



Representing the Bar

Annual Report 2012/13



The Bar Council
Integrity. Excellence. Justice.





Introduction from the Chairman of the Bar

This is the Bar Council's second annual report on representation. It is accompanied by the organisation's Financial Statements 2012/13. The report provides details of the activities which the Bar Council has undertaken on behalf of the Bar, for the benefit of the profession and in the wider public interest, from 1 April 2012 to 31 March 2013, as well as work which began during the reporting period. It also outlines how the Bar Council has performed against the aims outlined in its three-year Strategic and Business Plan launched in 2011.

Communication remains very important. I have sought to engage with the whole Bar and to promote the best interests of all sections of the profession. I have visited most of the Circuits and many sets of chambers. It is important that we have an open dialogue with members about the activities undertaken on their behalf. In my inaugural speech, I invited the profession to engage and to become involved. Information must come in as well as go out.

The Immediate Past Chairman, Michael Todd QC, invited us to invest in our future. I support that message wholeheartedly. My inaugural address centred on the theme of 'taking control', requiring us all to get involved in determining how the future of the profession develops; the activities which have occupied us over the course of this year have vindicated that approach.

In April, the Ministry of Justice (MoJ) published its long-anticipated Consultation Paper on 'Transforming Legal Aid'. The proposals were first expected in 2011 and we had already begun to review them but the detail, of course, was uncertain. We were very relieved to learn that Price Competitive Tendering for Crown Court advocacy was not under consideration for the Bar but very surprised to see how severely it was intended to cut fees. The profession had certainly not anticipated quite how far-reaching some of the initial proposals would be. Whilst the considerable bulk of activity took place outside the reporting period, much of our work began in the few months prior to publication of the Consultation Paper.



Our budget over the last reporting period was reduced from the previous year – we have a duty to operate as cost-effectively as possible in representing the profession. However, the volume of achievement remained considerable with a constant eye to value, and a more imaginative approach to traditional activities. We have saved money, operated more efficiently and invested to achieve long-term sustainability.

The Bar Council is committed to working on the Bar's behalf, in the public interest. We recognise the need for effective resource management, which not only applies to resourcing areas of our activities which are covered by the Practising Certificate Fee (PCF) but to those which depend on funding from the voluntary Member Services Fee (MSF). The MSF is absolutely crucial in promoting the value of the Bar to Government, regulators, the public and a broad range of stakeholders.

We simply could not achieve all that we do without the huge, pro bono, contribution of many members of the profession to our work. I would like to thank them sincerely for all that they do. We rely on their strong commitment to tackle the considerable challenges that lie ahead.

I would like to thank the Immediate Past Chairman, Michael Todd QC, for his leadership of so much of the activity we are reporting on this year, and the Vice-Chairman, Nicholas Lavender QC, for his support throughout the course of my term. I would also like to thank the Treasurer, Stephen Collier, who has done so much to seek to ensure we are operating on a cost-effective and sustainable basis. Finally, I must thank the Bar Council Executive, and in particular, Charlotte Hudson, Victoria Carpenter and Sarah Riley in the Chairman's Office, for their dedicated support.



Maura McGowan QC
Chairman of the Bar





About the Bar Council

The Bar Council represents and, through the independent Bar Standards Board (BSB) regulates, over 15,000 barristers in self-employed and employed practice. The Bar Council promotes:

- The Bar's high quality specialist advocacy and advisory services
- Fair access to justice for all
- The highest standards of ethics, equality and diversity across the profession, and
- The development of business opportunities for barristers at home and abroad.

In its representative capacity, the Bar Council Executive provides support to the Chairman's Office and a number of representative committees, sub-committees and working groups. The Executive supports the Bar Council's work by:

- Communicating regularly with the profession about key matters affecting its interests
- Influencing the development of public policy and legislation affecting the provision of specialist advocacy and advisory services and, more widely, in the profession's and the public interest
- Developing and promoting the work (and the values) of the Bar at home and abroad, to governments, legislatures, the media and other stakeholders, and
- Working to improve entry to the profession (with the aim of ensuring that the Bar is open to all with the requisite ability), to provide rewarding careers and to sustain the long-term future of the Bar.

For more information on the Bar Council's structure and representational work, please visit www.barcouncil.org.uk.



In this report, we set out our key strategic aims and report on our progress in achieving our objectives. Owing to space constraints, we cannot feature every activity that the Bar Council and its Committees have undertaken but we highlight the main activities in each area over the year.

Strategic Aims – Representation and Promotion

1 Develop and promote the specialist advocacy and advisory services of barristers and the values which underpin the Bar at home and overseas. Enhance quality and frequency of communications within the organisation, with the profession and external stakeholders.

The Bar continues to operate in a very challenging and competitive environment. The implementation of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) has created a framework which will pose a real challenge to the viability of large parts of the publicly-funded Bar. More importantly, it poses a significant threat to effective access to justice for some of the most vulnerable members of society. For the privately-funded Bar, the outlook remains more

positive, but it is not immune from the challenges of a competitive and global market, to which it has generally adapted extremely well. The privately-funded Bar has built and developed its expertise to meet the demands of a more corporate client base. It plays a vital role in attracting investment into the UK from all over the world, by ensuring that our business and financial infrastructure works effectively within a high quality and predictable legal framework.

Access to the Bar

The Bar Council promotes the delivery of good value legal services and fair access to justice. It welcomed the Legal Services Board's (LSB) approval of BSB rule changes to public access and related training earlier this year. The changes will allow clients, who are eligible for legal aid, the option of directly instructing a barrister privately, whilst also allowing more flexibility for junior barristers as they start to build a practice, by removing the three-year qualification threshold.

Since 2010 the Bar Council's Public Access Course has trained over 1,500 barristers across England and Wales, and with the further rule changes, it will launch a new Public Access Course to address the needs of the wider pool of barristers who are now eligible to accept instructions directly.

The Bar Council's **Access to the Bar Committee (ABC)** raises awareness of, and promotes, direct access to businesses and the public. Its activities have included engaging with local authorities to encourage them, where appropriate, to instruct the Bar directly for advocacy and advisory services – it is a cost-effective and efficient way of accessing the services of barristers.

The **ABC** has also promoted public access through exhibiting at the Local Government Association Conference, and endeavoured to raise awareness of direct access work amongst the judiciary.

A look ahead

The ABC will continue to promote all forms of direct access, provide guidance to the Bar in this area, and produce a marketing strategy in order to promote direct access to the public and Small and Medium-sized Enterprises (SMEs).



BARCO

During the reporting period, the Bar Council launched a third-party escrow account service for barristers and their clients, to manage the financial relationship between the Bar and its clients. 'BARCO' helps to make the advocacy and advisory services of barristers more widely available to domestic and international clients without infringing the rules which prevent barristers from handling client money.

This new service, registered with the Financial Conduct Authority, will support the BSB's entity regulation model and will facilitate direct access work. Read more about BARCO: www.barcouncil.org.uk/for-the-bar/barco/.

International business development and promoting the Rule of Law overseas

Whilst the domestic economy struggles to grow, the Bar is increasingly taking opportunities to develop its practice internationally, with the value of the Bar's exports of legal services continuing to rise: £231m in 2012, up from £200m in 2011 and £165m in 2010.¹

In 2012/13 the Bar Council, through its **International Committee**, undertook a number of initiatives to raise awareness of the Bar's international expertise, including:

- Raising the Bar's profile in Russia/ CIS, one of the largest commercial dispute resolution markets, by sending a delegation to St Petersburg and Kiev and by holding the Russian Law Week in London, and attending the St Petersburg International Legal Forum
- Developing our strong relationships with the American Bar Association (ABA) and hosting an event for international Bar leaders at the ABA Conference, which led to the launch of a North America Interest Group



¹ Source: BMIF

² www.barcouncil.org.uk/for-the-bar/international/opportunities/

- Attending conferences, such as the International Bar Association's (IBA) Annual Conference in Dublin, and the Commonwealth Law Conference (CLC) in Cape Town, which included four speaking slots for senior office holders and the opportunity to develop bilateral links with key African and other Commonwealth jurisdictions
- Producing two international publications,² generating advertising income, which has helped to fund promotion of the Bar overseas
- Extending the range of Bar Council-run exchange schemes for young practitioners: launching a new training scheme for South Korean lawyers and increasing the number of places on the existing Bar Council China Training Scheme
- Encouraging the young Bar to develop international practices through the Bar Council's Continuing Professional Development Grant Programme
- Establishing a market for the profession in Brazil by developing a Memorandum of Understanding with the Brazilian Bar and assisting with the launch of a bilateral law association (Lex Anglo-Brazil)
- Adding Tier Two sponsorship status (for non-EEA practitioners seeking to join chambers) to the on-going Tier Five programme for short-term placements
- Hosting delegations from the Singapore International Arbitration Centre, the All China Lawyers Association and the Brazilian Bar Council, and
- Arranging events to help members of the publicly-funded Bar to develop an international practice.

The Bar Council has built on its series of annual International Rule of Law Lectures with its sixth event in December 2012, addressed by Mark Mulholland QC, Chairman of the Bar of Northern Ireland, who spoke on 'Global terrorism and the Rule of Law: a Northern Irish perspective'.



Communications

Over the reporting period the Bar Council's Communications Team continued to focus on external and internal engagement: media relations, marketing and public affairs activity and promoting a Corporate Social Responsibility (CSR) programme. Working alongside the framework of the Bar Council's Strategic Business Plan, the Team has ensured consistent messaging and pursued longer-term communications projects, alongside a harder-hitting approach, which tends to be more immediately visible to the profession.

As might be expected, a significant amount of communications resource was devoted to proactive and reactive activities relating to the implementation of LASPO and the 'Transforming Legal Aid' consultation. The publication of 'A Guide to Representing Yourself in Court' was an important and constructive contribution to enhancing public legal education and understanding, and was also a strong CSR and communications tool. That will continue to be a core priority for the Communications Team in the next reporting period.

The Bar Council has also ensured consistency throughout its marketing communications with a refreshed visual identity – its values: *'Integrity,*

Excellence. Justice.' appear at the forefront of all external materials. We have also refreshed our internal processes to focus on the delivery of high quality and cost-effective marketing communications. Our communications must be professional and business-like.

A look ahead

The Communications Team continues to work to promote a profession which is relevant, maintains high standards and always operates in the public interest.

Over the coming year, the Bar Council will look in particular to increase the public's understanding of the role the profession plays in society, amongst other things, by strengthening its CSR programme. It will continue to work to promote and raise awareness, both domestically and internationally, of barristers' evolving services, whether through traditional models, including giving support to a stronger market presence for direct access services and BARCO, the Bar Council's new third-party escrow account service.

Media relations

The Bar Council's Communications Team continues to run a 24-hour press office providing effective media engagement both reactively and proactively. It made significant progress in becoming a more visible and respected organisation in the eyes of the media, and the first port of call for many journalists who cover a range of legal and non-legal issues.

Key media work carried out over the last year includes:

- **Changing the message** – there has been significant work in response to the recurring topic of vulnerable witnesses, to explain why and how the Bar operates in the public interest, often dispelling incorrect assumptions and information. In the Brewer Case, where the victim, who had been sexually assaulted, committed suicide during the trial, the Bar Council sought to ensure that coverage was accurate and balanced in response to media reporting of the case, particularly the role of the defence counsel. The Chairman of the Bar conducted national television interviews and was quoted in many print stories.



- **A responsible profession** – 'A Guide to Representing Yourself in Court', produced in conjunction with a number of Specialist Bar Associations (SBAs) and with the support of AdviceNow, was launched on the day that LASPO was implemented. Messages focused on the threat to access to justice, opposition to the cuts and the Bar's fears for the vulnerable in society. An enormous volume of positive media coverage was achieved through proactive media work, including across television, radio, broadsheets, tabloids, online and social media, and
- **Fighting our case** – throughout the MoJ's 'Transforming Legal Aid' consultation, the Bar Council, under the leadership of the Chairman of the Bar, pursued a sustained and strategic PR campaign to communicate the Bar's key messages across a range of print, broadcast and social media including appearing on the panel for the BBC Radio 4 programme *Any Questions?*.³ Read the collective communications here: www.barcouncil.org.uk/media-centre/in-parliament/legislation-and-lobbying/.

The Bar Council Communications Team conducted media and external stakeholder activity as a part of a broad campaign against the MoJ proposals, including:

- **'Legal Aid Question Time'** – a panel event, open to the public, moderated by well-known legal commentator Joshua Rozenberg, which comprised Lord McNally, Minister of State for Justice, Andy Slaughter MP, Shadow Minister for Legal Aid, Steve Hynes, Director of Legal Action Group and the Chairman of the Bar, and
- **General media engagement** – proactive and reactive engagement (both 'on the record' and for background) with key national and trade publications on the issues as they presented themselves, receiving over 70 individual pieces of coverage which reflected the Bar Council's views.

³ www.bbc.co.uk/programmes/b02yqh8g

2 Promote the Bar's views on matters affecting the profession and the administration of justice, including the future of the publicly-funded Bar, law reform and maintenance of the Rule of Law, with Government, relevant EU institutions, professional bodies, international Bar associations and other organisations with common interests.

Lobbying

The Bar Council works hard, in the public interest, to engage with Parliament and the Government on legislation and other issues which impact on the administration of justice.

The Bar Council formed a working group, comprising a wide cross-section of the Bar including Circuit Leaders, the Criminal Bar Association, the **Young Barristers' Committee**, the Institute of Barristers' Clerks and the Bar Council's **Remuneration Committee**, to review and respond to the MoJ's 'Transforming Legal Aid' consultation. The anticipated consultation did not include Price Competitive Tendering (PCT) for Crown Court advocacy, which reflected the sustained lobbying by the Bar that this would be against the public interest and lead to the destruction of the independent publicly-funded criminal Bar.

In addition to the activities mentioned in the 'Media relations' section (left), the Bar Council undertook a considerable amount of work to urge the Coalition Government to re-consider its proposals, including:

- Assisting practitioners in directly lobbying the Government, providing them with a 'Legal Aid Core Case' document setting out the Bar's position, and how to contact their local MP
- Launching a petition with grassroots campaigning organisation, 38 Degrees, which received just under 50,000 signatures, calling on the MoJ to reconsider its plans to remove choice of lawyer in criminal legal aid and introduce PCT for criminal defence work

- Instructing ComRes to conduct an omnibus survey of the British public to ascertain their views on the potential damage to the justice system should the proposals be taken forward, and
- Encouraging the Bar to raise the Core Case messages in the local or national media.

As well as lobbying on a number of significant policy issues and managing the Bar Council's attendance at the political party conferences, the Bar Council jointly (with the Law Society) services the All-Party Parliamentary Group (APPG) for Legal and Constitutional Affairs, which is chaired by Lord Hunt of Wirral. Five APPG meetings took place over the reporting period, covering the Defamation Bill, family justice, law as an export, the future of legal services, and legal aid.

The Bar Council also takes an active interest in the APPG for Legal Aid, chaired by Yvonne Fovargue MP, and in the APPG for Victims and Witnesses of Crime, chaired by Baroness Newlove and Robert Ffello MP.

A look ahead

Work in response to the MoJ's consultation will continue into the next reporting period, with a further consultation expected in September 2013.

The Bar Council will attend the party conferences in autumn 2013, producing briefings for delegates on its key functions, activities and policy concerns.



Law reform

In 2012/13, the Bar Council, through its **Law Reform Committee (LRC)**, other committees and SBAs, responded to 23 consultations from the Government, the Law Commission and others. In addition, the Committee has considered, but not responded to, 13 other consultations. It also responded to EU consultations, in conjunction with the **EU Law Committee**.

During the reporting period, the Bar Council's **LRC** has also:

- Organised another annual essay competition, sponsored by the Bar Council Scholarship Trust, aimed at pupils and those studying for the Bar
- Held the 12th annual lecture – 2012's lecture 'Home truths about diversity' was delivered by the Rt. Hon. Lord Sumption and attracted an audience of around 200 including members of the Bar and judiciary, and
- Organised debates on topical issues, in conjunction with SBAs. Its second debate in March 2013 was held jointly with the Criminal Bar Association on press freedom.

A look ahead

The **LRC** will hold its thirteenth annual lecture on 21 November 2013 with a speech delivered by the Rt. Hon. The Lord Judge, shortly after he stands down as Lord Chief Justice. The Committee will also organise further debates with SBAs.

Effective relations with EU institutions

The Bar Council's Brussels Office works with the **EU Law Committee** actively to participate in, and help to shape, the many important legal debates in EU institutions. It produces a regular update, 'Brussels News', on its activities.

Over the reporting period, the **EU Law Committee** has dealt with a growing number of issues including the increasingly political debate over the role of the UK within the EU. A referendum, which will lead either to major changes in the relationship between the UK and the EU, or detachment of the UK from the EU altogether, will have a substantial impact on the laws currently in place and our legal profession.

As part of the deal that paved the way for adoption of the Lisbon Treaty in 2009, the UK negotiated the possibility of a one-off 'opt-out' from EU criminal justice measures. In November 2012, the House of Lords' EU Sub-Committee on Justice, Institutions and Consumer Protection and the EU Sub-Committee on Home Affairs, Health and Education launched a joint inquiry into the UK's 2014 Opt-out Decision, in the form of a call for evidence on the opt-out and opts-back-in. The Bar Council provided both written and oral evidence over the period December 2012 to January 2013.

The Bar Council believes it would not be in the UK's interest to exercise the opt-out, even if it were to be followed swiftly by individual opts-back-in to certain measures as the measures that would be affected are either vital (for example, facilitating police co-operation), useful or better than the alternatives (for example, the European Arrest Warrant); or superseded, and therefore harmless.

Further, the Bar is among many concerned at the likely loss of influence and goodwill among other Member States and with the EU Institutions, and it is unclear what provisions could be put in place to fill the gaps, particularly at state-to-state level.

Changes to legal services

The Bar Council's **Legal Services Committee** (LSC) co-ordinated responses to five consultations from the MoJ and others on matters which have an impact upon the administration of justice, and rights of audience for non-barristers, including:

- 'Fees in the High Court and Court of Appeal'
- 'Appointments and Diversity: A Judiciary for the 21st Century', and
- The new BSB Handbook and Entity Regulation.

The **LSC** has also been considering pensions for part-time judges and has been tracking the progress of *O'Brien v MoJ* on behalf of the Bar.⁴

Work has been undertaken by the **LSC** and the **Employed Barristers' Committee** to develop a mentoring scheme for barristers who wish to apply for silk or judicial appointment. The scheme has received approval by the General Management Committee (GMC) and will launch in the next reporting period.

The Bar Council, through its other committees, has also responded to numerous other consultations, including on the Quality Assurance Scheme for Advocates. Visit the Bar Council consultations page: www.barcouncil.org.uk/for-the-bar/consultations/responses-to-external-consultations/.

⁴ www.barcouncil.org.uk/about-us/constitution-and-structure/committees/legal-services-committee/



3 Enhance the existence and unity of the Bar, employed and self-employed, privately or publicly-funded, in the face of external change, by effective liaison with all stakeholders, particularly the Inns of Court.

In December 2012, the Bar Council published the second edition of its annual joint publication with the BSB, 'Bar Barometer', on statistical trends within the Bar.⁵

Aware of the challenges faced by those seeking pupillage, the Bar Council's **Employed Barristers' Committee** (EBC) has been researching alternatives to the traditional training in chambers, such as encouraging more joint pupillages, where pupils would undertake part of their training with an employer and part with chambers. Work on this will continue into 2013/14.

In addition to organising the Young Bar Conference (see page 14), the **Young Barristers' Committee** (YBC)

has arranged seminars on topics such as mediation, and a workshop at the Bar Conference on 'The future face of litigation', covering written advocacy and paperless trials.

It has also represented the young Bar at international events such as the Openings of the Legal Year in several European cities and secured speaking slots at conferences such as the 18th Commonwealth Law Conference in Cape Town at which YBC Chairman, Hannah Kinch, spoke on the subject of 'Junior Lawyers: Business as Usual – An Inconvenient Truth?'.

Once again, the YBC published the annual *Young Bar Magazine* in September 2012, which included articles on changes to the Practising Certificate Fee and international relations.

⁵ www.barcouncil.org.uk/media-centre/news-and-press-releases/2012/november/bar-barometer-2012/





Strategic Aims – Products and Services

4 Provide services to individual members of the Bar, Specialist Bar Associations (SBAs) and Circuits, including fees collection, publications and conferences, as well as access to appropriate products and services at discounted prices through the Member Services Department.

Services provided to Specialist Bar Associations, South Eastern Circuit and Institute of Barristers' Clerks

The Bar Council met its obligations, with 100% client satisfaction, under service agreements with the Criminal Bar Association (CBA), Employment Law Bar Association (ELBA), Family Law Bar Association (FLBA), Technology and Construction Law Bar Association (TecBar), South Eastern Circuit (SEC) and Institute of Barristers' Clerks (IBC). These agreements earn revenue for the Bar Council which is equal to the direct costs of providing the services. The organisations concerned have not been charged for the indirect costs incurred by the Bar Council, on behalf of the profession, such as office space, lighting, power or operational costs.

Efficient fees collection service

In 2012, the Bar Council's Fees Collection Team received 2,400 complaints from barristers regarding 2,393 fee notes unpaid by solicitors, representing £5.9m in unpaid fees. In the same year, £1.86m was recovered.

The 'Cab Rank Rule' requires barristers, when offered a proper fee, to accept instructions in any field in which they practise, regardless of their views on the client or the client's case. From 31 January 2013, the 'Cab Rank Rule' applies to new standard contractual terms (found in Annexe T of the Bar Council Code of Conduct), or the terms which barristers themselves advertise as their normal terms of engagement. This development means that the obligations of both the barrister and the instructing party are now clearly defined, to the benefit of all, especially the lay client. In addition, it enables barristers to enforce payment from the instructing party.

A look ahead

The Remuneration Committee, through its Fees Collection Committee, is also considering whether they can offer an additional service (for a fee), such as taking enforcement action against solicitors, for non-payment of fees.



Member Services

For over a decade, the Bar Council has helped the profession to find tailored, and often discounted, products and services through its affinity programme. The Bar Council carefully selects commercial organisations which are committed to understanding the Bar's needs and adapting their products to meet them. There are currently 600 benefits available for members of the Bar. Surplus income helps to fund the Bar's representational activities alongside the MSF.

Conferences

The Bar Council co-hosted the World Bar Conference with Inner Temple in July 2012. It welcomed around 350 lawyers from overseas jurisdictions for a weekend of speeches, networking and seminars. The Conference was exceptionally well-attended and provided first-class opportunities for learning and the sharing of best practice amongst practitioners.

With the help of the Advocacy Training Council, the Young Bar Conference in October 2012 offered workshops on different aspects of advocacy, enabling all delegates (for the first time) to benefit from advocacy training at the Conference. Other highlights included the keynote address by Sir Sydney Kentridge QC on the continuing importance of the profession and its values.

Overseen by the **Bar Conference Organising Board**, the 2012 Annual Bar Conference maintained the previous year's commercially successful conference against a challenging economic backdrop, allowing ticket prices to be frozen once again. New sponsorship packages were introduced to provide increased networking opportunities while the format of the programme was amended to allow a wider range of breakout topics. The changes were positively received by our commercial partners and delegates.

The Employed Bar Conference was held in March 2013, at no cost to delegates. The Conference focused on regulation, covering a range of areas including fraud, media, regulation for barristers, and medicine. It attracted delegates from the Bar, businesses, local and central Government and the regulatory environment.

The 'Civil Work at the Bar: Making it Pay in 2013' Conference was also held in March 2013, attracting 200 practitioners. This event launched new guidance⁶ and pro-actively addressed fundamental changes to privately and publicly-funded civil work.

A look ahead

The 2013 Annual Bar Conference takes place on Saturday 2 November.⁷ This year the Conference moves to a new venue in London, Westminster Park Plaza, to offer a more central location. Chaired by Saba Naqshbandi, its theme of 'Tomorrow's Bar: Engaged in the Future' builds on 2012's Conference by examining the tools and skills that practitioners need to adapt and evolve to ensure that the Bar is engaged with the modern market and can face the future with confidence. The opening keynote speaker will be Lord Pannick QC.

⁶ www.barcouncil.org.uk/for-the-bar/practice-updates-and-guidance/remuneration-guidance/

⁷ <http://thebarcouncil.sym-online.com/barconf2013/>

Bar Nursery at Smithfield House

Earlier this year, in association with Smithfield House and through the Legal Services Committee and Member Services Department, the Bar Council introduced a Bar Nursery to ease the burdens on practitioners with childcare responsibilities. Run by Smithfield House near the Inns of Court, the Bar Nursery offers special rates for all members of the Bar, as well as chambers staff and Bar Council employees. Its long opening hours are designed to help those whose practice involves extensive travel to appear in courts all over the country. A parental support hub webpage is available on the Bar Council website: www.barcouncil.org.uk/for-the-bar/introduction-to-member-services/parental-support-hub/.

A look ahead

The Bar Council will explore the feasibility of launching Bar nurseries outside London, depending on local demand.





5 Provide guidance to barristers, including on ethical issues, equality and diversity, practice management and the development and use of information technology.

The Bar Council's **Equality and Diversity Committee (EDC)** has focused on assisting chambers with the task of embedding the BSB Equality and Diversity Rules of the Code of Conduct, which were published in September 2012. The Bar Council has run monthly introductory sessions aimed at chambers' Equality and Diversity Officers, Practice Managers and Senior Clerks, and also set up a dedicated helpline, staffed by the Bar Council's Equality and Diversity Team. The statutory equality objectives identify issues of retention and career progression which are being addressed through a programme of initiatives at the Bar Council.

The Equality and Diversity Team has made a significant contribution to the 'JAC Barriers to Application' research, which will develop a better understanding of why particular groups do not apply for judicial appointments. Read more about work carried out on equality and diversity on page 24.

The Bar Council's Ethical Enquiries helpline dealt with 7,273 enquiries over the period covered by this report, that is around 600 calls each month, which accounted for 755 hours of staff time.

6 Develop and provide high quality training and training materials for all barristers to equip them to respond to changes in legal practice.

The Bar Council continues to work closely with the Advocacy Training Council (ATC) and takes an active interest in its progress. A number of members of the Bar provide their services for free to support the ATC's important work.

Training

Through its **Training for the Bar Committee** (TfBC), the Bar Council has focused its careers activities over the past year on:

- The launch of the new online application system, the 'Pupillage Gateway' in March 2013: www.pupillagegateway.com. The new system was designed to be an improvement on its predecessor and the committee will be working hard to ensure that future improvements in the service can be achieved in light of the experience gained over the past year.
 - The 'Speak Up for Others Scheme', which enables about 500 barristers to speak to sixth formers in 400 state schools in England and Wales every year
 - Careers days for Year 12 state school students around the country, in which students are given an opportunity to meet members of the Bar, prepare cases, construct arguments and make pleas in mitigation.
 - Providing advice and information, jointly with the Inns of Court and the Commercial Bar Association (ComBar), to prospective barristers at 23 university law fairs
- Overseeing, and raising awareness of, the Pupils' Helpline: for pupils in need of confidential advice or support during their pupillage, and
 - Updating the careers brochure 'It's Your Call' with a new publication entitled 'Your career as a barrister' and distributing it at Bar Council careers events around the country.

Since 2010 the Public Access Course has trained over 1,500 barristers – read more on page 5. Other specialist training offered by the Bar Council includes Mediation, Foreclosing Money Laundering, Marketing and Business Development, Clerks training, Credit Management and the extremely popular Recruitment Selection Training, a key strand in the Bar's commitment to equality and diversity.



Strategic Aims – Accountability

7 Ensure that the profession, the public and others have confidence in the Bar Council's representative organisation and in its governance. Identify performance standards, monitor progress and report transparently.

During the reporting period, the Bar Council began the process of recruiting a new Chief Executive, reflecting its wish to have strong leadership to ensure the organisation remains fit for purpose, financially robust, cost-effective and focused on serving the interests and needs of the Bar. Stephen Crowne was appointed to the role in June 2013 and has started to oversee operations of the Bar Council's various policy-making committees and to support the Bar Council in the development of its strategy and the fulfilment of its Approved Regulator role.

The Chief Executive's role includes overseeing a programme to reduce the Bar Council's office space by occupying fewer floors in its current premises. This will represent a significant long-term saving.

Strategic Business Plan

In 2011 the Bar Council approved a three-year Strategic Business Plan (SBP) for its representative (and Approval Regulator) activity, which is now being implemented. The SBP has ensured that the Bar Council is in a much better position to measure results against expenditure, and that the Bar Council brings a tighter focus to its activities. Each representative committee is required to prepare an annual Business Plan with reference to the overarching SBP and to account for its performance with reference to the Bar Council's strategic aims and objectives.

The Bar Council has also produced tools to monitor its ability to meet its strategic objectives, including a consultation register which ensures the Bar Council's General Management Committee is given an opportunity actively to decide which external consultations the Bar Council should respond to and to ensure that those responses are co-ordinated and efficiently managed. This helps to ensure the Bar Council continues to play an active role engaging with, and lending its expertise to, matters of public importance, in a way which is efficient as well as effective.



Budget process

When Bar Council departments submit their annual budget bids, they are now required to be made with express reference to their Business Plans and to the Bar Council's SBP to ensure there is a sound business case for future expenditure.

Practising Certificate Fee consultation

Aware of the anomalies in the long-established, year of Call based methodology for the allocation of the Practising Certificate Fee (PCF), the Bar Council surveyed practitioners on a range of alternative options. Whilst the majority of respondents expressed a preference for a change from current arrangements, there was no consensus on an alternative. The full report is available on the Bar Council website.⁸

Having reviewed the matter further, the General Management Committee and Finance Committee agreed that there should be a further survey in July 2013 on an income-based PCF allocation model.

A look ahead

At the time of writing, the PCF survey period came to a close. Around 4,000 practitioners took part and a substantial majority supported a change to an income-based model. The proposed model will be reviewed in the light of constructive observations made by practitioners. Any new model will be agreed by the BSB and Bar Council prior to submission to the Legal Services Board for approval.

⁸ www.barcouncil.org.uk/media-centre/publications/2013/march/practising-certificate-fee-report/



8 Value our staff and raise our resources responsibly. Deploy resources and staff efficiently and effectively and account for our spending decisions.

Staff development

The Bar Council continues to address the recommendations and associated outcomes of the review, by the Hay Group, which it undertook to ensure a fair and transparent framework for managing pay. To maintain the consistency and integrity of our new framework, post holders' job descriptions and responsibilities are reviewed annually and evaluated where necessary as part of the annual appraisal review process.

Following the inaugural survey in 2010, the Bar Council undertook a second staff survey in December 2012. All staff members across the organisation were asked to respond anonymously on ten subject areas. There

was an excellent response rate of 74% and results were shared with staff in March this year. Whilst progress has been made in the majority of the areas identified by staff concerns, there is further work to do and that work is underway.

The Bar Council continues to invest in staff training. The Management Development Training, run in autumn 2012, was well received by all of the staff who undertook it.

Future initiatives include a revision of the performance management system, which will include identifying and embedding a competency framework.

9 In its role as the Approved Regulator, support the BSB in providing effective, independent regulation of the profession.

The Bar Council continues to perform its dual-role of representing the profession and as Approved Regulator, seeks to ensure that the BSB is able to carry out its regulatory functions with complete independence.

Representatives of the Bar Council regularly attend BSB Board meetings, and the Chairmen of the Bar Council and BSB hold regular and constructive meetings.





Strategic Aims – Values

10 Work for the efficient and cost-effective administration of justice and ensure access to justice on terms that endeavour to be fair both to the public and to practitioners.

In the reporting period, the **Remuneration Committee**, through its Civil (Private) and Civil (Public) Panels, provided high-quality practical advice to the profession regarding the LASPO Act, which came into force on 1 April 2013 in respect of civil work. The previous Conditional Fee Agreement (CFA) guidance has since been extended to include the wider availability of Damages-Based Agreements and now includes commercial aspects, in addition to other aspects, to determine the most appropriate civil funding method for counsel. A model agreement for CFAs has been published which allows counsel to choose the most appropriate variant of CFA from a list of options referred to in the guidance. The Civil (Public) Panel published guidance on the new scope of civil legal aid and broader changes to the operation of legal aid implemented under LASPO.

The **Remuneration Committee's** Civil (Private) Panel led the Bar Council's statutory response to the Conditional Fee Agreements Order 2013 and Damages-Based Agreements Order 2013 including lobbying

the Government on the regulations in both 'Motion to Approve' debates in Parliament.

The Bar Council also launched a monthly Remuneration Update newsletter and published the sixth edition of the 'Taxation and Retirements Benefits Guidance' which included expert input from accountancy firms Place Campbell and Citroen Wells.

A look ahead

The **Remuneration Committee's** Civil (Public) and Civil (Private) Panels will publish reports in 2014 documenting the impact of the LASPO Act one year after its implementation, and promote the Bar's interests when changes to civil legal aid billing are implemented through the Client and Costs Management System.

Corporate Social Responsibility (CSR) and pro bono

A survey conducted by the Bar Council's Communications Team at the end of 2012 found that nearly half of the respondents to the survey (42.2%), across all practice areas, regularly carry out voluntary legal pro bono work, in addition to paid work. It also found that 36.6% of the Bar regularly volunteer for non-legal charitable organisations.⁹

Such findings show that despite the economic pressures many sections of the Bar are currently facing, the role that barristers play in society has enormous value, and is both socially responsible and publicly useful. The overwhelming majority of respondents to the survey believe that barristers have a responsibility to lend their skills and knowledge to those who cannot pay for them.

The Bar Council continues financially to support the excellent work of the Bar Pro Bono Unit and Free Representation Unit. The pro bono work, to which many barristers commit their time with huge enthusiasm, remains a credit to the profession and we are currently exploring ways of ensuring that the Bar's pro bono community can continue to thrive on a more financially sustainable basis.

⁹ www.barcouncil.org.uk/media-centre/news-and-press-releases/2013/february/bar-survey-barristers-set-leading-csr-example/

The Bar Council has continued to be the primary funder of the Bar National Mock Trial Competition, now in its 23rd year. Organised by the Citizenship Foundation, it allows state school students between 15 and 18 years of age to gain practical experience of the workings of the legal system. It is one example of how the Bar Council helps to inform young people of their rights and responsibilities in a dynamic and challenging environment, offering positive early exposure to the criminal justice system.

A look ahead

The Bar Council has become a member of the 'Heart of the City' initiative, run by the City of London, which works with London-based businesses to develop and share effective and inspiring CSR programmes. The sharing of knowledge and best practice through this group will feed into future Bar Council initiatives.

The Bar Council intends to continue to promote and define a range of CSR activities both as an organisation and on behalf of the profession.





11

Promote the highest standards of practice and ethical behaviour.

The **Professional Practice Committee (PPC)** delivers guidance to the profession in relation to the Code of Conduct, in writing and over the telephone. It also oversees the Ethical Enquiries Helpline (see page 16).

The **PPC** published guidance on referral fees in 2011, following many enquiries on the subject. In 2012, the Helpline continued to receive queries on referral fee issues. Following anecdotal evidence that there had been breaches of the Code, the **PPC** wrote to all chambers reminding them of the relevant provisions of the Code and enclosed a copy of the 2011 guidance.

In October 2012, the **PPC** also responded to the Parliamentary Joint Committee on Human Rights which had asked the Bar Council for observations in relation to the potential extension of closed material procedures to all civil proceedings.

A look ahead

This year a new Bar Handbook will replace the Code of Conduct, which will have important consequences for the Bar regarding their ethical obligations and permitted modes of practice. The Bar Council will be carefully considering the new Handbook, informing and educating itself and the profession about the changes, and will work co-operatively with the BSB in those endeavours.

The **PPC** is currently working on new guidance on: the provision of documents to non-parties; the use of assistants in chambers; and devilling.

12 Encourage access to, and diversity within, the profession, so that it is open to all of ability, regardless of their background.

The Bar Council is committed to ensuring that the Bar can attract and retain the brightest and best individuals from all parts of society, irrespective of background. It is also working to improve the diversity of the judiciary.



Social mobility and diversity

The Bar Council's **Social Mobility Committee** (SMC) was set up in January 2012. In its inaugural year, it has set out to develop further initiatives to widen access to the profession, and contribute to government and regulatory policy in the area of social mobility.

'Fair Access to Professional Careers: a progress report by the Independent Reviewer on Social Mobility and Child Poverty', published in May 2012, recognised the Bar Council's work, through the Fair Recruitment Guide, to make the recruitment processes more transparent. The Bar was also praised for the steps it had taken towards widening access to the profession.

To encourage access to the profession, the Bar Council has co-ordinated or been involved in:

- The Bar Placement Week in London, run in conjunction with the Social Mobility Foundation, which provides training and shadowing in chambers for high-achieving sixth formers from less-advantaged backgrounds. The 2012 week was the largest since inception with 75 students taking part
- The Government's Business Compact on Social Mobility, to which the Bar Council is a signatory
- The Professions for Good (P4G) Social Mobility Toolkit, which the Bar Council is promoting with relevant guidance for the profession
- The Legal Education and Training Review sub-committee for equality, diversity and social mobility, responding to its discussion paper, and

- Becoming a signatory to the Common Best Practice Code for High-Quality Internships, which informs the advice in the Fair Recruitment Guide.

In seeking to improve diversity of the Bar as a whole, the Bar Council's **Equality and Diversity Committee** has:

- Run a Managing Career Breaks seminar, advising chambers on Code of Conduct Rules on flexible working and parental leave policies to support the retention of women
- Widened access to the profession for disabled students by producing Guidance on the Access to Work Scheme and dealing with mental health issues within chambers. A Disability Conference was also held in October 2012 , and
- Launched the Fair Recruitment Guide to assist chambers in achieving best practice and fairness in recruitment and selection at the Bar and to help them meet the BSB's Code of Conduct Rules.

A look ahead

At the time of writing, the Bar Council ran a pilot Bar Placement Week in Birmingham in July 2013, and also plans to run a Placement Week in Leeds in autumn 2013.

In conjunction with the Law Society and CILEx, the Bar Council will offer a series of career development seminars on the Circuits, aimed at BME lawyers.

In partnership with other Bar Council Committees, the Equality and Diversity Committee is developing a mentoring programme to support entry into, and progression within, the profession.

The Bar Council's updated 'Fair Recruitment Guide' will include guidance on the fair provision of internships and mini-pupillages.





What next for the Bar and the Bar Council?

The Bar prides itself on its ability to offer high quality services in a cost-effective manner, whilst adapting to changing circumstances. That ability has certainly been tested over the last reporting year by the implementation of LASPO and the proposals to reform criminal legal aid, among other changes. The profession awaits the outcome of the MoJ's consultation, which will continue into the autumn.

There are increasing opportunities for the profession to diversify its practice, through new or traditional ways of practice and, increasingly, by working in overseas' markets. The Bar Council continues to develop new initiatives, such as BARCO, to develop the work of the

Bar and to ensure that the services offered by barristers are able to meet the evolving needs of their clients.

Under the current Chairman, Maura McGowan QC, and Vice-Chairman, Nicholas Lavender QC, the Bar Council remains committed to ensuring access to justice and promoting the excellent work of the Bar in jurisdictions all over the world. This year we have seen the profession come together to fight for the future of an independent Bar in the public interest. This unity provides a strong foundation for the challenges ahead. The Bar Council will be working hard to help the Bar maintain its vital and vibrant contribution to society.

Further information

Please visit the Bar Council's website for further information on its activities, structure and committees:
www.barcouncil.org.uk

Follow us on  @thebarcouncil and visit our LinkedIn page:
www.linkedin.com/company/general-council-of-the-bar

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Elected Officers

Maura McGowan QC
Chairman of the Bar

Nicholas Lavender QC
Vice-Chairman of the Bar

Alistair MacDonald QC
Vice-Chairman Elect of the Bar

Stephen Collier
Treasurer

Representation & Policy staff at the Bar Council (as at August 2013)

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Director of Representation and Policy

Simon Garrod
Deputy Director of Representation and Policy

David Coventon
Administration Manager

Brussels Office

Evanna Fruithof
Consultant

Chairman's Office

Charlotte Hudson
Victoria Carpenter

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Toby Craig (Head)
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Oliver Williams

Remuneration and Policy

Adrian Vincent (Head)
Sarah-Jane Bennett
Caroline Isherwood
Mark Stratton

Fees Collection

Janice Marshall (Head)
Celeste Alexander-Allen
Wendy Dowson*
Rose Poon*
Natasha Scialpi

**Part-time members of staff*

While not all individually named, we acknowledge the contribution made by our Central Services colleagues.



Integrity. Excellence. Justice.

The Bar Council represents barristers in England and Wales.
It promotes:

- The Bar's high quality specialist advocacy and advisory services
- Fair access to justice for all
- The highest standards of ethics, equality and diversity across the profession, and
- The development of business opportunities for barristers at home and abroad.

*The General Council of the Bar is the Approved Regulator of the Bar of England and Wales.
It discharges its regulatory functions through the independent Bar Standards Board.*

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