



The Bar Council

**Meeting of the Bar Council
Minutes of the Bar Council meeting
Saturday 3 February 2024 at 10:00 at The Bar Council
289-293 High Holborn, London**

Present:

Samuel Townend KC	Chair of the Bar	STKC
Barbara Mills KC	Vice-Chair of the Bar	BMKC
Lorinda Long	Treasurer	LL
Stephen Parkinson	Director of Public Prosecutions, CPS	SP
Charlotte Leslie	Director, Conservative Middle East	CL

Members in attendance (in alphabetical order):

Alex Gunning KC (AGKC), Andrew Twigger KC (ATKC), Barbara Connolly KC (BCKC), Caroline Rees KC (CRKC), Christina Michalos KC (CMKC), Deshpal Panesar KC (DPKC), Henry King KC (HKKC), Jacob Hallam KC (JHKC), James Roberts KC (JRKC), Jo Martin KC (JMKC), Eleena Misra KC (EMKC), Heidi Stonecliffe KC (HSKC), Kirsty Brimelow KC (KBKC), Leon Kazakos KC (LZKC), Michael Bowsher KC (MBKC), Nicholas Grundy KC (NGKC), Philip Moser KC (PMKC), Saira Kabir Sheikh KC (SKSKC), Tony Singla KC (TSKC), Tana Adkin KC (TAKC), Abigail Bright (AB), Alex Matthews (AM), Anushka Kangesu (AK), Aoife Kennedy (AK), Asad Maqsood (AsM), Brittany Buckell (BB), Celina Colquhoun (CC), David Bunting (DB), David Taylor (DT), Daniel Sheridan (DS), Dilpreet Dhanoa (DD), Elaine Banton (EB), Emma Hughes (EH), Emma Walker (EW), Emma Southern (ES), Ivor Collett (IC), Lucinda Orr (LO), Gaynor Wood (GW), Paul Powlesland (PP), Paul Adams (PA), Peter Grieves-Smith (PG-S), Linda Turnbull (LT), Michael Harwood (MH), Rory Brown (RB), John-Paul Swoboda (J-PS), Rebecca Dix (RD), Shazia Akhtar (SA), Susan Jones (SJ), Samantha Singer (SS), Sarah Fearon (SF), Simon Regis (SR), Sunny Virk (SV), Philip Stott (PS), Maddy Charlesworth (MC), Melissa Coutino (MC), Mirza Ahmad (MA), Tahmina Rahman (TR), Yaa Dankwa Ampadu-Sackey (YDA-S)

In attendance:

Adrian Vincent	Head of Policy - AV Remuneration & Employed Bar
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THE BAR COUNCIL

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Isi Onwukwe-Anyadike	Governance (minutes)	IOA
Jamie Shaw	Head of Strategy, Planning and Governance	JS
Phil Robertson	Director, Policy	PR
Piran Dhillon-Starkings	Adviser to the Chair of the Bar	PD-S
Nikita Feifel	Public Affairs Officer	NF
Izzy Clubley	Assistant Private Secretary	IC
Kathryn Stone OBE	Chair of the BSB	KS
Mark Neale	Director General, BSB	MN

Apologies were received from:

Jason Pitter KC, Stephen Kenny KC, Sean O’Sullivan KC, Richard Wright KC, Alice Hands, Adam Baradon, Faisal Sadiq, Reagan Persaud, Hannah Smith, Ellen Wright, Sahar Farooqi, Shobana Iyer

1. Conflicts of interest and announcements

Kathryn Stone OBE is a non-executive of the CPS Board.

2. Minutes of the last meetings and matters arising

The minutes from the meeting and AGM held on 25 November 2023 were APPROVED as an accurate record.

3. Statement by the Chair of the Bar Council

The Chair highlighted the following points from his report:

The Chair highlighted his two main priorities for the year: investment into the justice system and remuneration.

Fixed advocacy fees

2023 saw the first increase in a decade for fast-track advocacy fees. Low level magistrate fees were increased by 15% in Greater London, which was an agreement reached by the CBA and London Criminal Court Solicitors Association. The CPS has agreed to increase the fees for prosecution in relation to Section 28 cases up to £1000 matching that for criminal legal aid for defence work. The CBA and the Bar Council are liaising on issues of remuneration and are still of course to maintain the request for an additional 10% across the board.

Rule of Law

Recent cases such as the Post Office case has posed some significant rule of law issues.

The Lady Chief Justice at the justice committee recently stressed the importance of the separation of powers and the independence of the judiciary. It's vital for appropriate funds to be set aside for needed upgrades and handling serious cases, including rape and serious sexual offence cases. A lot of work is being done in relation to the victims and prisoner's bill.

The Chair endorses the proposal by Lord Moylan and Lord Blunkett who seeks a complete solution for IPP indeterminate sentences for public protection.

The Authorisation To Practice fees are upcoming, it was highlighted that these fees fund the work of the Bar Council, including work done surrounding remuneration and covering staff salaries. Members were urged to contribute where possible.

Regulation

The Bar Standards Board have said it would implement unlimited resits for those taking the vocational courses within a 5-year period, the Bar Council have made representations to oppose this. The viewpoint of the Bar Council is that unlimited resits would mean the watering down of the quality of each module, even if it is tested to the same high standard. Almost all education and vocational institutions impose a limit on the number of resits you can take. It is also a possibility that if the diploma is not completed within 3-4 attempts, then pupillage may not be achieved.

Regulation and consumer risk

The regulation and consumer risk of the increasing numbers of non-practising certificate paying barristers was noted. The Bar Standards Board were invited to address this issue with a greater focus.

Dates for the diary

World Bar Conference: 15-17 May 2024, Belfast, and Dublin. www.worldbar2024.com

Bar Conference: 8 June 2024, London. <https://www.barcouncil.org.uk/training-events/calendar/bar-conference-2024.html>

Governance

Committee members were encouraged to attend in-person where practicable. Those who dial-in are encouraged to keep their cameras on and remain engaged in the conversation. Membership attendance will be tracked, and those who fail to attend three meetings in a row will be contacted.

TAKC queried whether an exercise had been undertaken to understand the number of referrals is made related to non-practising barristers compared to practicing barristers. STKC responded that around 1/3 of the final tribunals are to do with non-practising barristers, these tend to be the simpler cases, but there remains a cost associated with it.

KBKC queried whether the Bar Council have been liaising directly with the treasury on increasing criminal legal aid. Also, it was noted that the 10% match funding was agreed

under the formal DPP and whether further funding can be promised. STKC will work with the treasury in his capacity of Chair of the Bar on this issue. The new DPP was the recipient of a letter where the Bar Council identified some specific individual improvements on remuneration to sort out some imbalances. The Bar Council will continue to work with the government on this.

4. Bar Standards Board Report

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

Productivity

This remains a priority for the BSB. Noted progress has been made in this area, with the number of end-to-end reviews undertaken, in particularly authorisation to practice and enforcement. The outcomes of reviews will help the BSB be more efficient and effective in their goals.

The Bar Council were thanked for their support given in trying to understand the influx of barristers from overseas who want to transfer, there's been some important collaborative work going on there.

Roundtables

An extension was requested for these consultations, which have now been granted. The responses and engagement at these roundtables have been useful and encouraging, as they provide an opportunity for the BSB to listen directly to the profession.

Roundtables will be next held in: Bristol, Brighton, Leeds, and Newcastle.

Deadline for responses to this consultation is now **31 March 2024**.

Members were encouraged to reach out to the BSB with any concerns or queries in general, outside of the roundtable if and when wanted.

Strategy

The BSB are reaching their last year in their three-year strategy, and from here on out will be working towards a five-year strategy. The Bar Council and key stakeholders will be engaged with this process, commencing Autumn 2024.

Resits

It was noted that many bar training providers already limit the resits they permit, with a tiny minority actually wanting to sit an exam more than three-times. The BSB have found that increasing the resit amount will positively impact students from minoritised backgrounds and so will foster inclusion. There are a wide range of reasons why additional resits will be needed and the BSB are working with the training provider, BPP to provide a better change of being successful in retakes for those who ran out of opportunities with their initial provider. There will be no diminution in standard, as students will still have to pass

all elements of the bar training in order to be called to the bar. Results and success rates of all training providers will be listed on the BSB website so students can make informed choices for their training. Central exams are set marked and moderated by BSB Professor Mike Nolan. MN noted that the BSB have a thematic review underway of the bar training providers, to review whether there is better support for students available to help reduce the need for resits at all.

NGKC queried the layout of the diversity data and why the diversity of new incoming pupils are not separately highlighted outside of the existing members of the profession. KS offered to discuss the data and layout offline.

YDA-S noted that no confirmation or follow-up was given when they signed up to attend the roundtable. KS will look into this.

LO queried whether resits will be at a charge to the student. MN responded that resists will be charged for the use of the facility, but not the full fee of course.

AGKC queried the reasons as to why students may continue to complete resits. KS will undertake a review of this.

5. Statement by the Chief Executive

Phil Robertson, Director of Policy provided the Chief Executive statement, and highlighted the following points.

- The Bar Council's new five-year strategic plan is in the process of being drafted. A draft plan will be shared at the next Bar Council meeting for review.
- The Bar Council staff are nearly full staffed, a new Head of International has joined recently. There are two live vacancies in the Public Affairs and Training and Events team.
- KCA silk list received 283 applications, of which 95 were successful. The announcement was released late this year, the KCA Selection Panel will be asked to agree a confirmed date for announcement, mid-January 2025.
- World Bar Conference: the international grants programme is run in conjunction with a number of SBAs so that if you want to go to conferences overseas, you can apply for funding. The SBAs pay 1/3 of the funding, the Borough Council Scholarship Trust pays 1/3 of the funding and the barrister pays the remaining fee. Member were encouraged to utilise this programme.

6. Treasurer's Report

Lorinda Long, treasurer provided an overview of the Management Accounts.

- A deficit budget for the current year was planned as part of the strategy to mitigate the impact of increases in PCF to the profession.
- The majority of the nonrecurring variances have arisen in the BSB; additional recruitment costs, recovery plan and the enforcement review. There has also been an increase in the LSB charge.
- The nonrecurring additional costs are funded via the Permitted Purposes reserve
- We received 181 responses via the online survey form, including two responses on behalf of Specialist Bar Associations – the Criminal Bar Association (which represents c.3500 barristers) and the Bar Association for Commerce, Finance and Industry (BACFI, which represents c.200 members).
- The CBILS loan was repaid in November 2023.
- We are exploring the viability of obtaining a buy out of the DB pension, this is a slow process. We will update you on progress throughout 2024.

The Chair highlighted that there will be an incoming increase of regulatory costs, the Bar Council will be invited to make representations on this.

7. Director of Public Prosecutions, CPS

Stephen Parkinson, Director of Public Prosecutions, C presented his reported and highlighted the following points.

The DPP provided an overview of his career, starting as a barrister, joining the Attorney General's Office, then working up as Partner at Kinsley and Napley.

Staff

The staff at the CPS are under a lot of pressure and stress. However, an internal survey was taken, and it found that 91% of the people have a strong sense of purpose of what they're doing which is incredibly high.

Recruitment and retention

The CPS are focused on encouraging people to apply as criminal practitioners. The DPP aims to spend a minimum of two-days a in each CPS area to meet with resident judges and chief constables to grow sense of partnership. Tensions with the existing system and partnerships was acknowledged, and work will be done to address this.

Priorities

- To reduce the delays in the criminal justice system.
- Reduce victim attrition.
- Continue the current work being done to build up a level of effectiveness of prosecution around rape and serious sexual offences.
- To improve the internal quality of crime prosecutors to do with case strategy.

- To reduce the discrepancy in pay and back and forth in remuneration with prosecution and defence fees.
- To improve the effectiveness of the CPS, including the positioning of the criminal justice system, and the relationships with the police, judiciary, and the courts.

Crown Court

The progress of cases to the Crown Court from receiving a case to conclusion is now 255 days. Within that number, there are 28% of cases in the Crown Court that have been waiting a year or more and 10% have been waiting two years or more. These figures are on top of the time it takes to get cases to court in the first place.

Work needs to be done to not just improve the mechanics of the process, but about delivering justice for people. This starts with reducing the backlog.

The SPJ is leading on a project along with the Court Improvement Group, which includes representatives from across the criminal justice system and the CPS. A goal of this Group is to encourage early guilty pleas. It's vital to incentivize every part of the criminal justice system to be more effective. It may be likely that more radical steps will be needed, potentially legislation changes.

Attrition

59% of rape victims who actually make a complaint to the police, withdraw before a police investigation is finished. Once the case is charged, 15% of victims (many will be due to the investigation delays) are lost or withdraw. The CPS need to improve their communication with victims. A number of projects are underway to improve the level of engagement with victims. A new set of letters which provide explanations about decisions that have been made and the process going forward will be sent.

Victims in particular categories such as rape will be given a dedicated point of contact and meeting with their prosecutor.

Increasing the number of cases into system for RASSO and increasing the pressure on CPS and Bar on this. There has been a decline in RASSO council on RASSO panels, how much practitioners are paid remain an issue for recruitment. A fee bid will be put forward to improve payments. A survey with RASSO advocates will be circulated.

TAKC expressed thanks for prioritising this work and working with the CBA. It was highlighted that support and care needs to be given to practitioners who are working with grieving and distressed clients. Practitioners should not be expected to undertake this difficult work without proper support and investment.

KBKC queried the recruitment tools the CPS is employing to encourage more criminal practitioners- the CPS were encouraged to engage with the Inns where possible. It was noted that from the CPS used to have a thriving international extradition unit, which appears to

be decreasing. The DPP shared that the CPS have been engaging with local universities and student fairs and would be happy to improve any links with the Inns to improve recruitment activities. The international extradition unit continues to have 25-30 liaison magistrates across the globe, with CPS lawyers in country to build links and help ensure mutual legal assistance.

The Chair noted that the Northern Circuit are planning to host a Pupillage Fair, November 2024 and this would be an excellent opportunity for the CPS to have a presence at the fair.

8. SLAPPS- a defendant's perspective

Charlotte Leslie, Director of the Conservative Middle East Council provided an overview of their experience as a defendant of a SLAPPS case. They shared their impact statement from the case, and how the experience impacted them and their family.

PP thanked Charlotte Leslie for her testimony and highlighted that despite the cab rank rule, a major determinant of whether you get justice is dependent on how much money you have. The cab rank rule remains a reputational risk that the profession faces because ordinary people know they don't have the same level of representation as rich people. A confidential debate surrounding the use of the cab rank rule was requested.

The Chair noted that alternative acronyms have been suggested by the Bar Council to replace 'SLAPPS'. The Bar Council have proposed a number of changes, such as qualified one-way cost shifting as a means of taking out, at least for the formal processes.

AV noted that he is one of the staff members that looks after the Bar Council's Ethics Line and highlighted that as within the BSB handbook, Rule RC9 'a barrister must not put forward a case that's not properly arguable' and Rule RC6 'the duty not to mislead the court' which includes a guidance paragraph which says you cannot be indifferent to the truth, not caring whether something's true or false. Therefore, a barrister needs to care whether something's true or false, and they must not put forward a case that's not properly arguable.

TAKC thanked Charlotte Leslie for her testimony and highlighted that the duty of a practitioner is not to represent your client, and if barristers are behaving in any contrary way the regulator should be clamping down on that. You don't need to believe or disbelieve the person who instructs you, but you certainly can't mislead the court, and you certainly can't run a case which is a pack of lies, even on a cursory examination. Doing so is contrary to our regulation and contrary to our training, contrary to our ethics.

CMKC highlighted that the cab rank rule serves two functions; one is to ensure access to justice- this being particularly important in other jurisdictions where practitioners can hand pick cases they want, and the other function is to protect lawyers.

9. Employed Barristers' Committee

Heidi Stonecliffe KC, Chair of the Employed Barristers' Committee presented the committee report which she took as read. She highlighted the following:

- The Employed Barristers' priorities for the year surround career progression and employed bar engagement.
- Gray's Inn are confirmed as hosts for the Employed Bar Dinner and Awards, which will take place this year on 10 October. This year celebrates 25 years of the Employed Barristers' Committee which is a significant milestone.
- The Committee has strong links with Gray's Inn, Inner Temple, and Middle Temple and have an active and open dialogue with Middle Temple's Employed Bar Society. The remaining Inns will be targeted for engagement.
- A series of blogs have been published from AETOs who are also employers that offer employed pupillage.
- The Committee and the KCA will jointly host a session entitled 'Applying for Silk at the Employed Bar: myth-busting and your questions answered' at Middle Temple on 30 January. The panel will include KCA assessors and aim to make the process of applying for silk more transparent. The committee is working with the Bar Council on a greater offering for returners and career movers to the employed-self-employed Bar (or vice versa).

It was queried what the breakup of employed barristers who pay the AtP and BRF are. Employed barristers make up 18% of practising barristers and, whilst 22.7% of employed barristers subscribe to the Bar Representation Fee (a figure that has increased by 0.7% since 2022/23), they make up only 8.6% of the total number of subscribers (a figure that is up by 0.2% since 2022/23 and 0.6% since 2021/22). (From the BRF Analysis Report September 2023, relating to the 2023 AtP process). The percentage of self-employed barristers who pay the Bar Representation Fee is 52%.

10. Remuneration Committee

The Remuneration Committee report was noted.

11. Pro Bono Social Responsibility Committee

Samantha Singer, Co-Chair of the Pro Bono Social Responsibility Committee presented the committee report which she took as read. She highlighted the following:

The Committee are working to create a blueprint for liaison between pro bono council and the judiciary, specifically to address listing difficulties and difficulties in arranging remote hearings so that pro bono counsel can represent their clients without difficulty.

The Committee continued their work with Advocate to encourage pro bono volunteering across the Bar. Pro Bono Week (PBW) was held 6-10 November 2023 by raising awareness of the 68 events taking place through the Comms team. This year Pro Bono Week will be 4-8 November 2024.

A Pro Bono costs orders there is a training session will be held on 8 February 2024. A practitioner can request a costs order on behalf of a pro bono client, with funds going to Access to Justice Foundation.

When paying for AtP certifications, practitioners can contribute coffers to Advocate, or join the Sustainability Network.

PP shared that a recent scientific briefing for the Bar Council and for barristers about the seriousness of the climate crisis and the potential impacts on the rule of law on the justice system. There remains a difference of approach regarding what can be termed net zero in the profession and issues over advised emissions scope for emissions. This being the difference between the emissions that practitioners cause as a profession and the emissions that practitioners can help to cause by giving legal services. How to appropriately and proportionally combat these issues needs discussion with the leadership of the Bar alongside the Climate Crises Working Group. SS would be keen to engage the Committee in these discussions.

KBKC encouraged the Committee to liaise with the Inns where possible regarding their efforts to sustainability.

12. Any Other Business

None noted.

13. Date of next meeting:

Tuesday 16 April 2024, 17:00