

## **Minutes of the Bar Council Meeting held on Saturday 18 June 2011 at the Bar Council Offices**

### **Present:**

Rt Hon Dominic Grieve QC MP - Attorney General

Peter Lodder QC - Chairman

Andrew Mitchell QC - Treasurer

Oliver Delany - Director of Central Services and Acting Chief Executive

### **1. Apologies**

Apologies for absence had been received from Michael Todd QC, Gregory Bull QC, Stephen Cobb QC, Christopher Hancock QC, Andrew Hillier QC, Clive Lewis QC, Winston Roddick QC, Andrew Walker QC, Julia Beer, Ayeesha Bhutta, Ian Bugg, Esme Chandler, Tom Crowther, Fiona Jackson, Stuart Jamieson, Melanie McIntosh and Christina Michalos.

### **2. Approval of the Minutes**

The Minutes of the 14 May 2011 Bar Council meeting were approved.

### **3. Matters Arising**

No matters arose from the 14 May 2011 meeting.

### **4. Bar Council Membership 2011**

The meeting noted the list of Bar Council Members at Annex 2 to the Agenda.

### **5. Statement by the Chairman**

Peter Lodder QC (PL) thanked attendees for coming. He explained that he would save his own statement for the Annual General Meeting (AGM), which would follow the Bar Council (BC) meeting. PL reminded members that a quorum of 60 subscribers was required for the AGM, and that they were requested to stay for that meeting.

### **6. BSB Report**

Sir Geoffrey Nice (GN), Vice-Chair of the BSB, opened his report with the analogy that being in the BSB was a bit like being in a kitchen, established by Government and instructed by the Legal Services Board (LSB). The master chefs of the BSB then had to decide what to put on the menu for the Bar and the public to consider. Without those audiences to taste the menu and check they had got it right, the Board could only go so far.

Derek Wood CBE QC's work on Continuing Professional Development was now out for consultation. His task had, perhaps, been marginally less difficult than for previous consultations, as it related to changes to the existing scheme rather than the creation of a new scheme. The Board was extremely dependent on the Bar to respond to the consultation.

Patricia Robertson QC would be leading the BSB's consultation on the detail of entity regulation. External assistance had been obtained for drafting the plans, with the support of diligent staff and Board members. The consultation would be issued in October 2011. The working party would then report back to the Board in February 2012, ahead of the BSB making submissions to the LSB in March 2012.

Sam Stein QC had undertaken important work on the new Quality Assurance Scheme for Advocates (QASA). The original initiative dated back to the Carter recommendations of 2006. While the Bar and the judiciary had expressed reservations, it was now essential that QASA be brought in. The BSB had approved Sam Stein QC's recommendations at its June 2011 meeting. QASA had already been approved by the Solicitors' Regulation Authority. If similarly agreed by the Institute of Legal Executives in July, the approval of the LSB would then be sought. In the first instance, QASA involved the initial accreditation and associated evaluation of criminal advocates at one of four levels. Advocates could then progress through the four levels, on assessment, by demonstrating that they meet the required standard for the next level. Advocates who choose to remain at a particular level would be required to re-accredit every five years. There were costs associated with both the set up and on-going management of QASA that would need to be met by the profession. It had been assessed that over a 33-year career the cost would be approximately £50 per capita per year. GN anticipated that QASA would be in place by the end of the year.

GN further observed that, in addition to supervising the work of the master chefs in the kitchen, Baroness Deech had her eye on the bigger picture. She had recently been interviewed by Joshua Rozenberg for Law in Action on Radio 4. She had used the

opportunity to reflect some of the BSB's firmly held views on issues such as referral fees. The BSB were not in favour of referral fees, although the Board had not yet taken a formal view.

A very useful meeting had been held with the Attorney General to express concern in relation to developments from the LSB. It was important to make Government aware of the detailed problems arising.

PL noted that the QASA proposal raised the prospect of a twin-tracked process, incorporating both judicial evaluation and assessment centres. He was concerned both that assessment centres would vastly increase costs and, more importantly, that the emphasis on judicial evaluation could be lost. Stuart Brown QC, Leader of the North Eastern Circuit, agreed and added that the BSB's public announcement of QASA seemed to express the intention for twin tracks: one track for Higher Court Advocates, and another for the Bar.

GN explained the obligation to make alternative provision, at assessment centres, for those who did not have access to current judicial evaluation (which would include barristers returning to practice after career breaks). He hoped that this would be a minor component, but acknowledged the potential difficulties. GN said that if the BSB's recent announcement had been less than clear, then they would take steps to clarify the position.

Susan Goddard QC (SG) noted the exasperation with which judges had greeted the CPS Advocate Panels scheme, and asked how much consultation there had been with the Council of Circuit Judges on QASA.

PL said that BC had provided considerable briefing to judges, and therefore expected them to know a great deal in principle about QASA. PL and Nick Green QC had travelled extensively around the country in 2010 to talk to the judiciary about the initiative, and had also invited resident judges to meet them in London to hear how the Bar Council saw QASA developing. While QASA had now undergone subsequent developments, the Bar Council would be happy to assist in providing clarification to judges. The position regarding CPS Advocate Panels was different, as it was neither the Bar Council's nor the BSB's scheme it was specifically for the CPS to gain the support of the judiciary.

GN confirmed that the judiciary had been shown sample QASA paperwork to make them aware of what to expect. The evaluation scheme for QASA was considerably simpler than for CPS Panels.

SG expressed concern regarding the costs of QASA. It was increasingly difficult to run a barrister's practice, and incomes were shrinking.

Nichola Higgins, Chairman of the Young Barristers' Committee, asked when full details pertaining to QASA would be made public. GN said that the proposals would be submitted to the LSB in September, and that details would be published simultaneously - or sooner if available.

## **7. AGM Agenda**

PL noted that there was only one resolution on the AGM Agenda. Without knowing how many would wish to contribute, he hoped that it would not be a lengthy meeting, and encouraged members to stay for the AGM.

Noting that the AGM was open to "subscribers", Tricia Howse, Chairman of the Bar Association for Commerce, Finance and Industry, asked what defined a subscriber. PL confirmed that all those who paid a Practising Certificate Fee or Member Services Fee were subscribers (although for the purposes of attending and voting at an AGM, retired and overseas subscribers were excluded).

## **8. Any Other Business**

Bloomsbury Art Fair. Invitations to the first Bloomsbury Art Fair, to be held on 14 to 16 July, had been tabled. PL explained that the art fair was supported by Outer Temple Chambers and would contribute to a very worthwhile cause, as profits would be donated to a coalition of spinal injuries charities. Lana Locke would be amongst the artists exhibited.

## **9. Date of Next Meeting**

The next meeting would be held at 10 am on Saturday 23 July 2011, in the Bar Council offices.