. The Young Barristers' Committee greatly appreciated the assistance. Louisa Nye recorded particular thanks to the Chairman of the Bar, Frances Judd QC and Angela Rafferty QC for making up such a sophisticated panel and gave personal thanks to the Conference lead, Gerard McDermott QC.

From a media and press perspective, the Young Barristers' Committee has produced a number of articles including the 'day in the life of' series of blogs illustrating what it means to be a young barrister today. The Hub continues to develop and the blog is progressing well. The twitter feed has almost doubled the number of followers in the last year and now attracts 1500+.

Louisa Nye thanked Onyeka Onyekwelu, Policy Analyst and Young Barristers' Committee Executive, for her 'amazing support', saying that she has been 'fantastic to work with'. Considering that Onyeka Onyekwelu only started in her post at the beginning of 2016, she has been instrumental in delivering the programme of work.

Duncan McCombe will be taking over the role of Young Bar Chair from January 2017 with Richard Hoyle becoming Vice Chair. Acknowledging that both have 'great plans', Louisa Nye said that she is confident that they will do 'amazingly well'. Also thanked by Louisa Nye were Thea Wilson, Ruth Hughes and James Juggapah all of whom have made significant contributions and are now no longer classed as 'Young Barristers'.

In the immediate future, a Young Bar edition of BarTalk will be released on 15 November and the Young Bar Toolkit seminar, due to take place in Birmingham, will be free to all BRF payers. Finally, the Young Bar Annual Dinner, is scheduled for 19 November. This is a good opportunity to celebrate success and Louisa Nye encouraged all Young Bar Bar Council members or 'young at heart' Bar Council members to attend. She expressed gratitude to the Family Law Bar Association for providing ten tickets to members free of charge and to the Western Circuit for providing travel expenses for five members. She encouraged the other circuits to give consideration to doing the same.

Louisa Nye concluded by recording her personal thanks to members of the Bar Council, SBA heads, Circuit Leaders and Bar Council staff. She said that it has been a 'true privilege' to work with all of them and thanked the Chairman and Andrew Langdon QC in particular for their support.

11. Any other business

Andrew Langdon QC addressed the Bar Council members regarding the leadership of the Chairman during 2016.

He began by quoting four words - excellence, leadership, advocacy and challenge. Words that the Chairman herself head from an aspiring barrister and words which apply so well to her Chairmanship.

Saying that those people who have worked with the Chairman will have been struck by her style, incisiveness and patience, he noted that it is extraordinary how much she has achieved in the last year. Where there has been an unnerving sense of dangers lurking and rocks beneath the surface, the Chairman has guided her ship calmly through dangerous waters. She is a professional marksman when she needs to be. For example, when the LSB produced its 'vision' paper and said that it was troubled by its statutory objective to encourage an independent and diverse profession because it noted other regulators didn't seem to have the same obligation, we were all vexed by this and wondered how to respond. We were delighted therefore that this did not phase our Chairman who made a retaliation speech less than 48 hours later. Quoting the Chairman who had said, 'It is, to my mind, evidence of the challenges that legal professionals face in the 21st century that the regulation of their profession is

compared to the task of sewage regulation,' he described her speech as 'magnificent', 'spot on' and noted that the LSB appeared 'a little rueful'.

Andrew Langdon QC continued by saying that in performing the role of Vice Chairman, he has essentially enjoyed a second pupillage during which he has learnt to listen to the issues. In front of the Commons Justice Committee, the Chairman remained as 'cool as a cucumber'.

Brexit has happened on the Chairman's watch and she has steered a path to follow. In the last 48 hours, the independence of the judiciary has been in the minds of all those at the Bar. The Chairman took this on without hesitation, expressing true concerns about the role the senior judiciary are taking in transforming our courts set up.

Andrew Langdon QC commended the Chairman for the way in which she has dealt with the pensions problem and her adeptness in negotiating the 'small matter' of £250k from the Inns. She is a leader. She demonstrates excellence, independence and advocacy, rising to the challenge. He finished by saying that he spoke for all in wishing to thank her.

The Chairman thanked Andrew Langdon QC and all members for a fantastic year. She noted that despite the challenges, it has always been fun describing her chairmanship as 'one of the most worthwhile things that one can do'. She recorded thanks to the Circuit Leaders at the last meeting for four of them, saying that her work would not have been possible without them. Obviously the majority of the Circuit Leaders come from outside London and make a huge commitment to the Bar Council. She concluded by wishing the best of luck to the incoming Chairman, Andrew Langdon QC, and assuring Bar Council members that they are 'in safe hands'.

Addressing the Chairman, Stephen Crowne said that he did not wish to repeat what had already been covered but said that, by measure, the Chairman has had an excellent year. On behalf of the staff, he said that the Chairman has been a pleasure to work with, calm but actively engaging. He also recorded personal thanks to the Chairman. In return, the Chairman brought the meeting to a close thanking all the Bar Council staff.