

Minutes of the Bar Council meeting held on Saturday 17 July 2010 at the Bar Council offices

Present:

Rt. Hon. Dominic Grieve QC MP - Attorney General
Nick Green QC - Chairman
Peter Lodder QC - Vice-Chairman
Andrew Mitchell QC - Treasurer
David Hobart - Chief Executive

1. Apologies

Apologies for absence were received from Michael Bowsher QC, Stuart Brown QC, Ian Pringle QC, Michael Soole QC, Lucy Theis QC, Mirza Ahmad, Paul Bogan, Kerry Bretherton, Tony Bourne-Arton, Stephen Collier, Charles Hale, Fiona Jackson, Gregory Jones, Taryn Lee, Christiane Valansot and Shelley White.

2. Approval of the minutes

The Minutes of the Bar Council meeting on 12 June 2010 were approved.

3. Matters arising

No matters arose.

4. Bar Council members 2010

The meeting noted the list of Bar Council Members at Annex A.

5. Statement by the Chairman

The Chairman congratulated the Vice-Chairman, Peter Lodder QC, on his unopposed election to become Chairman of the Bar for 2011. The Vice-Chairman had provided invaluable and timely support in recent months, and his skills were in demand for the several issues to be addressed in 2010 and thereafter.

The Chairman thanked Robin Tolson QC for his efforts as Leader of the Western Circuit for the past two years, and remarked on his considerable effectiveness. For example, his Circuit members had shown a substantial interest in ProcureCo matters well before the Chairman's road show had reached Bristol and Exeter. Paul Mendelle QC would soon be finishing his 12-month stint as Chairman of the CBA, and the

Chairman expressed the Bar Council's gratitude for his constant availability and efforts on behalf of the CBA. The CBA was fortunate that he would continue to participate in the Bar Council/LSC Contracting Group workstrand. Michael Todd QC was the outgoing Chairman of the Chancery Bar Association, and the Chairman praised his invaluable contribution in co-ordinating our response to the Jackson review of civil costs. Fortunately he also would stay on the Bar Council/LSC Contracting Group.

The Chairman welcomed the Attorney General to the meeting, and recounted the experience of watching him during the recent IBC dinner take an urgent call from his office about the leak to The Guardian of details of proposed legal aid cuts. A mile away at a Law Society dinner, the Vice-Chairman watched the Solicitor General take a similar call. We knew that something was up. Inevitably, budget cuts were now all the news, and the challenge had been enthusiastically accepted by the fiscally hawkish Lord Chancellor. It was certain that cuts were on their way, about which the Vice-Chairman and Paul Mendelle QC would speak later.

The Chairman had visited a further series of sets in Bristol, Exeter and Manchester, and more visits were in hand to talk about future practice. He had now seen a total of 80 sets and had spoken to some 3000 barristers, clerks and practice managers. He was encouraged that the Bar understood much of the message he was delivering. Chatham House talks had been held with the DPP, and it was expected that the Self-Employed Bar would get the lion's share of prosecution work. Sub-standard practitioners were likely to be dropped from the CPS list, and fees would be restructured on Carter lines. One caveat: the CPS spending review would involve some difficult decisions. The Chairman expressed his gratitude to Mirza Ahmad, who had given us valuable support on expending our work with Local Authorities. The Chairman had held a number of meetings with Mirza's staff, and had been fortunate to attend the closing session at his senior team away-day at HMS President.

The AG offered to take questions from Bar Council members. Robin Tolson QC referred to the likely legal aid cuts, and asked whether we had yet touched bottom for the bad news. The AG noted that although it was the policy of successive governments not to comment on the details of leaked documents, it was the case that the leaked document about CPS cuts was not the finished product. He spoke of his responsibilities for the prosecuting agencies, and the collective need to shoulder the burden for the attribution of future work. He hoped that no obvious additional difficulties would be experienced in the Bar/CPS relationship. Turning to the Department's position as a whole, he spoke of the £9.6 billion budget, of which some £2.2 billion was for legal aid. Though some savings would come from the end of the LSC, the Lord Chancellor was up for a radical re-appraisal of legal aid, subject to a number of international commitments. Civil legal aid would rely more on new

funding methods. It was essential for the Bar to work with the Law Society and to look beyond the troublesome 6-month to 3-year period to a sustainable and excellent publicly-funded criminal Bar.

Marc Beaumont asked whether we needed both a Regulator, the BSB, and a Super-Regulator, the LSB. The AG confirmed that it was not on the agenda to dispense with the LSB, but its developing work would be monitored. Sir Ivan Lawrence QC questioned whether there was any real alternative to public funding for criminal legal aid, and wondered where else Government would be looking to save money. All that criminal practitioners wanted was to be paid reasonably. The AG repeated his point about the inescapable international obligation to provide public funding for legal aid, but that left a number of ways of adjusting and improving costs. The Courts' Inspectorate had been abolished, but the CPS Inspectorate would provide useful guidance. There would be no soft-soaping the tough decisions faced by the Lord Chancellor. A radical re-think was in hand which, he hoped, involved consulting with the Bar. The AG remained committed to being Leader of the Bar, which enabled him to inform colleagues of the Bar's importance. Tom Crowther raised the question of the cost of HCAs in the CPS and, additionally, he asked why the soon-to-be-abolished LSC continued to plan for its own involvement in fees administration. To the latter question, the AG was unsure and agreed to find out. To the former, the AG noted that if the leaks turned out to be correct, and cuts were made to the CPS in-house capacity, then logically the Self-Employed Bar could benefit. The AG recalled that the CPS Inspectorate had commented on the extent to which CPS in-house advocacy impacted unhelpfully on case preparation.

Winston Roddick QC spoke on behalf of the Circuit Leaders in emphasising the importance of the circuits to the Bar. With public work expected to diminish, he sought reassurance that the Bar's principled stance, that prosecution work on circuit should be carried out by members of the circuit, would be maintained. The AG had heard nothing to cast doubt on that practice. Following the latest GFS rate cuts, Hannah Kinch drew attention to the LSC's apparent inability to incorporate electronically the new rates. She had been faced with a new five-page form to fill in, with documents to be attached, to be submitted to new clerks to handle and reject, and then to be dealt with by a telephone helpline in two regional centres. This extraordinary situation would surely take all of the savings, and more besides. Eleanor Mawrey had heard that the LSC system could not cope with those changes involving decimal points, and she sought the AG's guarantee that payments to counsel would not be delayed. The AG was unable to give such a guarantee, and had not known of this problem: either the Bar Council should take it up with the MoJ, or he would be content to enquire if he was given more detail by email. If necessary he would take it up with the Legal Aid Minister. Nicola Higgins asked the AG whether he was still dubious about referral fees, and if so whether he would tell the LSB. The AG confirmed his pre-election doubts about referral fees, describing

them as "gently corrupting", and he was pleased to see that Jackson LJ agreed with him. The Lord Chancellor was looking into the subject. Caroline Harris spoke for the Wales and Chester Circuit in describing their prosecution work as the kitten's share, not the lion's share, of the CPS task. There was surely a risk that streamlining the process would hit the referral Bar even more. The AG was interested to hear by email if the Circuit was unique in any respect of its CPS work.

The Chairman expressed the Bar Council's thanks for the AG's willingness to take questions, and for his forthright answers.

6. BSB Report

Baroness Deech also extended her welcome to the AG, and hoped he was enjoying a short break from the Mandelson-style atmosphere at Westminster. After noting that the BSB survey on the future of the profession was on the BSB website, she had two main issues to report.

First, great strides forward had been made on Quality Assurance. The Joint Advocacy Group (JAG) set up by the BSB, SRA and ILEX had agreed on the shape of the QA scheme, which would maintain the Bar as the centre of excellence. Thomas LJ had played a key role so far, and he added weight to the discussions about putting judicial evaluation at the core of the scheme. Everyone supported the outcome. A joint consultation paper would be issued by the end of July, and she urged practitioners to respond.

Second, the Annual BVC Conference (soon to be the Bar Professional Training Course (BPTC) Conference) had been held in Brighton, and had involved the course providers; the examiners; a number of practitioners, BSB members and staff; Derek Wood QC speaking about his three studies, and Charles Haddon-Cave QC speaking about advocacy training. The main topics of the Conference were the introduction of the aptitude test, and the new centralised examinations in civil litigation, criminal litigation, and ethics planned for 2011/12. On the second day a lively debate was held on the motion that "the LSA 2007 will hasten the final demise of the Bar as a referral profession". After some top-quality support and opposition to the motion, it was defeated by a narrow majority.

It was not all good news. The LSB were applying pressure for an early move to a lay majority for the BSB. There was full support at the BSB for a managed move to a lay majority, taking full account of the "best qualified person" test for the transition period. The BSB needed to maintain its essential pro bono support from barristers, and the LSB were showing too much interest in process, and too little in substance. She expected to be robust in replying to the LSB.

With regret, Baroness Deech announced the resignation at the end of 2010 of Mandie Lavin, the Director of the BSB. We hoped she would be replaced within her six-month notice period. Appropriately, her background as a midwife had seen the embryonic BSB grow to full independence. She had been a whirlwind of energy, and she had certainly left her mark. She had provided great support on these Saturday mornings, but the BSB would go on without her.

Sir Ivan Lawrence QC echoed the praises for Mandie Lavin. He questioned the relative roles of the BSB and the Inns of Court in providing the supervision of advocacy training. Baroness Deech was clear that the BSB supported the Inns of Court in their key role in supervising future advocacy, and she was certain the Inns would conduct the task. Christina Michalos questioned why the issue of a lay majority for the BSB was so important, to which Baroness Deech replied that perceptions mattered. John Cooper QC enquired how the BSB were dealing with the BPP Law School. Baroness Deech confirmed that BPP were still under scrutiny. Marc Beaumont was unsure why good barristers needed a formal QA system, to which the Chairman replied that we needed QA for all bad practitioners, barristers and solicitors alike. Baroness Deech believed that QA would demonstrate the Bar's good points.

7. GMC resolution of Bar Council membership

The Chairman introduced the item. A directly elected Bar Council member (Lenny Cheung, a CPS Employed barrister of < 7 years' Call) had accepted a one-year overseas appointment from July 2010 to July 2011. For this period he would be unable to participate directly in Bar Council activity, but wished to return to his Bar Council duties on his return to the UK. He was a current member of the Young Barristers' Committee, and his Bar Council term ran from January 2010 to December 2012.

Part II, Regulation 6 of the Bar Council Constitution provided that:

a person shall cease to be a member of the Bar Council if:

.....(e) not being a member ex officio of the Bar Council (i) he absents himself from 3 consecutive meetings of the Bar Council or of any committee or sub-committee of the Bar Council of which he is a member or absents himself in any year from one half in number of the meetings of the Bar Council and (ii) the General Management Committee resolves that he ceases to be a member of the Bar Council;

The GMC had debated the issue, but had decided to seek the views of the Bar Council before resolving whether or not Lenny Cheung should cease to be a member of the Bar Council.

Nick Lavender QC reminded the meeting that the Constitution made provision for the appointment of an alternate for some categories of Bar Council member, for example a circuit leader or chair of an SBA. But for directly elected members there was no such provision, to reflect the personal nature of the vote by members of the Bar for a particular individual. The Constitution permitted an appointment by the Bar Council to fill a casual vacancy, to last only until the next round of direct elections. Then, the vacancy would be filled by the direct election of a member for the remaining term of the original member. The Constitution was clear, and it would be unwise to tinker with its provisions.

In this case, Stephen Leslie QC saw merit in co-opting the losing candidate with the greatest number of votes in the direct election, for a term expiring when Cheung was able to return to Bar Council duties. Robert Rhodes QC said that this solution presupposed there had not been an exact match between the number of vacancies and the number of candidates. Michael Patchett-Joyce favoured appointing a replacement for the rest of Cheung's term, not merely for the period up to the next direct election. Richard Atkins believed that the constituents who voted for Barrister A would not expect A to leave. If A was replaced on a casual basis by B, the constituents would be disappointed if A regained his place automatically on his return. A should be required to reapply for election. Michael Jennings considered the issue in a broader context, and raised the prospect of unfair treatment of some absentees from the Bar Council, for example by virtue of pregnancy. Ken Craig noted the GMC's discretion as to whether it resolved that membership should cease.

The Chairman asked for a show of hands on (i) whether the Bar Council was in favour of the GMC resolving that Cheung should cease to be a member, and (ii) whether the existing constitutional provisions were satisfactory. The meeting voted overwhelmingly in favour of both propositions. Belle Turner asked how GMC was likely to deal with a pregnant Bar Council member who was unable to continue with Bar Council duties. It was clear that the GMC would exercise its discretion in these circumstances, but the Chairman agreed that the GMC should receive formal advice from the Equality and Diversity team before any future decisions on this point.

The Chairman concluded that the GMC now had the guidance it needed from the Bar Council to be able to decide on Lenny Cheung's membership.

8. Chancery Bar Association (ChBA) Report

Michael Todd QC sought to contextualise what the ChBA did, and how it did it. The Chairman had emphasised at the recent Symposium on the Future of the Bar that the profession needed to modernise and to change. For the publicly-funded, this was seen as a commercial imperative; for the privately-funded, it was a commercial

opportunity. But the ChBA had always seen these twin commercial features. Although the ChBA did not face the same pressures as the publicly-funded Bar, it had pressures of its own on chambers structures and on competition by HCAs for the traditional work done by new entrants to the junior Bar. New entrants could choose to do what the Bar does either at the Bar, or in firms with greater security and flexibility. Chambers structures must maintain the Bar from the bottom up, by having the ability to recruit, to retain, and to develop the best.

The ChBA faced other pressures, often self-induced. No one understood what it did, and how it did it, beyond passing references to Bleak House. There was a lack of diversity at the ChBA, and it might seem to some that social mobility meant no more than the difference in price between a First Class rail ticket, and travelling by air. Any impression of an Ivory Tower Syndrome was not helped by the ChBA's past isolationist approach to the Bar Council and to anything not centred on earning money.

But the ChBA had changed. Over 30 years, the work had changed, and the way practitioners did it had changed. One was the catalyst for the other. Trusts now included investment vehicles and pension funds; insolvency involved cross-border issues as well as traditional personal bankruptcy; real property involved sophisticated finance models, not merely domestic mortgages. New clients had new expectations, including working methods: Opinions had often given way to telecons and conference notes; the need for efficiency and excellence meant more complementary team-working; as Geoffrey Vos had once put it, the ChBA marketed itself on excellence and great value. The ChBA had contributed via an international sub-committee to a business development visit to Dubai; successive trips to the Caribbean and the US; and a large delegation to the Commonwealth Law Conference in Hong Kong.

For potential new entrants, the ChBA contributed via a new academic sub-committee to a ChBA careers fair; to the Speakers for Schools programme; and to a publication on careers at the ChBA, targeted to increase diversity amongst applicants. For existing members, seminars and the ChBA Conference were regularly over-subscribed; the New Practitioners' Programme was well supported, and DVDs were used to help some regional programmes. Via an Equality and Diversity sub-committee, a mentoring scheme had been set up, initially for women only but now for all. The ChBA supported the multi-cultural scholars' programme at Warwick, and arranged a number of talks to university students.

There had been a visible sea-change in attitude towards working practice, some voluntary, some by necessity. The ChBA recognised the value of diversity, and the need to appeal to and support those for whom the Bar might seem unattainable. In similar vein the ChBA had organised a seminar with the JAC. The ChBA now did

more to support the Bar Council: of the 60 practitioners who had offered pro bono support for the Bar Council, 35 had been ChBA members. Even the mood of the senior judiciary had softened towards the ChBA, with an anonymous former Chairwoman of the Bar shifting position over three years, from accusations of lack of ChBA transparency to congratulations on the ChBA's achievements.

More was needed to encourage quality, excellence and good value in the ChBA, as for the Bar as a whole.

9. Criminal Bar Association (CBA) Report

Paul Mendelle QC characterised his report as the impact of a perfect storm of legislation, government policy and economic circumstances on the publicly-funded Criminal Bar. The choice was between building new structures, or drowning.

The legislation in question was the LSA2007 that opened up the profession to new business structures. The CBA had for some time supported the idea that chambers could form limited companies to procure legal services and in 2008 had contemplated that such a vehicle could contract directly with the LSC.

The government policy relevant to the issue was the 22 March 2010 paper from the MoJ entitled the Restructuring of the Delivery of Criminal Defence Services. Notwithstanding that this paper was the product of the previous Administration, it represented the clear direction of travel. There would be fewer providers per criminal justice area, down perhaps from 2500 to as few as 400, covering the full range of services from police station to the Crown Court. Building on the Carter recommendation in 2006 to harmonise the litigation and advocacy GFS after 2009, the MoJ envisaged that chambers would be free to tender for the full range of services, and it was likely that the MoJ would consult on OCOF for litigation and advocacy services.

The changed economic circumstances facing the Bar included up to 5000 HCAs chasing the advocacy fees; 13.5% cuts over three years to the AGFS, and an extension from 40 days to cover up to 60-day cases; VHCCs would be confined to cases over 60 days, resulting in cuts of up to 60% in some cases; and the growing trend of solicitor advocates (who were not bound by the Bar Council protocol on AGFS) or employed barristers becoming the Instructed Advocate in GFS cases, taking a progressively larger share of the fee for the preliminary work, and leaving less for the trial phase. He had heard anecdotally of one set approaching a large firm with an offer permitting the firm to become the Instructed Advocate, taking a share of the advocacy fee, in return for passing all of the work to the Set for the remainder of the fee. The final element of the dire economic picture was the broader national financial crisis and the Government's determination to cut expenditure by 25 - 40%. The legal

aid budget was £2.1 billion, and the MoJ was looking to save a total of £2 billion from its £9 billion budget.

The Bar Council and CBA had consistently opposed OCOF for years, on the basis that the advocacy element for the Bar would decline if solicitors took the whole fee. But the MoJ's direction of travel meant that it no longer made sense for the Bar Council to oppose OCOF. The Bar Council would not succeed, and if it tried it would fail. The only solution was for the Bar to gain control of the single fee via an appropriate procurement vehicle. Clearly the Bar would need to subcontract the non- advocacy elements such as police station attendance and litigation support. Initial hostility in the LSC to the idea of subcontracting litigation had given way to active support for the Bar to do so from the MoJ and LSC. The Bar Council had set up five working groups to help put chambers in the position to bid for work by mid-2011, the Government's timetable. The five groups would cover: LSC Contracting; Business Models; Tendering Process; Government Savings; and PR/Education. Their objective was to produce clear and practicable guidance for the profession.

He concluded with a number of summary observations. First, the Bar Council must educate practitioners as to why we no longer fought against OCOF, and now fought hard for the Bar's access to OCOF. Second, arguing for a ring-fenced advocacy fee would not work in the Bar's interest, and ring-fenced advocacy fees were now working in favour of the Bar's competitors. Third, OCOF itself would not be the cause of, nor would prevent, the Government reducing fees still further. Fourth, there would inevitably be a reduction in practitioners working at the publicly-funded Bar. The danger was that the good ones would leave, and the worst ones remain, leading to a reduction in advocacy standards. It was for the profession to ensure this did not happen. Fifth, there was nothing in these changes to stop some sets retaining the pure referral model, and some would thrive as such. And finally, new entrants must be encouraged to come to the Criminal Bar, as the lifeblood of the profession. Without them the Bar would die from the bottom.

10. Policy Advisory Group

The Vice-Chairman praised the wise and conscientious work over the past year of Paul Mendelle QC, who was stepping down as Chairman of the CBA.

Besieged by cuts, there was a justifiable focus on new business models in the short term. But in similar vein to the AG, the Vice-Chairman spoke of the need to look beyond the next three troublesome years, and the Policy Advisory Group (PAG) had adopted a 'Five Years On' approach. Some of Stephen Collier's work on structures had been overtaken by the Chairman's Procureco programme, which was further developed at the Future of the Bar Symposium on 10 June. Thus the Five Years On group would refocus on two key areas. First, how best to achieve brand recognition

by differentiating the Bar from its competitors. In that regard, the earlier recognition by Michael Todd QC of Geoffrey Vos' use of excellence and great value was helpful. Second, effective Direct Access might be achieved by delivering a wider end-to-end service to professional and lay clients within the familiar context of a chambers structure. Crucially, this should be delivered without the burden of a greater non-productive overhead. In conclusion, the Vice-Chairman cited Bertolt Brecht's attitude to change: "it is because things are the way they are, things will not stay the way they are".

11. LSC Direct Contracting, Training and Education

The Vice-Chairman gave a brief progress report on the five working groups that had been set up to produce tangible assistance to the Bar in the forthcoming world of new business structures and direct contracting with the LSC. The Chairman would lead a supervisory team to coordinate the efforts of the five groups. The first of the groups, the LSC contracting working group would initially deal with criminal contracting before moving on to family law contracting. The Business Model group would look at both criminal and family models. The Tendering Process group would look at types of models that seemed most likely to actually win contracts. The Government Savings group would work in parallel with government efforts to the same end. Finally, the PR and Education group would be chaired by the Vice-Chairman, and would aim to organise a campaign to raise awareness, to identify those topics for which the Bar needed assistance, and to educate the Bar by means of in-house or circuit training. At a local level, a good example had already been set by the work of the Leader of the Western Circuit. The success of this initiative would be highly dependent on the engagement of those members of the profession who would be asked to assist.

12. Employed Barristers' Committee (EBC) Report

Melissa Coutinho gave a flavour of what the EBC aimed to achieve, and why. The EBC had existed for a decade to further the interests of the Employed Bar.

The EBC supported the One Bar concept in word and in deed: many employed barristers instructed the Self-Employed Bar.

Of the 15000 barristers with practising certificates, 3213 were presently employed barristers. In the past ten years, this ratio had fluctuated within the narrow band of 19 - 22%. No more than 25% of the Employed Bar were CPS employees, and some 50% of the Employed Bar were members of the private sector. The breadth of Employed Bar activities was illustrated by the fact that 50% did not do work that would be done by the Self-Employed Bar.

The Employed Bar's autumn conference would be addressed by Winston Roddick QC, someone who had been, in turn, both an employed and self-employed practitioner. Topics would include the ethical and Code of Conduct issues common to all barristers, as well as those items specific to the Employed Bar.

In summary, she reminded the meeting that the Employed Bar wanted equitable treatment, and were willing to accept different treatment. The Employed Bar were not a threat, and should be seen as an opportunity for the Self-Employed Bar.

13. Professional practice committee (PPC) Report

Nick Lavender QC was fulsome in praise of his predecessor, David Etherington QC, and modest in comparing his own performance as Chairman of the PPC. The Committee had been tremendously well served in recent years by vice-chairmen of the calibre of George Bompas QC, Kate Thirlwall QC and Anthony Leonard QC, all of whom had now moved on. The present Committee members were all hard workers in support of the wider profession, and the Committee outputs could loosely be categorised as representations, guidance and ethical advice.

The PPC represented the profession's interests in its numerous dealings and consultations with the BSB, the LSB and OLC, the SRA, and Government. This was often a watching brief, to know what all these stakeholders were up to. The PPC tried whenever possible to avoid any duplication of activity.

A wealth of useful guidance was made available on the website, ranging from Rights of Audience to Practice Management Guidelines, and now included Procureco guidance. The 150 items of guidance included a Frequently Asked Questions section.

The Ethics Hotline fielded some 600 calls a month, involving 60 hours of telephone help from Bar Council staff. Calls often came from barristers in court and, just occasionally, the judge joined in too. Many problems also crossed practice boundaries, and he had given advice to criminal, family, civil and tax practitioners. Simple advice could be quickly confirmed by email, but occasionally more drastic steps were required: in *R v Rochford*, he had been instructed by the Bar Council, and had attended court to apply to intervene if the judge carried out his declared intention to imprison defence counsel. In the event, this proved unnecessary, but the Bar Council's involvement in Rochford would continue to the Court of Appeal, to clarify the nature of the advice which counsel can properly give to a client.

14. Budget and pension update

The Treasurer made a number of points about progress on the 2011 Bar Council budget. First, the Finance and Audit Committee had agreed in June that the expenditure figures for the 2011 budget should be limited to the levels set in the 2010

budget, and that any assumptions about increased income should not be taken into account at this stage. Second, there was a strong argument to move to a 15-month Practising Certificate (PC) valid from January 2011 to end of March 2012. The consultation exercise on the future of the Practising Certificate Fee (PCF) had shown a desire to move PCF renewal away from the costly Christmas/New Year period. Options for paying the 15-month PCF might include (i) a December 2010 invoice for the LSB, OLC and Pension levies, and a 3-month PC, followed by a March invoice for the remaining 12-month PC, and (ii) a single invoice for the full 15-month PC and levies. The Bar Council would explore the possibility of making available a commercial scheme for paying the PCF on a monthly basis.

Third, consideration was being given to abating the PCF for senior practitioners towards the end of their careers after, say, 50 or 55 years' Call, or on reaching the age of 75. A reduction of the core PCF down to Band 3 (£172) for the few practitioners working exclusively for charities would also be considered. Fourth, the Finance and Audit Committee would soon be debating whether it was time to move to a common core PCF for self-employed and employed barristers. This would reflect the new reality that an increasing number of barristers worked in Chambers on one day, and for a firm on another. In that sense, the distinction between the self-employed and employed was gradually breaking down. An exception would be made for the 1500 publicly employed barristers at this stage, until it was rather clearer whether Government would maintain the status quo on the need for PCs for Crown lawyers.

The review of the DB pension scheme was making good progress, and the Treasurer expected to go out to consultation with staff within the next two weeks. The need to raise money for the past service liabilities remained strong, and there would be a further pension levy at the end of this year. The need for one or more pension levies beyond this year would depend in part on the outcome of the present Review. Additionally, we were exploring the merits of changing the Bar Council accounting year from a traditional calendar year, to an April to March financial year. This would fit well with the likely Authorisation to Practise regime in 2012, and would be welcomed by the many practitioners keen to move away from the expensive Christmas renewal date.

Finally, the Treasurer confirmed that the Bar Council had committed itself to provide £300k in 2011 for work on Entity Regulation, and intended to fund the necessary work on the non-discretionary QA scheme required initially for criminal practitioners. It was the Bar Council's objective to keep the core PCF for 2011 at the 2010 level.

Winston Roddick QC was unsure why members of the publicly-funded Employed Bar should pay less for their practising certificates. In many cases, the fees were actually paid by the Government. The Treasurer was concerned that a short term

PCF increase could prompt the Government to stop paying the fees. The AG suggested that it was important to get a commitment from the Government that Crown lawyers would continue to require practising certificates. Sir Ivan Lawrence QC noted that the Inns would be seeking to reduce the size of their subvention to the Bar Council, and the Treasurer confirmed that the Bar Council needed to rationalise both the subvention and the functions it funded. Maura McGowan QC asked whether there would be additional administrative costs associated with collecting the PCF in two instalments. The Treasurer hoped not.

The Chairman believed the proposals on the subvention would be sensible and rational, and would be consistent with a greater involvement of the Inns on advocacy training and quality.

15. Any other business

There was no other business.

16. Date of next meeting

The next meeting would be held at 10:00 on Saturday 2 October 2010 in the Bar Council offices.

DAVID HOBART

Chief Executive

Email: chiefexec@barcouncil.org.uk

Annexes:

A. Bar Council Members for 2010.

B. Abbreviations.