

The Board Room Brief



Message from the Chair

Welcome to the December edition of our Newsletter.

As the year draws to a close we have much to be thankful for, and this Newsletter is very much drafted in that spirit.

Once again our annual Student Evening, held in conjunction with the City Law School in October, was a popular event. BACFI attaches great importance to giving aspiring barristers an insight into what life can be like at the Employed Bar and the sheer variety of opportunities available beyond the Self Employed Bar. I want to thank to our panel for sharing their insights, I know it is greatly appreciated and a number of the students have reached out bilaterally since – we are always happy to help in any way we can so please do not hesitate!

In November we hosted our AGM. I would like to welcome the incoming Chair of the Bar, Sam Townend KC and thank him for joining us at the AGM as well as to thank outgoing Chair, Nick Vineall KC, for his support over the past year. I very much hope that we continue to strengthen this relationship, as well as our relationship with the Bar Standards Board (BSB), in the coming years. BACFI continues to share insights into of importance to the Employed Bar with the BSB and we very much value their engagement.

In a break from what has become tradition, our annual Denning Lecture and Christmas Reception took place at Grays' Inn this year rather than the Atheaneum and a great time was had by all! We are very grateful to Lady Rose for delivering the lecture and thank you to Marque Wealth Management for their generous sponsorship of the lecture and to James Kitching for hosting!

My thanks also go to Stuart Alford KC (outgoing Chair) and Stuart McMillan (Executive) of the Bar Council's Employed Bar Committee with whom we have had engagement over the course of the year to ensure alignment and prioritisation. We look forward to continuing that relationship with incoming Chair Heidi Stonecliffe KC.

A final and personal note of thanks to BACFI's President, Vice Presidents, Senior Vice Chair, Junior Vice Chairs, Treasurer, General Committee members and Sandra for all your support this year. BACFI could not do what it does without you.

Finally, my usual reminder.... please regularly check-in with the BACFI website where you will find a wealth of information pertinent to our practice at the Employed Bar, including career opportunities, links to relevant information from other organisations (eg the Bar Council) and details regarding how to join us and please do not hesitate to contact me or Sandra with any questions, comments, or ideas.

I look forward to seeing you all at our events next year and, in the meantime, wish everyone a healthy and happy Festive Season and a healthy and prosperous 2024.

Warm regards, Gaynor Wood, Chair

Student evening: 3rd October

Our annual student event in conjunction with City Law School took place via Teams on 3rd October. This event aims to inform law students on what is available at the Employed Bar which is often something that they have not thought about. Chaired by Daniel Byrne, our panel spoke about their personal career journeys and gave those attending some useful insights. Those speaking included BACFI Chair, Gaynor Wood, Lorinda Long (Treasurer of the Bar Council), Patrick Rappo, Ian Brookes-Howells and Alexandria Carr. A lively discussion followed and the headline takeaway points were: Persevere, build your network, get experience wherever you can, be it Pro Bono, mini pupillages etc., do some research on the chambers / company that you are applying to, think about what you want from a job and that there can often be a circular and maybe unexpected route to where you want to get to. Thanks to Ffyon Reilly at City Law School for helping to organise and promote this event.

The recording can be found on our website: [BACFI](#)

BACFI AGM: 22nd November

We welcomed Samuel Townend KC to give our pre-AGM talk. He spoke about what he feels are the priorities for his year as Chair of the Bar Council in 2024. He covered aspects such as the court backlog, the increase in the use of mediation in cases, the Bar Council looking at a matched funding scheme to provide pupillages in the public sector, a proposed scheme for those returning to the Bar after time away (such as provided by Middle Temple) which would provide mentoring and support and he was keen to point out how the Bar is a world leader for legal services and needs to be invested in to uphold the reputation it currently enjoys.

The AGM business followed with Gaynor Wood being re-elected as Chair and Ian Brookes-Howells as Senior Vice Chair. Sharon Blackman OBE, David Bunting and James Kitching were elected as Junior Vice Chairs and Ryan Porter, Sara George and Shahmeem Purdasy were re-elected onto the General Committee. Ian Brookes-Howells was also elected as a Vice President.

Denning Lecture: 7th December



The 2023 Denning Lecture by The Right Hon Lady Rose of Colmworth DBE: “On the Job? The Law on Status in a Gig Economy”

BACFI’s members and guests were privileged to have Supreme Court Justice and BACFI Vice-President, The Right Hon Lady Rose of Colmworth DBE, PC present the 2023 Denning Lecture. It was entirely fitting that Lady Rose was introduced by former Supreme Court Justice and BACFI President, Baroness Hale of Richmond DBE, PC, FBA. We are extremely grateful to both for generously giving-up their time and for their continued and much valued support of BACFI.

Lady Rose provided an insightful and relevant examination of the status of workers in the modern economy. I confess to having assumed that the phrase “*Gig Economy*” somehow owed its origins to the word “*gigabyte*”. The concept itself refers to a free market system in which organisations hire independent workers for short-term commitments, often within the IT and digital spheres. However, the etymology of “*Gig Economy*” does not concern gigabytes at all, but is believed to derive from one-off performances by musicians.

The Gig Economy now accounts for a significant proportion of workers in England and Wales, ranging from the more familiar *Uber* drivers and *Deliveroo* drivers through to web developers, translators and even (as highlighted by Lady Rose) promoters of werewolf fiction! In recent times, employment law has distinguished between three categories of persons: ‘employees’, ‘self-employed’ and an intermediate category, namely ‘workers’. Differing Statutory rights and protections attach to each category.

Lady Rose described the importance of the seminal 2021 Supreme Court decision in *Uber BV and Others v Aslam and Others* [2021] UKSC 5, which recognised that employment rights asserted by claimants are statutory and not contractual. Accordingly, the primary task of the courts and tribunals is not to interpret parties’ contracts, but to construe the relevant statutory provisions and determine whether individual claimants fall within their ambit. This, in turn, requires decision-makers to look beyond the labels applied by parties’ agreements to the substance of how relationships operate in practice and, in particular, the key indicia of control.

The irony, of course, is that the relevant Statutes were drafted largely before concepts of “*Deliveroo’s*” and “*ride-hailing*” came into existence. Lady Rose also identified another important aspect of the law of employment status, namely that no ‘one size fits all’ and different considerations apply to determining employment status in different contexts. Accordingly, there are marked differences in the law of employment status in the contexts of vicarious liability, trade unions and tax. Each category has been developed for different reasons and seeking to introduce consistency would risk undermining the public policy objectives that underpin them.

What has changed in recent times is the social and technological context within which questions of construction and interpretation have to be answered and the pace at which change itself is taking place. The law surrounding employment status has moved on considerably from the concept of ‘master and servant’ that was still dominant in Lord Denning’s time. There is no doubting the commitment of the Parliamentarians and judges that the law should continue to keep pace with technological innovation. Quite what Lord Denning would have made of today’s Gig Economy, we could previously only hazard a guess, but we can now rely upon AI to let us know!

James Kitching

The transcript is available on our website: [Denning Lecture 2023.pdf \(bacfi.org\)](https://www.bacfi.org/Denning-Lecture-2023.pdf)

We would like to thank Marque Wealth Management for their continued sponsorship of the Lecture. www.marquewealth.co.uk.



Photo courtesy of Daniel Parkinson

BACFI member profile: Brian Cahill



Called to the Bar in November 1977 by Gray's Inn, I represent a generation who benefited from state funded education. The first in my family to go to University and paid for by the state when I applied for a grant and similarly when I sought to do the Bar Finals. Admittedly, I worked hard in factories during the summers to have funds to fall back on and while studying for Bar Finals in Chancery Lane (and during first pupillage) I worked night shift weekends (three nights) as a security guard in London buildings and hotels – security prompted by the incursion of the N. Ireland “Troubles” into England. This did have an adverse impact on my academic performance and I recall having to repeat one Bar Final exam paper.

I had two excellent pupil masters, both of whom had worked in business and academia after they had qualified at the Bar but before joining Chambers, and towards the end of my second pupillage, I thought to do the same. Having devilled for my pupil master on software copyright I chanced upon an advert in Inner Temple by the then leading UK computer company ICL, for a junior lawyer. I applied and got the job, but I believe it was more because in the interview the GC was more interested in my description of the magistrates' court trial I had attended that morning and successfully defended a young woman against a number of motoring offences than my interest in software (then referred to as “programs”) licencing! I had every intention of returning to the Bar but the 1980s were a dynamic time for the computer industry with the European fear of IBM or Japanese dominance, the new topic of electronic data privacy and then the beginning of the new distributed technologies which would eventually take the computers out of the airconditioned mainframe room and place them on everyone's desk. The work was interesting and engrossing for me professionally, involving new forms of contracts and competition law issues emanating from the European Commission. Also, the industry was throwing up many new companies and jobs, including for inhouse lawyers and I found myself being promoted rapidly as other relatively senior colleagues jumped ship to other technology companies. I had a very busy nine years in ICL and the UK market and I might still have been in that industry, or possibly returned to the Bar, but for being invited by a former boss to join the international pharmaceutical company Glaxo as manager of the Corporate legal department. While I had gained a lot of corporate and commercial law experience in the computer industry (while continuing my common law interest in employment law and tribunal advocacy) it was a different world compared to the highly regulated pharmaceutical industry where everyone one met in sales, marketing, research and development had a considerable knowledge of the laws and regulations that applied to them and the business. That made for a very knowledgeable client base but also challenging as they often just wanted lawyers to endorse what they proposed to do rather than examine /challenge /advise etc. I was, for a number of years, the Chair of the Legal Committee of the UK pharmaceutical industry's trade association, the ABPI, until I took on more international legal and management responsibility in Glaxo for Europe and then the rest of the world. I remained in Glaxo for 28 years through any number of acquisitions, joint ventures and mergers (Glaxo Wellcome in 1996 and GlaxoSmithKline (GSK) in 2000) with my final role supporting the International President and team and the expanding international business out of Singapore.

After retiring from GSK in 2015 I have been a legal consultant to a number of different pharmaceutical companies in the UK and Europe, a pro bono advisor to a national healthcare charity and this year I have become a NED and director/employed lawyer for two student education and support companies. Ironically, my current employer is owned by an entrepreneurial lawyer who, 15 years ago, I appointed and who reported to me in Glaxo International, so we have come a full circle. Finally, when I became UK based, I have been an elected member of the Bar Council representing employed barristers for two electoral periods and I am currently, and have been for a number of years, a member of the Bar Ethics Committee.

Brian Cahill

BACFI Newsstand - a free benefit for BACFI members

We are delighted to [invite you to trial](#) a new collaborative initiative that delivers a tailored newsfeed to BACFI members. BACFI Newsstand is powered by innovative newsfeed service Lexology, who deliver comprehensive international legal updates, analysis and insights.

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Update from the Employed Barristers' Committee of the Bar Council

Hello,

It never ceases to amaze me how quickly a year can go by.

Early in 2023, the Employed Barristers' Committee published the *Life at the Employed Bar* report, and since then has been working hard to meet the report's objectives. We have made strides towards this in many ways, including securing greater representation from the employed Bar at the Pupillage Fair, championing employed barristers through our continued support of the Employed Bar Dinner and Inns of Court Employed Bar fora, and publication of articles and blogs in *Counsel* magazine and on the Bar Council website.

But more critically, the dialogue we have fostered with colleagues and partners on the South Eastern Circuit, at the Judicial Diversity Forum, and with the leadership team at King's Counsel Appointments, have meant we can work harder on your behalf to get more employed barristers engaged with their circuit, get more of them into the judiciary, and to de-mystify the process around applying for silk. Our work and partnership with BACFI is also, of course, a key piece of this puzzle.

None of this could have been possible without the leadership of our outgoing Chair, Stuart Alford KC. Thank you to him for all his efforts. As of 1 January, Heidi Stonecliffe KC will take over as EBC Chair, and Sara George will become Vice Chair. They will carry on the work that was begun this year, and they will be working hard to strengthen and develop the commitments we have made.

Next year will also mark the 25th anniversary of the founding of the Employed Barristers' Committee. We plan to make sure this event does not go unacknowledged, particularly since we will once again be co-hosting the biennial Employed Bar Awards with Gray's Inn in October.

Needless to say, it looks to be another busy year! You can follow our progress via the Employed Bar newsletter, which is published quarterly. All you need to do is opt in through My Bar: <https://www.barcouncil.org.uk/media-campaigns/newsletters/employed-bar.html>

Until then, I hope you all have a restful and enjoyable Christmas, and a Happy New Year.

Stuart McMillan

Policy & Programmes Manager, Bar Council



Five things you need to know about Inheritance Tax

At a glance

- Your inheritance can be life-changing for those you leave money to. Starting the conversation now means you can feel part of your family's future, even when you're gone.
- You can reduce the amount of Inheritance Tax (IHT) payable with careful estate planning and tax-efficient gifting.
- We can help explain the complex rules around IHT to you and your family, so you can leave more of your wealth to those you love.

We all want to do the right thing by our families. Recent research published by St. James's Place revealed more than two-thirds (69%) of SJP clients expect to provide some form of financial support for their family at some point¹. And more than one-third of those people expected that support to be in the form of an inheritance.

Many of us have received a lump sum inheritance which has helped to achieve some of our long-term life goals. It can change a family's fortunes, help you become mortgage-free, or send your children or future grandchildren to a good university. But when it comes to passing your own money on to your children and grandchildren, it can be hard to accept that a lot of your money may not reach those you love because of the amount of IHT payable on your assets.

When do you have to pay IHT?

The basic rule for how much you owe is that the first £325,000 of your estate is tax-free, and then subject to other available allowances, any assets – including property, money or valuable art or jewellery – will potentially be liable to 40% IHT.

But you have the potential to mitigate much of what could be payable to HMRC by making full use of allowances, gifting, and other tax-efficient solutions.

To help you start planning ahead – here are the top five things to know about IHT and how to avoid it.

1. Preparing for Inheritance Tax can change your family's future

IHT is a highly complex area.

Knowing when to start planning is key – and saying 'the sooner the better' isn't always helpful. As a rule of thumb, start planning when your savings and assets begin to accumulate. This is often when your day-to-day expenses go down, such as when children leave home, or your mortgage repayments are almost finished.

Keep calm, carry on, start the conversation.

It's also important to start talking to your family about your plans and being clear about your wishes. Conversations about inheritances and gifts can become emotionally charged – but better to have them now, says Andrina Nisbet, Head of Development and Consultancy at SJP: ***"Gifting can really be quite emotive. Parents may not want to look like they're favouring one child over***

another, especially if they're all at different lifestages. So, the larger the family, the more complex the financial planning and decisions become. A financial adviser can help you talk about money as a family.

Having the conversation can often make winding up the estate a little easier after you've gone.

2. When do you start paying IHT?

Getting your head around how the IHT thresholds work can easily minimise a big chunk of what your likely IHT bill. For a start, the first £325,000 – known as the nil-rate band – is tax-free. You can transfer any unused allowance over to a spouse or civil partner by leaving all your assets to them, so that when they die up to the first £650,000 of their estate will be tax-free. If you leave everything over the £325,000 tax-free threshold to your spouse, civil partner, a charity or a community amateur sports club, there's no IHT liability.

Good to know:

- Your tax-free threshold increases to £500,000 if you leave your home to your children, stepchildren, or grandchildren, subject to your estate being less than £2m. Definitely take financial advice if you are thinking about doing this, though.
- If you give away 10% or more of the net value of your estate to charity, you may only have to pay a reduced IHT rate of 36% on certain assets.

3. Gifting can mitigate IHT, and help support your family now, rather than making them wait for an inheritance.

Gifting means everybody wins. You can give away up to £3,000 each tax year (your 'annual exemption'), as well as make any number of small gifts up to £250 per person. Almost all gifts, however large, become IHT exempt if you survive for seven years.

You'll be helping to support your family during your lifetime and improving their financial future in years to come.

Thinking about gifting? Know the facts

- Gifts to your spouse or civil partner are exempt from tax during your lifetime, or upon death.
- A tax-free allowance of up to £3,000 applies to gifts made to other beneficiaries. You can carry the allowance over for one tax year, meaning you could give away up to £6,000 provided you use the previous years' allowance first.
- If one of your children or grandchildren is getting married, either or both a couple can gift up to £5,000 to a child or £2,500 to a grandchild. This is a great way to give a new marriage a head start – and you might well have been thinking of doing it anyway.
- Gifts made from your regular income are tax free, so long as you can prove that they don't affect your own standard of living.
- Gifts above the £3,000 allowance are exempt from IHT so long as you survive for seven years after making the gift. Gifts above the nil rate band, made between three and seven years before your death are taxed on a sliding scale – known as 'taper relief'. The longer you live, the less you pay.

4. Using pensions to help IHT planning

Most Defined Contribution pension schemes will fall outside of your estate, so if you're looking for a tax-efficient way to pass on wealth, pensions could play a big role. If you have several different pension pots, you could choose to pass one or more to your children or grandchildren.

If you die before you're 75, your pension pot can usually be paid as a lump sum or income to any beneficiary, tax-free. If you die after 75, your beneficiaries will need to pay tax at their marginal rate on withdrawals.

5. Making the most of Trusts in IHT planning

Trusts are a tried and tested tool in IHT planning, and they're still a good way to make sure the right people get the right money at the right time. Be aware though that there are several different types of trust, and there are different ways of setting them up. In some cases, you may be able to access the funds; but in others you can't.

Trusts are quite a specialised and complex area of financial planning so do speak to us before you make any choices.

Building a brighter future for your family

Starting the *conversation around inheritances and legacy now* will make sure your money lives on. If you'd like a financial adviser by your side to help start those conversations, do get in touch with **Marque Wealth Management** and we can help you enjoy the peace of mind that your legacy will be well established.

• **Contact Mark Quaye (APFS) - Chartered Financial Planner: 020 7516 2225 / 07764 963 701 www.marquewealth.co.uk**

Sources

¹Intergenerational Wealth Transfer Survey, SJP and The Wisdom Council, 2023, survey size 887.

BACFI's new LinkedIn page

We have a new company page set up rather than the group page which has previously been used. Please follow the page and repost to your connections to help us build the number of followers and spread the details of our events and news far and wide!

https://www.linkedin.com/company/bar-association-for-commerce-finance-and-industry/?lipi=urn%3Ali%3Apage%3Ad_flagship3_groups_entity%3BhfzadLzZR%2BmFrYb54lyXqQ%3D%3D

Dates for your diary

23rd January 2024: The PO Horizon IT Scandal – lessons for in-house lawyers and boards. This webinar will discuss the ethical aspects of the scandal and the subsequent consequences for those employed in-house. Speakers - Professor Richard Moorhead (University of Exeter) Professor of Law and Professional Ethics, Dr Alan Brener (UCL) Associate Professor (Teaching) and Deputy Director for the UCL Centre for Ethics and Law, Flora Page (23ES Chambers), barrister currently representing wronged subpostmasters in the Post Office Horizon IT Inquiry. Chaired by James Kitching (Fried Frank). Via MS Teams at 6pm. Free for BACFI members.

21st February 2024: Gin distillery tour and tasting at the City of London Distillery, home of Whitley Neill Gin. £45 for BACFI members and their guests, £55 others. Numbers are strictly limited so book early to avoid disappointment. Kindly sponsored by Marque Wealth Management.

6th March 2024: Managing the challenges of commerciality along with your legal duty to your employer Considering the complex tensions of commerciality versus your duty to being a full legal service provider to your employer. Speaker: Stephen Waud (Group CEO, Business Enterprise Fund). 6pm - 7pm (followed by refreshments and networking) at The Business Enterprise Fund, Cityhub, 9-11 Peckover Street, Little Germany, Bradford BD1 5BD and remotely via MS Teams. Free for everyone to attend.

18th April 2024: BACFI's annual wine tasting evening at Bedales, Leadenhall Market. This time we will enjoy a cheese and wine pairing workshop led by an expert from Bedales. Those of you who have attended before know what a great evening this is! £60 BACFI members and their guests and £70 others. Limited numbers so book early! Kindly sponsored by Marque Wealth Management.

BACFI members on Bar Council and BSB Committees 2024

Bar Council

Gaynor Wood, Lucinda Orr (elected), Lorinda Long (Treasurer), David Bunting (BACFI representative), Mike Jones KC (elected), Hannah Smith (elected), Rebecca Dix (elected).

General Management Committee

Lorinda Long, Gaynor Wood, Lucinda Orr

Employed Bar Committee

Mike Jones KC, Lucinda Orr, James Kitching, Sara George (vice chair), Patrick Rappo, Charlotte Pope-Williams, Hannah Smith

Finance Committee

Lorinda Long

Regulatory Review Working Group

David Bunting

European Committee Law Committee and Retained Law Working Group

Alex Carr

Bar Representation Committee

Lucinda Orr, James Kitching,

Race Working Group

Sharon Blackman

Money Laundering Working Group

Shahmeem Purdasy

Education and Training Committee

James Hampson

Ethics Committee

Brian Cahill, Hannah Smith

Wellbeing at the Bar Group

Shahmeem Purdasy

BACFI Committee 2024

| | |
|---------------------|--|
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| Senior Vice-Chair: | Ian Brookes-Howells |
| Junior Vice-Chairs: | Sharon Blackman OBE David Bunting James Kitching |
| Hon. Treasurer: | James Kitching |
| General Committee: | Ryan Porter Stephen Potts Lorinda Long Alex Carr Daniel Byrne Charlotte Pope-Williams Sara George Sonia Hayes Shahmeem Purdasy Patrick Rappo Laurence Fry Rebecca Dix |

Contact BACFI:

PO Box 4352, Edlesborough, Dunstable, Bedfordshire LU6 9EF

Tel: 07507237218

secretary@bacfi.org

www.bacfi.org

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