



**MINUTES OF THE BAR COUNCIL MEETING**  
**HELD ON SATURDAY 20 OCTOBER 2012**  
**AT THE BAR COUNCIL OFFICES**

Present:	Michael Todd QC	Chairman
	Maura McGowan QC	Chairman-Elect
	Stephen Collier	Treasurer
	Mr Oliver Heald MP	Solicitor General

58 further members of Bar Council attended.

**1. APOLOGIES**

Apologies for absence had been received from Rt. Hon. Dominic Grieve QC MP, Keir Starmer QC, Catherine Addy, Mirza Ahmad, Ayesha Bhutta, Gregory Bull QC, Alex Carington, Tamsin Cox, Tom Crowther, Nicholas Cusworth QC, Timothy Fancourt QC, Amanda-Jane Field, Max Hardy, Edward Henry, Nichola Higgins, Susan Jacklin QC, Stuart Jamieson, Laura John, Paul Mendelle, Adaku Oragwu, Lucinda Orr and Muhammad Saley.

**2. APPROVAL OF THE MINUTES AND MATTERS ARISING**

The minutes of the 15 September 2012 Bar Council meeting and AGM were approved. There were no matters arising from the minutes of the last meeting.

**3. STATEMENT BY THE CHAIRMAN**

The Chairman welcomed everyone to the meeting, thanking the Solicitor General, Oliver Heald MP, for attending. The Attorney General and Director of Public Prosecutions have sent their apologies; their commitment to attending Bar Council meetings when possible is recognised and greatly appreciated.

Although the Chairman had, as usual, circulated a written statement, there was an extra item upon which he wished to report.

The Bar Council continues with its proposals to seek to appoint a Chief Executive. The Officers produced a brief job description, which was shared with the BSB for their comments. The Chairman additionally prepared a background note to support the job description, drawn almost exclusively from, and based on, the Legal Services Act 2007, the Internal Governance Rules, the Bar

Council Constitution and the Standing Orders. Taking heed of advice to discuss the job description with the Legal Services Board, on Thursday of this week the Chairman attended a meeting at the LSB with Maura McGowan QC (MMQC), Nick Lavender QC (NLQC), Oliver Delany (OD) and Mark Hatcher (MH). David Edmonds, Chair, Nick Glockling, Legal Director, and Julie Myers, Corporate Affairs Director, of the LSB were present.

The job description had been submitted the previous day to the LSB. The Chairman explained that he wanted to ensure the BSB's independence and wanted them to be satisfied with the job description. The LSB asked for one sentence to be removed, which the Officers acceded to without demur, whereupon they pronounced themselves satisfied with the job description. The Bar Council party were grateful to them for the speed with which they dealt with the request.

#### **Any comments / questions arising out of the Chairman's written or oral statement**

Richard Atkins QC (RAQC) referred to recent Circuit visits which had been undertaken and the scurrilous rumour he had heard from Leeds that the Chairman, whilst there, had not finished his curry. Having seen the Chairman finish a curry, a hot one, only the week before in Birmingham, RAQC wished to put any such slurs to bed.

#### **4. BSB REPORT**

Baroness Deech, in the interests of time as the meeting had a full agenda, had distributed a written report in advance. In doing so, she was able to list the topics on which she could report and she hoped that Bar Council found it helpful. She said that she was very happy to answer any questions.

Baroness Deech said that perhaps now was a good time to say that, of course, the BSB is an independent body. It should be borne in mind that everyone is operating under the Legal Services Act 2007 and it is a tripartite system. The BSB is not wholly free to do exactly what it wishes. It is more regulated against than regulated, as everything it does has to be under the LSB and alongside the mammoth SRA and other regulators. Baroness Deech asked that this context be remembered.

In relation to a Chief Executive, the Baroness expressed a wish for the Bar Council to find and recruit somebody good. One of their concerns with the job description had been a section which suggested that the CEO could speak on behalf of the Bar Council and the BSB. In their opinion, this would not be feasible and the BSB is well capable of speaking for itself.

The Baroness wished also to thank everybody who had submitted a response on QASA – there have been over three hundred – which have for the most part been very careful, constructive and helpful. The BSB is delighted to read them all and encouraged free speech both within the BSB and the Bar Council on the most important issues of the day.

#### **Questions to the BSB**

##### QASA – remaining issues

Lord Carlile of Berriew QC (Lord Carlile) asked if Baroness Deech could briefly explain what, to her mind, the remaining issues on QASA are and to what extent she could see there being

resolution to those issues. She said that in all the responses received and in conversation with judges there is unanimity that there has to be an accreditation scheme. It has been announced this week that doctors must now also be accredited. People, even judges, often tell her privately that they have seen some very poor standards of advocacy. However, there is a fear to start complaining.

There is unanimity that judicial evaluation should be at the heart of the scheme. There are issues upon which people have put forward differences of opinion and she is aware that people are taking Counsel's advice about the proportionality of the scheme and the lack of evidence to support the need for it. If it is said that there is no evidence, then it must be necessary to go out and get it. Even if, for example, there was no evidence of doctors being out of date, one would feel more confident with one's practitioner knowing that they were accredited.

There are technical issues which have come up. Many responses speak of complexity and expense. The BSB believe in the consultation process and asked for opinions, which have been received and show a great deal of careful consideration. These are very welcome and Baroness Deech has herself already read all of the organisational responses. The BSB will do what it decides it has to do, but nothing will be brushed aside. Responses are being digested at the moment by Board members and will be discussed at their Board meeting in November. The Baroness wants a decent scheme, which takes on board all that has been said. However, members must remember that this is a tripartite scheme and that if this had just been a Bar-wide scheme, it would have been resolved a year ago. The SRA has registered approximately 10,000 solicitor-advocates in the scheme already and claim to regulate more advocates than the Bar does.

The Baroness gave her word that they will take everything into account. For example, members may have seen the response to the recent consultation on the Code and Handbook. All responses have been digested and a great deal of time spent taking them on board. The Baroness is quite confident that they will do the right thing.

#### QASA – inclusion of Queen's Counsel

Lord Carlile then raised the contentious issue of the inclusion of silks in the scheme and asked whether the Baroness can see any way through this problem given that the resistance to silks being placed in category 4 is extreme.

Baroness Deech replied that many, but not all, responses, touch on the issue of silks. She completely understands that silks have taken it personally, given that many have taken silk only very recently. On the other hand, there are quite strong voices – a majority – saying that checks need to take place as there may be some silks who achieved that status some time ago who are not still performing to that standard. Although there is a way to remove the QC honour from individuals through the QCA Panel, the Baroness is not sure that this route has ever been taken. She said that there has to be a mechanism to keep an eye on silks but it may be possible to find a way which does not denigrate their self-esteem and so that they can see that there is “clear blue water” between themselves and level 4. If a constructive way to tackle concerns has been put forward, then the BSB will consider it. However, there has not actually been much dissent in the responses received that there should be some sort of accreditation of QCs.

Stephen Leslie QC (SLQC) said that, as one of the practitioners who took silk over 20 years ago, he has no objection to being assessed. However, there is an objection to being in category 4. The concern for him, and others, is that if silks undertaking publicly-funded work are put into this category, alongside juniors, it indicates that there is no purpose in having a silk in a publicly-funded case. In reality, there are cases of such complexity that it is not appropriate, in the public interest, for a junior to undertake the case and this is a real risk which needs to be addressed.

Baroness Deech replied that she and the BSB could not get involved with funding of the Bar. Perhaps the Solicitor-General may wish to make a note of this point. However, they will do what they can to ensure that silks are accredited in such a way that the purpose of silk is not undermined.

Baroness Deech took this opportunity to remind Bar Council that if the Bar do choose to undermine the scheme, this does not mean that there will not be any regulation. Everyone is operating under LSA 2007. The Baroness noted, with pleasure, at least two occasions upon which the Lord Chancellor has indicated that he is not in favour of over-regulation. He seems to understand that this is what is happening and may be receptive to ideas for change. The Baroness has grumbled loudly about the details of LSA 2007; it might be that we are now in a place to get a better hearing on the deficiencies of that Act. However, as it stands, the BSB is the Bar's regulator and if they are undermined, other regulators may step in.

SLQC clarified that his point was that by putting silks in at grade 4 – where there are plenty of practitioners who are not capable of dealing with the most serious work – it means that cases in which silks are instructed will drop and this would not always be in the public interest. Baroness Deech reiterated that all the responses and suggestions about determining levels will be very carefully considered by the BSB Board.

#### QASA - Consultation process

Michael Turner QC (MTuQC) asked Baroness Deech what she could say in relation to comments made at the Young Bar Conference, before the consultation response deadline had passed, by a member of the BSB Board to the effect that QASA would be coming in regardless of the concerns expressed by the CBA. The concern is that this is not a real consultation.

Baroness Deech gave her word that the consultation is being taken very seriously. Without personalising this issue, she said that as far as she is concerned her Board members are allowed to express their right to freedom of speech and she is happy for them to do so. It is unhelpful to personalise these issues. However, the Board has not yet made up its mind and nothing expressed anywhere else represents the final position.

Mark Wall QC (MWQC) said that, with respect, it is unacceptable for a Board member to say publicly that they are of a closed mind before the consultation period has even ended. Baroness Deech said that this was unfair as the Board member referred to has worked extremely hard on QASA and is allowed to say what he wants. That is not to say that the Board has made up its mind. MWQC said that were this member to stay in post, it would be taken as a sign by the Bar that the Board has made up its mind and is speaking on its behalf. Baroness Deech asked the Bar Council to believe what she has said about no decisions having been made.

Alistair MacDonald QC (AMQC) asked whether this meant that Baroness Deech would condemn any accusation that this is not a proper consultation. The Baroness confirmed that it is a proper consultation and said that she refused to have her Board members exposed like this as they may no longer agree to attend and speak at conferences.

#### QASA - Judicial training

Fiona Jackson (FJ) asked why, if the Board's mind had not been made up, judges were already being trained in preparation for the scheme's roll-out. Baroness Deech explained that a scheme will be rolled out and that given the tight timetable, it is necessary to get ahead of the game.

Baroness Deech repeated that the BSB Board will consider the responses in November and that upsetting her Board members won't help the process of reaching a good decision.

#### QASA – inclusion of Queen's Counsel (continued)

Charles Hale (CH) said that although not personally invested at this stage as he is not a criminal practitioner, he was concerned that he had yet to hear any real responses from the BSB today and asked Baroness Deech to give a clear answer to the issue of silks. The Baroness replied that she hoped that solutions had been put forward in the consultation responses. CH replied that the real issue is that if silks are included in level 4, there is effectively no point to the honour anymore and the consequence will be the removal of QC status entirely. The Baroness said that she cannot give any definitive answers before the Board meets in November.

Lord Carlile QC made an intervention to say that he was worried about the personalisation of this discussion. On silks, the question he was hoping to get an answer to was around the idiosyncrasy of silks' practice. His practice, after 28 years in silk, is much like that of many others who have held silk for a long time. It does not involve going to court very often or doing solely criminal work. It involves a lot of advisory work and international work, which brings earnings in to this country. He thinks that placing silks in category 4 fails to recognise the work of senior silks and the BSB and Bar Council need to address that issue. He made a plea that the focus is on the issues and not the people involved.

Vanessa Davies (VLD) referred to Lord Carlile's initial question, which is whether or not the BSB can see a way through the silk issue. She said that thanks to the detailed and technical responses to the consultation, the answer to that is that they can. It will involve negotiation and discussion, but thanks to the efforts and suggestions put forward, it can be done. Whether it is a way through that everyone will be content with is a different matter, but they can try.

The other point is that she wished to make is that there have been accusations that the BSB are unfamiliar with the issues. However, now that so many detailed and useful responses have been received, they are fully informed for the first time in eighteen months. She thanked the profession for their engagement and for their considered responses, which in turn will be given proper consideration and handled with integrity.

#### QASA: publication of responses

Melissa Coutino (MC) asked whether all the responses received would be published. VLD said that the BSB would collate them and publish them at the same time as the BSB publishes its

response, but only if the individual respondees have agreed to it. Baroness Deech remarked that many responses have been published already.

QASA: judicial evaluation (continued)

Melissa Coutino (MC) said that she is aware that some judges may be reticent about giving negative feedback where there is no process for doing so, but even on some tribunals where there is such a mechanism, not all feel comfortable with doing it. How will this feeling be tackled in QASA? Baroness Deech said that this would be addressed through training.

QASA: timetable for considering responses

RAQC remarked, following Lord Carlile's comments, that he has only been in silk for 18 months and he doesn't go to court very much either these days! His question was how the BSB Board will properly consider over 300 responses at one meeting in November. VLD said that this was something the Board were aware of and that logistical arrangements are in place to ensure that there is enough time for this to be done properly. Baroness Deech asked staff to send out each of the responses as they came in so that they didn't come at once.

QASA: evidence to support the need for a compulsory scheme

Nick Lavender QC (NLQC) said that he did not ask for an answer today on this point, but asked that the Board is sure to consider the issue of evidence for a compulsory scheme. All four consultations had been quite light on this point and his committee, the Professional Practice Committee, had picked up on this. Have a scheme by all means and let the CPS instruct who they like and the LSC pay who they like, but the idea that members of the Bar should be disbarred for appearing in a case which they thought was quite straightforward but turns out to be quite complex – which is currently how the scheme works – requires more evidence to support it.

NLQC also asked for clarification as to whether Baroness Deech was saying that there is evidence to support the scheme or whether that evidence is largely anecdotal but they are pressing on anyway.

Baroness Deech said that there is some anecdotal evidence and some evidence in a recent CPS report [HMCPSI's Follow-up thematic review of the quality of prosecution advocacy and case presentation, March 2012]. A comment was made that this report was actually favourable towards Bar and criticism was largely aimed at in-house advocates. Baroness Deech said that she appreciates that the evidence is not overwhelming. This is why the scheme must not be too bureaucratic.

Baroness Deech said that she was happy to answer any questions but given that the Board has not yet met, none of her answers will be definitive.

NLQC said that, again, he did not want an answer today but wanted the BSB Board, after this is all over, to consider any lessons learned from this experience about the process. Baroness Deech said that the process is complicated by virtue of it being a tripartite scheme. This is the first major process on which all the main regulators have been made to work together.

Baroness Deech again urged members to use whatever influence they may have to persuade the Lord Chancellor and the Ministry of Justice that the regulatory system brought in under the 2007

Act is cumbersome and expensive. However, whilst we are still bound by it, there must be compliance. The only solution to rectifying the problems inherent in it can only be political. She is trying to arrange a meeting with the Lord Chancellor to express these views. This is an honourable profession that does not need to be over-regulated, but the Act must be complied with.

#### QASA: Young Barristers' conference

David Nicholls (DN) said that over 100 young barristers left the conference following comments made by a BSB Board member under the clear impression that the consultation is a sham and that the BSB has made up its mind. What can the BSB do to address that misconception? VLD said that she would be very happy to speak to the Young Barristers' Committee, but DN said that it is really the delegates at that conference who need to hear what she has to say. VLD said that she would help in whatever way she can and Baroness Deech reiterated that the Board will be considering QASA at its November meeting.

#### QASA: Judicial evaluation and Plea Only Advocates (POAs)

Baroness Deech was asked whether judges are also being trained to assess POAs. She replied that judges are being trained to assess all types of advocate. Within the draft scheme, some advocates at certain levels and in certain types of practice will go through assessment centres, but judges are being trained in terms of being able to assess any advocate who appears before them. Judges have expressed a wish to be able to do this as a level playing field.

#### QASA: timetable for roll-out

NLQC asked what the timetable is for the BSB to publish its response, given that the Board meets in November and roll-out is due to start in January. Baroness Deech said that 10,000 solicitors have already registered, so there is no issue with continuing with that. The timetable remains as it stands at the moment, but will be considered during the course of meetings with the other regulators over the next few weeks.

The Chairman thanked Baroness Deech and reiterated Lord Carlile's remarks about respect. No-one should impugn another's integrity, whether a member of the Bar or otherwise, unless there is good cause to do so. He appreciates that these are highly charged matters and that people feel sensitively about them. However, we must strive to be courteous to one another and also not to patronise. He does not make these comments about Bar Council / BSB relations, but more as a code by which we should live at all times.

## **5. CONTRACTUAL TERMS – LIST OF DEFAULTING SOLICITORS' RULES**

Barrie Akin (BA), Chairman of the Bar Council's Implementation Committee, introduced this item for approval. Supporting annexes were presented as annexes 3a – 3c.

New contractual standard terms have been approved and will come into place on 31 January 2013. As a result, the consequential rules relating to the List of Defaulting Solicitors and other Authorised Persons 2012 and to the Scheme for Complaining to the Bar Council for Publicly-Funded Matters would change.

It has been a long process. The new terms will be in the Code as Annex T at the same time that the old terms, currently at Annexes G1-G2, are abolished. They will go, as will the withdrawal of credit scheme. The main changes in the new terms are that they include solicitors as professional clients and other authorised persons, authorised by the SRA, and that whilst the withdrawal of credit scheme was formerly part of the Code, it was decided that the new form could not form part of the Code.

The essence of the change in the Code is that in the old days under the withdrawal of credit scheme, it was a disciplinary offence to accept instructions on credit from someone who was on the old list. Under the new scheme, it is simply advisory so any barrister may accept instructions from someone on the list if they so wish.

The final point is that they will not act as default terms. A member of the Bar cannot refuse instructions if they are offered to him on the new terms or on his own published terms.

Bar Council were asked to approve the recommendations provided in the Annexes.

Stephen Moriarty QC (SMQC) asked whether the LSB has definitely approved the extension of time for the introduction of the new terms to 31 January 2013. BA confirmed that the BSB had approved it, as it is within their remit.

Rick Pratt QC (RPQC) said that making it a Code offence to trade with people on the list was quite potent for people who wanted to get money out of solicitors and asked why this change had been made. BA replied that it was now considered inappropriate given that one can now sue for one's fees under the scheme.

AMQC asked about the joint tribunal scheme which BA explained is an optional service, a kind of mediation, available jointly between the Law Society and the Bar Council which parties to the dispute can agree to voluntarily. The parties are bound by the result. However, the system will have to be extended due to the changes to include solicitors and "other authorised persons".

AMQC expressed concern about the delay involved in all this. Both parties have to agree to the tribunal, or their only option is to sue. The latter option can take a long time.

The Chairman thanked the BSB for extending the timetable for implementation. The changes were taken as having been approved.

## **6. BAR CONFERENCE BOARD REPORT**

Alison Padfield (AP), Chairman of the Bar Conference Board, introduced this item and the written report at Annex 4a, saying that she would keep it brief as the meeting is running over time. AP drew Bar Council's attention to the updated programme, which shows the speakers due to attend the conference this year and the topics to be discussed. It is going to be a really good event and she encouraged everybody to consider the programme and whether they would like to attend. She said that Saturdays are, of course, precious, but it will be worth it!



AP also referred to the section of the report relating to income and said that the sponsorship revenue had increased since the report was written, although the Bar Conference Board have found that many companies spent most of their sponsorship budget during the Olympics this year and this has had an effect on the amount raised.

There were no questions. The Chairman encouraged everybody to attend and to remind their constituents of this marvellous programme and a chance to engage.

RPQC suggested that the Bar Conference be held somewhere other than London.

## **7. EQUALITY AND DIVERSITY COMMITTEE REPORT**

Kim Hollis QC (KHQC), Chairman of the Equality and Diversity Committee, drew attention to the committee's report at Annexes 5a and 5b. KHQC wished to emphasise just how important the work undertaken by the committee is; it works quietly in the background but make important contributions, not least to consultation papers, some of which have been discussed today.

KHQC referred to the summary of activities provided in the annexes and in particular the committee's involvement in the Legal Education and Training Review (LETR) and pupillage matters which arose earlier this year. The committee has been working on Public Equality Duties and the main Bar Council equality goals of widening access to the profession, creating and retaining a diverse and inclusive profession, which are shared with the BSB and set out the regulatory objectives for achieving these goals.

New Code of Conduct equality rules replaced the Equality and Diversity Code for Chambers in September and there are obligations on Chambers in relation to compliance with those rules. Chambers has to ensure that all its recruiting panels and members are properly trained. The E&D Advisors at the Bar Council have arranged training in London and on the Circuits. A helpline has also been set up.

The Fair Recruitment Guide was published on the Bar Council website in September. The Bar Council is piloting courses to assist with compliance.

Retention of women in the profession continues to be an issue. The annual seminar on managing career breaks for clerks, practice managers and barristers will take place on 16 November. KHQC encouraged Bar Council members to inform their constituents that this event is taking place.

A real step forward in terms of the retention of women is the Bar Nursery. Spearheaded by Fiona Jackson and her committee, the nursery should start in Smithfields in or before January. There is a hope to roll this out on the Circuits as soon as possible. There has been a very positive response on twitter to the project and Fiona Jackson gave an interview to *Nursery World* magazine.

The Disability Group has organised a seminar on the evening of 31 October at Inner Temple and KHQC asked that this be noted at a date for everyone's diary. Lord Neuberger is the keynote speaker.

There were no questions. The Chairman thanked KHQC and also Fiona Jackson for her hard work on the Bar Nursery project.

## **8. SOCIAL MOBILITY COMMITTEE REPORT**

Taryn Lee QC (TLQC), Chairman of the Social Mobility Committee, introduced this item and the committee's terms of reference at Annex 6b. TLQC explained that the committee was only set up in February of this year, so the work that has been undertaken is fairly new in terms of trying to get the message out. TLQC thanked Amelia Aspden, the member of the Bar Council executive who was allocated to the committee, for all her hard work and expertise. Unfortunately, Amelia is leaving the Bar Council in November and will be very greatly missed.

One of the key events this year was the Social Mobility Foundation placement week, which takes place annually in London. There were returning students this year and it was a great success. One of the Chairman's wishes was for this scheme to be rolled out on the Circuits and the committee has been working to try and make this happen. Unfortunately, the SMF has limited funding and although about 60 students on the Circuits were identified as being eligible for placements, only three expressed an interest in the law. This was not a large enough number to allow for a placement week to be rolled out elsewhere. However, Amelia has identified an organisation called Open Dreams who may be able to assist and the committee are hoping to meet the Chairman's target and roll out a placement week in Birmingham and Leicester before the end of the year. This is quite a tall order.

The committee also drafted a response to the LETR's discussion paper on Equality, Diversity and Social Mobility.

AWQC mentioned that there was no mention of the Inns in the report and asked whether the committee had been working with them. TLQC said that they had been working together and that there are Inns representatives on the committee. In particular, Anthony Dursi from Inner Temple does a lot of work.

RAQC said that St Philip's Chambers held a joint event with Aston University a fortnight ago for sixth-formers. RAQC is happy to work with the committee to roll out something on the Midlands Circuit.

AMQC asked if the committee had to be bound by a scheme to roll something out on the Circuit or whether Chambers could simply volunteer to assist if there are only small numbers of candidates. TLQC explained that funding is an issue as all the students' expenses have to be met; if the committee were to run the programme it would become more complex and would be costly to replicate the same standard that is offered in London. However, all offers of assistance are welcome and if the other Circuit Leaders feel similarly, this is a good start to coordinating something.

The Chairman thanked TLQC and gave special thanks to Amelia Aspden, wishing her well in her new job.

## **9. TRAINING FOR THE BAR COMMITTEE REPORT**

Guy Fetherstonhaugh QC, Chairman of the Training for the Bar Committee, introduced this item and drew Bar Council's attention to Annex 7. The two projects he wished to highlight as having taken up most of the committee's time this year are the LETR discussion papers and the Pupillage Portal.

Up until now, the Pupillage Portal has been run by a commercial company, GTI, who provide the software to the Bar to process pupillage applications. It has not been run well. GTI also publish the Pupillage Handbook and run the national pupillage fair for profit. In order to resolve problems which have arisen, it has been decided to bring the handbook and the fair in-house and to provide services at a much lower rate or to channel any profits back in to the profession. In relation to the portal, the contract has been put out to tender and three days were spent meeting with potential providers. Quotations ranged from £25,000 to £250,000 per year. The committee has chosen the best (who happen to be the cheapest). Contractual terms are being worked on. In due course the committee will be coming back to the profession with a brighter and better portal.

AP said that she is aware that COMBAR have been in touch with the committee about the woeful provision of equalities statistics available through the current provider; GFQC confirmed that the new provider has been asked to rectify this issue.

AMQC asked about the rules relating to the pupillage timetable and whether all sets have to comply whether they use the portal or not, as he believes that it is regularly breached. GFQC said that he was aware of this and his own chambers had left the scheme because of others undercutting them. All that can be done is to request evidence of who is doing it to be submitted so that the committee can see what can be done, but this has been difficult in the past as reports have been anecdotal. VLD confirmed that breaches must be reported to the BSB who will take the necessary action.

The Chairman thanked GFQC for his report.

## **10. DRAFT BAR COUNCIL BUDGET 2013-14**

Stephen Collier (SC) presented the draft Bar Council budget 2013-14 with reference to slides he had prepared to give a pictorial view of the draft budget in order to get a clearer idea of what is happening and what is likely to happen to finances within the Bar Council in the future. SC thanked Brian Buck, the Chief Accountant, and the Directors for their hard work and commitment to putting this budget together.

SC started by laying down some markers about the profession, in terms of averages. It should, of course be noted that averages are useful but we are an above-average profession and it is critical to hold on to that idea of the Bar, and its positioning as a service provider. We should be looking ahead, long-term, to secure the future of the profession.

The Bar is a profession of 15,000 practitioners, of which 12,500 are self-employed, turning over a gross £2 billion. They pay approximately £15m to BMIF and £10m to the Bar Council. The average gross income is £150k-£160k per practitioner. The self-employed Bar (2,500 practitioners) has

estimated earnings of an average of £56k each. Taken across the whole of the Bar, each practitioner is paying around £540 to the Bar Council for the core PCF (that is, before pensions and other levies). This year, the average PCF including those levies is around £620. If you add to this the income generated from the Member Services Fee (MSF), it is around £800 (average across the Bar as a whole). It is a significant amount of money and it is important to achieve value for money.

SC reminded Bar Council that the budget being considered includes the regulatory and representative functions. As Treasurer, he takes a view across the whole organisation and then breaks it down into directorates. The choices about the structure of the Bar Council (i.e. the B+ model) was made by the Council in 2006 and that is the basis upon which the budget is drafted. Bar Council chose to self-regulate and this is a decision which must be respected, and the costs of this sensibly and openly addressed.

The Treasurer had spent three days in August in discussions with each of the Directors, going through all of the draft budgets. It had been a rigorous process, looking at the detail of each department's budget. SC explained that there are some complex issues in the budget and he asked for everyone's full attention throughout the presentation to fully understand the context in which this budget has been prepared. It will only be at the end of the presentation that anybody will be able to form a view as to whether or not they wish to adopt it.

SC said that, by backing this budget, the Bar Council would be investing in the future of the Bar, remaining in control of the profession and taking the longer-term view necessary to the sustainability of the profession. This approach is being taken across both the regulatory and the representative sides of the Bar Council. QASA and other "bumps in the road" should be considered as just that. It is imperative for the Bar to remain in control of its representational and regulatory functions, even if that was not always comfortable.

Firstly, the SC gave a snapshot of the year's budget. It is a balanced budget and it is intended to claw back reserves of £500,000. It is also necessary to overcome the loss of £380,000 of income, due to the reduction in the Inns' subvention. The budget predicts a major uplift in spend and it is important that the Bar knows where that money is going. The spend is offset by an upturn in income, but this is still not big enough to overtake the spend; therefore, there is a net increase in spend – which in turn drives a significant uplift in the core PCF (i.e. the amount paid without the levies). For a variety of reasons, the total PCF does not rise by anything like as much. There have been some very constructive discussions with the pensions trustees; the Bar Council approved a funding profile with them in 2010 and there are strong indications that they do not want the Council to move from that position. This is positive as it gives clear visibility of what pensions funding lies over the horizon. However, to meet this 2010 commitment there will continue to be levies. The Bar needs to be clear about this.

### Current year

The organisation started this year with a budget to make a deficit of £37,000. Broadly, if everything had gone to plan, then the Bar Council would have broken even. Unfortunately, things do not always run to plan, but where cost is increasing it is with the prior sanction of the Finance Committee. A deficit of £642,000 is now being projected for the year instead. This is not due to a

lack of control, but due to intelligent decisions made during the current year. This point is critical. This is a consequence of decisions made about the type of profession we want the Bar to be. It is not a sign of lack of control.

The reason it is necessary to put £500,000 in reserves is because we estimate that £600,000 will be spent this year from the reserves. This covered BARCO, additional spend on the BSB, extra funds for Central Services around pension advisory services and unforeseen pensions contributions.

On the other hand, money has been saved by not appointing a Chief Executive this year. Also, an amount which was held back for contingency purposes can be written back against expenses, and a little more was received on the Member Services Fee and the PCF than was originally anticipated. Movements within the Bar are unpredictable, which means that the level of income generated by PCF and MSF cannot ever be estimated with absolute and complete accuracy.

SC was asked how much currently stands in the reserves; he explained that at year end there is projected to be approximately £3.3m, which equates to about three months' worth of spend. This is probably not enough.

### Budget

The £500,000 by which the proposed budget would increase the reserves would only add an extra 10 days' worth of spend, so it is not going to rectify the problem entirely. However, it is important to recognise the importance of planning for the future. These are strategic decisions and whilst it is possible to refuse to endorse the plan to re-build the reserves, or to build them up more slowly, SC would not in current circumstances recommend it. It is prudent to have some flexibility by way of reserves.

The overview of the budget is gloomy. Costs are going up and income is not going up as quickly. The subvention is going down and contingency funds have to be put aside e.g. COIC disciplinary tribunal costs. There is going to be a big increase in the PCF, although the pensions levy is manageable.

SC highlighted the sources of income to the Bar Council: the PCF (63%), the BSB's regulatory income (the processes for which are becoming more streamlined) and the representative side's income. The Inns' subvention falls by just under £400k to £1m (11% of income to 7%); this trend will continue, which is why some flexibility and resilience is needed. Income from the MSF is forecast to increase by £100k, although this may be too optimistic, but on the basis of support received this year, it is a sensible position to take.

The money is spent on staffing (an increase of £400k, which will be explained later), non-staff direct costs (£3.7m in total), £500k into the reserves and £250k as contingency funds for the COIC disciplinary tribunals issue, which cannot be accurately quantified at this stage. The non-staff direct costs include activities such as research; SC explained that this area of expenditure could be cut but he does not endorse this idea. If the Bar wishes to be a profession which plans for the future based on evidence, then research is vital. If the profession wishes to be one which offers new opportunities for practitioners, then BARCO should not be cut. If the Bar Council wishes to

sort out the pensions issues once and for all, then it is not recommended that the professional fees budget is cut back to zero.

There is some discretion in the area of donations but this will be a hard decision to make and people will have very strong views on areas that particularly touch them.

Within the Bar Council budget, there are not only the three directorates but also the corporate budget, which for 2013-14 includes a budget for a Chief Executive. The Representation and Policy budget is due to increase by £60k, which includes some residual BARCO costs. The Bar Standards Board's budget goes up £900k, but £500k of that will be offset by income. Central Services' budget has decreased by £50k; that is partly due to good management and partly because more funds were committed this year than anticipated.

Putting everything together, spend is forecast at £15.3m and SC showed how this will be broken down. SC invited questions and comments on the draft budget.

AMQC asked where the BSB's regulatory income comes from. VLD explained that a significant amount comes from education and training activities and dedicated, regulatory schemes e.g. QASA and entity regulation. VLD said that income from fines are never set as a target in the budget or put in as a management target or incentive. SC demonstrated how the BSB's income has increased over the last few years.

MMQC said that Central Services covers both the representation and regulatory sides; is it possible to say what the proportion split is? SC said that, to a certain extent, this is possible in terms of, say, calculating the square footage taken by both sides or splitting other costs per head, but there are many costs which are non-attributable so it is not completely accurate. Oliver Delany (OD) drew Bar Council's attention to the annual accounts, where some allocation is undertaken, but some costs such as postage and paper usage are very difficult to apportion.

MTuQC thanked SC for making the figures so accessible in his presentation and asked whether the Bar Council has considered or whether it is possible to place a cap on BSB spend and put a stop to its budget growth. SC explained that this year the BSB has as part of its budget-setting process created a further 3-year projection, given that this is the second year in which there has been a significant leap in their budget requirements. The BSB recognises the considerable increases and is forecasting that their spend will broadly plateau over the following two years. This however, is subject to pressures from the LSB and events which cannot be planned for.

VLD explained that the three-year projection is as realistic as possible and a budgetary "flat line" is predicted for years two and three. SC said that if the BSB does not hit their income target, then they will have to reduce their expenditure. This has been taken into account and the BSB has contingency plans for making prompt savings. For example, if the take-up for entity regulation is not as high as previously considered, the BSB will be able to revisit their resourcing model and make cost-saving changes very quickly. Also, by ensuring that there is a three-year plan, the BSB is able to make clear what its goals and objectives are for that period and to strengthen strategic capability to push back against any pressures to take on further work from the LSB which has not been budgeted for.

Forward-planning is becoming more and more critical to effective financial management and is being applied across the organisation.

The Chairman emphasised the importance of ensuring regulatory independence and making sure that the BSB is properly resourced (in line with LSA 2007). However, they can be asked about the reasonableness of their projections and this is the process which SC has undertaken with them.

MTuQC asked again whether this means that a cap cannot be put on the BSB's spend. SC confirmed that improved, long-term financial planning means that it can be properly managed.

CH asked VLD whether the policy towards achieving a "flat line" should not instead be a policy towards reduction in costs on a year-by-year basis. SC replied that unfortunately, this is unrealistic at the stage in both representative and regulatory development. This is a journey and the BSB is in the process of a step-change to maturity. It cannot be assumed that the regulatory costs can be cut and the problems will go away; this will simply carry more risks. Operationally, risks will be posed to the implementation of entity regulation, the new Code of Conduct, changes to public access, litigation rights, QASA, the COIC disciplinary processes and overall efficiency and effectiveness. Constitutionally, it puts at risk the wider issues of self-regulation and may prompt LSB intervention. If the profession wants self-regulation, this is what it will cost to maintain its identity.

The Chairman said that these plans for growth in order to build for the future and implement a long-term plan will have to be carefully explained to those who are calling for year-on-year cuts. SC confirmed that a strategy and a clear narrative are required.

Zoe Saunders (ZS) asked whether the BSB's projections include rolling out the QASA scheme to the Family Bar (and perhaps beyond). VLD explained that there are currently no plans to roll QASA out any further within the timeframe covered by the plan and therefore this has not been included. Whilst the BSB would have the operational capacity to do it, there is no budget for rolling the scheme out any further and generating an income from it in the period being discussed.

AMQC said that there is a significant political problem here for the publicly-funded Bar, who have to wait to be paid and are not taxed on a cash basis. There are some members of the Bar who are on their last pennies and they are being asked for more money. SC said that he entirely understands that the main discussion outside of this meeting will be about the size of the cheque practitioners have to write for their practising certificate. SC also used this opportunity to mention the recently-launched PCF consultation which proposes amendments to how the PCF is levied.

Andrew Walker QC (AWQC) reminded Bar Council that the bulk of the BSB's income for the next year will come from QASA, which means that it comes from the hard-pressed publicly-funded Bar. This will be in addition to the PCF. SC said that he was aware of this and how unpalatable this is.

AWQC asked how much of the "step-up" is being driven by the LSB and how much by the BSB. Baroness Deech drew Bar Council's attention to her written report and ran through all the current projects, illustrating whether each matter was instigated by the LSB or the BSB. At least half, if not more, are driven by the LSB. SC said that the timetable is also driven by the LSB and many of these pieces of work would not be taken forward at their current pace if there was a choice. AWQC

asked whether, in that case, this should be shown to the Lord Chancellor to support arguments against over-regulation. VLD said that this argument was put forward in no full measure in the response to the Ministry of Justices' triennial review. One of the things which the BSB can now do is give clear evidence of the costs of regulation and indeed the LSB have themselves indicated that they wish to undertake work to identify the true costs.

VLD was asked how much it will cost each criminal practitioner to apply for QASA; she said that the cost depends on the level of the advocate, but she believed it to be an average of around £300. However, she will happily check and let Bar Council know the exact costs proposed.

AWQC said that at this time, more than ever, it is important to work with the Inns; what justification has been given for the reduction in the subvention? SLQC objected to any suggestion that the Inns are simply "running off" with the money, but pointed out that they are diverting it to other areas e.g. disciplinary tribunals and education. SC said that his remit is simply to look at the numbers and find a way forward, not to offer opinions on the motives of others. His referring to a reduction in the subvention was not intended to be a criticism – simply a statement of fact.

MTuQC said that he understood that the regulator had to be independent of the profession and the LSB. SC confirmed that they must be independent of the Approved Regulator i.e. the Bar Council.

OD said that it was worth remembering that the LSB approve the full Bar Council budget and the PCF level, and therefore have a full view of the accounts.

### Impact on the PCF

SC explained that this year's core PCF was unfortunately set too low to break even (given matters which have arisen since it was set). It was set at £7.8m but £8.7m was required to cover BARCO, pensions funding, and an increase in both Central Services and BSB budgets which were not on the horizon when last year's budget was approved. SC showed Bar Council slides to show what the rates should have been this year and how the "leap" has been driven. If the Bar Council had known that these costs were coming, the core PCF income would have been set at £8.7m. This is a difference of £800k which has to be made up.

Looking to next year, it is necessary to start with the figure that the PCF revenue should have been set at last year (£8.7m), and add to it all the key drivers for this year e.g. reduction in the Inns' subvention, contingency funds, increase in the reserves and directorate increases in expenditure. This is partially offset by areas of income e.g. the MSF and directorate income. This means that the figure required this year is £9.7m. Due to this year's budget being set too low, the increase is made to seem comparatively larger. It is still a significant increase.

SC also provided a slide which showed the movement on the quantum of the PCF over the last few years, demonstrating how increasing costs are not only linked to increasing budget requirements, but also affected by a modest reduction in the number of practitioners. In his view this trend was likely to continue.

The headline is that this budget proposes a 20% increase in the core PCF. There is no easy way to give that message. What is a very logical budget has a very unpleasant conclusion for practitioners.



However, this only applies to the core PCF and makes no reference to the other levies e.g. LSB / OLC and pensions which are included in the overall fee.

There has been real volatility in the levels raised over the last few years; in 2010, just under £10m was raised; in 2011, £12m was raised and this included high pensions and LSB / OLC levies. For the financial year 2012-13, there has been a big step down and a reduction in the amount raised from the Bar. However, due to a relatively modest pension levy and OLC / LSB levy, the overall average increase in the entire PCF will be 14% and this will be what practitioners see when they write their cheque.

SC was able to show Bar Council the outline forecast for the next few years as well, due to the work done on three-year planning. This showed that there would need to be a further increase in 2014-15. This forward-planning brings with it a level of control. The numbers are unpleasant but at least there is more knowledge and understanding of where the budget is heading.

SC said that there are some hard choices that could be made in terms of this budget if the overall increase is too unpalatable. The Bar Council could agree not to replenish the reserves or to do it at a slower rate, although SC would not recommend it. To do that would bring the PCF increase down to a single digit percentage increase.

Another option is to stop the practice of making annual donations to certain charitable bodies, but this is likely to cause some consternation and is a very sensitive area for some. SC said that he did not recommend cutting the research budget as this will limit the assistance which can be given to the publicly-funded Bar in preparing for change.

SC concluded by saying that he knows that the figures are unpalatable, but that not to approve this budget – or one very like it – was to risk losing control of the profession.

Nigel Lickley QC (NLQC) congratulated SC on an excellent presentation, but said that he would have to vote against the proposed budget. Although £150k may be the average income at the Bar, this does not reflect the vast majority and incomes are decreasing due to legal aid cuts. NLQC is often asked what the money is spent on by people who cannot understand why such sums are spent on premises and staff. He is going to have difficulty persuading his constituents that a 1% increase is acceptable, let alone 9% or 14%. NLQC asked if the model is broken and that simply dividing the sum required by the number of barristers no longer works. Although the PCF review is looking into this, it is still an unpalatable here and now position. NLQC said that putting up the PCF at the same time as the criminal Bar will have to pay for QASA is just not acceptable. It is necessary to go back the drawing board.

SC said that he understood. The easiest way to defer a leap in the costs will be not to build back the reserves, but this alone is not a resolution. There are other ways, other than percentage, to look at the increase. For example, for a Junior of over 13 years' call, an increase of 15% in core PCF equates to £2 a week. For a Silk, it is £4. SC acknowledged that even these sums could be difficult for some. SC was asked if he would circulate these figures and he said that he would, but that he thought that a great deal of care and attention needs to be paid to how these messages are relayed to the rest of the Bar.

NLQC said that another issue which needs to be addressed is why the pensions levy is continuing when many thought that it would end this year. SC said that this was a deal which was made in 2010 by the Bar Council and it has to stick with it.

RPQC asked whether, given that the LSB dictates most of the work given to the BSB, there is any point in having a middleman. He expects his constituents to ask him what the point is of self-regulation as it is so expensive and would it not be more cost efficient to miss out the BSB altogether and just be regulated directly by the LSB? Baroness Deech reminded everybody that regulation is dictated by LSA 2007. You could cut out the BSB but regulation would still be needed and it would still cost money. It is a small profession and if barristers wish to be kept separate from other lawyers, then it will cost more.

SC was asked whether, in light of the increased budget coming along at the same time as QASA, which is very unfortunate, this might be an opportunity for the BSB to “shelve” the scheme. SC said that he could not comment but that it is in the budget for prudent reasons.

Lord Carlile QC commended SC’s presentation for painting a clear picture of the problem. However, the problem for Circuit Leaders and the publicly funded practitioners is that they have to explain to people why they have to pay 30% more over two years plus QASA. The banks are nervy about barristers’ debt; a number of barristers have IVAs (individual voluntary arrangements) to stave off bankruptcy. The number of people applying for Silk with IVAs is shocking. Can SC demonstrate that he is asking the right fundamental questions about how the Bar Council is run? He is going to have to demonstrate that these questions have been asked – whether about premises or staff costs – before anybody will even consider approving such budget. It will be necessary to say that nothing more can be done to cut costs if a revolt is to be avoided.

SC said that it will be easy to save £230k in one go by cutting the donations, but these are for bodies that do important work. It would be easy to cut the research budget, but this would mean that work being done to prepare the Bar for price competitive tendering would have to stop. Lord Carlile said that one had to be hard-hearted about it and that if there are pressures on profits, then you have to make difficult decisions. Perhaps Bar Council is acting too much like a charity and needs to look more like a business.

The Chairman said that at the beginning of the year he had set up a Structure Review Group, whose remit was to look into how the Bar Council runs, the activities it undertakes and whether these are what the Bar wants. It is fair to say that he met a number of obstacles along the way and the group did not feel able to dig into real issues e.g. premises costs. He had hoped to complete this piece of work this year, but has now concluded that it is best for the new CEO to take this forward. That CEO will need to have a commercial and strategic background. The sort of questions that are being asked now are the ones that need to be asked and should be taken forward.

MMQC said that she fully intends to revitalise the Structure Review. She had a meeting with the Office of Legal Complaints in Birmingham and their premises are £12/square foot; there are aspects of the work done in this building which could be done elsewhere. The whole office cannot move, but it is worth looking into.

MMQC said that the other serious problem which the Bar Council is facing is a lack of engagement; as a criminal practitioner, she understands the sense of despondency and how badly people are suffering. However, she does not understand why only 10% of the Bar ever votes in anything. She asked everybody to encourage others to complete the PCF review. Her preference is for an earnings-based method for collecting the fees, but her views don't matter. It is important that the profession speaks for itself. If it is a redistribution of allocation by income, then the problems identified in this budget may not be as big as they first appear.

Charlie Cory-Wright QC (CCWQC) said that he agreed with MMQC and could not understand why those earning more are not expected to pay more. It is unfortunate that the timing of this is such that an approval has to be given now before the end of the survey. SC clarified that, given the timing, the survey results will not make a difference to next year's collection of the PCF.

GFQC said that he drafted the Bar Council's response to the MoJ's triennial review of the LSB and that he became familiar with LSA 2007 during this process. He agreed with Baroness Deech that the LSB should be seen as the Bar Council's friend; with regulation in the hands of the LSB, the independent Bar will be done away with. We should stick by the BSB but that is not to say that we should swallow all this expense.

NLQC echoed GFQC's views. It would be considerably worse and no cheaper to bypass the BSB. Also, where there is constructive dialogue with the BSB, who are good enough to report at these meetings, no such relationship exists with the LSB. We are currently able to have a useful exchange of views with the BSB and that might not be possible with the LSB, if one considers the article which David Edmonds recently wrote for *Counsel* magazine. The LSB needs further education as to what the Bar does.

DN agreed that this budget should be rejected and for the Treasurer, the Officers and the Directors to go through the proposed expenditure again. Although it is clear that a thorough process has been undertaken already, it should be undertaken again in the next few weeks in order to ensure that all necessary controls are being exercised.

SC was asked why Bar Council is being asked to approve the budget whilst the PCF review is still continuing and in such a harsh economic reality that everyone is facing. There are also concerns about the junior members who are just starting out. SC explained that the consultation is not about how much the Bar Council seeks to recover in aggregate, but rather the basis of allocation of the PCF across individual practitioners. The second point is that the sensitivity is what practitioners are going to pay rather than the logic underpinning the budget. He thinks that everyone understands the logic but it is important that representatives feel comfortable taking this back to their constituents. He and the Directors can take this budget back and review it so that the increase falls below 14%; however, this does inevitably mean a large hike again next year and the same discussion will be held next year.

SC explained that the problem is not what the Bar Council spends, but the failure to think strategically and the volatility involved from short-term positioning. The Bar Council needs to get in control. There has to be a context and a narrative to explain what the strategic direction is.

The Chairman thanked the Treasurer, the Directors and Brian Buck for all their hard work and efforts to bring this to a strategic level. However, what worries him is the continuing increase year on year. Can this ever change? SC said that it could. The problems are not about inefficiency and money being flushed away, it is about real income pressures and shrinkage within the profession.

MMQC said that there is a future prospect that, if there is a Government will to reduce regulation, the expenditure pressures on the BSB may stop. Will the LSB get a third term?

RSQC said that he thought the mood of the meeting was not to cut the reserves or the donations, but the activity. The Civil Service are told that they have to reduce their expenditure by a certain amount and they have to find a way to do it. The same rationale must apply here. The Bar Council has to go away and find a budget which removes some activities because they are not affordable.

It was suggested that perhaps the cost of QASA could be put in the PCF? Therefore it could be spread across the Bar and the criminal Bar would not have to shoulder the costs of QASA alone.

AWQC said that it the Bar Council has to be entirely clear about what it is saying. There is nothing that can be done about the regulatory budget, so cuts will have to come from the representative side. This means that the publicly-funded Bar will in fact get less interaction with Government, lose access to the statistical information that it needs to engage. These are very serious decisions as the only cuts will come to the work done for the "troops on the ground". There is already the problem that the Bar doesn't think that the Bar Council does very much anyway, so if it decided to do less, this message has to be managed carefully. Communications have improved immeasurably, but that is a large part of the representative budget; are we prepared to cut that work? If we do not have that communications ability, we will no longer be able to challenge the "fat cat" view of the Bar.

SC said that his understanding of the meeting is that up to the point where the increase in the PCF was discussed, everybody agreed with the logic and the strategy behind the budget. Therefore, the problem is less with what the Bar Council plans to do but the costs involved. Everyone can see the solution. It is the consequence of the solution, and the narrative that goes with that is the challenge. However, he will do what he can to reduce the increase, but it is not sustainable in the longer term. An incoming CEO would need to address this on behalf of Bar Council as a priority.

AMQC said that every other business is cutting its costs and the Bar Council must too. SC referred back to the massive regulatory drive. AMQC said that members of his Circuit will respond to the news that the representative side is cutting its activities with the comment "a fat lot of good it does me anyway". If the Bar Council did not spend a penny on the representative side, would it be any worse?

RAQC asked that this discussion be adjourned to the next meeting so that a review can be undertaken of areas which can be cut. It is imperative to go back to the Circuits with evidence that this has been properly reviewed. SC stressed that the headline figures can be addressed for one year but that there would be an increase the following year, and cannot realistically be put off again.

SLQC said that if the profession responds to the PCF review to say that it should be allocated on an earnings basis, this would at least alleviate the burden if not eliminate it. It would at least satisfy some of those people who are teetering on bankruptcy. He commended SC on his presentation.

The Chairman referred to R&P as the “whipping boy” of the budget, as this is the only part of the organisation which can be considered for cuts and yet its increase in budget is below inflation and it does an enormous amount of work to assist the Bar. The most valuable thing is to go away and ask how to represent the Bar more cheaply i.e. provide the same service but more cheaply, for example by moving some resources out of London. This question has to be taken away and considered.

SC said that was very clear from this meeting was that the increase in the PCF has to be reduced, even if it is inimical to creating a strong, strategic position. He will take the budget away for review, but this cannot happen year on year.

SC said that slides, such as those he has presented today, need to go out to the Circuits to help illustrate the issues. He also offered to go out to the Circuits to explain the budget position to members.

GFQC quoted from the Legal Services Act 2007, which says that “regulatory activity must be proportionate and targeted at cases only in which action is needed”. Some responses to the QASA consultation have suggested that this case has been made out. This does question whether there are cuts available on the BSB side and whether the budget increase is proportionate.

SC thanked everybody for their good nature and patience. SC received a round of applause.

AMQC said that SC’s finance presentation was the most coherent and understandable that he had ever heard and welcomed his offer to come out to the Circuits. Further applause.

## **11. ANY OTHER BUSINESS**

MMQC raised the issue of referral fees. There is no doubt that the BSB are in agreement with the Bar Council that they will do everything in their power to outlaw referral fees in criminal legal aid work. It is a different matter to convince the LSB of the importance of this topic. Anecdotal evidence is insufficient. Real evidence is needed and welcomed for action to be taken. Please send in any evidence, even if it is in confidence.

The Solicitor General said that this was a very important discussion. He has been incredibly impressed by the wide range of activities in which the Bar is involved and today’s reports have shown the excellent work that is going on across a wide area. It is a credit to the profession. His experience is that the representation that the Bar gives to politicians is excellent and it is somewhat ironic that when he was the Tory spokesperson for legal affairs, he led the Opposition on the Legal Services Bill, as it then was, and the Bar Council team – including Mark Hatcher - persuaded him to put forward some amendments relating to the Legal Services Board and the BSB. They did try to make the BSB more independent from the LSB. He will report back the points made about

regulation and although this topic is not within the Law Officers' policy remit, they will bring it to the Lord Chancellor's attention. The Solicitor General received a round of applause.

TLQC reminded Bar Council members of the Bar Council road shows on BARCO and encouraged Circuits to ensure that there are representatives of each set there. People need to inform themselves of the purpose of it and how important it is.

The Chairman thanked everybody for attending.

The next meeting will be held at 10.00 on Saturday 17 November 2012, in the Bar Council offices.

**Charlotte Hudson**  
**Manager of the Chairman's Office**  
**20 October 2012**

Enclosures:

1. Michael Todd QC's October 2012 Bar Council statement
2. BSB's October 2012 statement