



**BACFI QUARTERLY UPDATE: No 8. December 2011**

*Wishing you a peaceful Christmas and a successful New Year*

**PROFESSIONAL NEWS**

The BSB is imposing a new **on line process for applications for and renewals of practising certificates**, from March 2012, when current certificates expire for employed as well as self-employed barristers. Guidance can be found on the BSB website:  
<http://www.barstandardsboard.org.uk/regulatory-requirements/for-barristers/practising-certificate/authorisation-to-practise/frequently-asked-questions-authorisation-to-practise/>

The new rules and changes to the Code of Conduct set out:

- Eligibility for employed or self employed practising certificates
- the Application process
- the different types of certificate
- details to be included in the certificate and on the BSB Register
- issue, revocation and refusal and the appeal process
- changes for those registered under rule 206 of the Code of Conduct, and
- changes for those wishing to apply for exemption under 1102 and 1104 of the Code of Conduct.

Every practising Barrister will have to set up an online account unless he/she has a disability. The application process includes declarations relating to CPD and insurance. Please note that barristers providing services only to their employer and not to the public will not need individual insurance.

Paying the fee alone will not ensure that a barrister is authorised to practice. A renewal notice will be sent in February 2012.

We strongly urge you to register as soon as possible and not leave it until the last minute, as the online systems have crashed before!

Any member experiencing problems may contact BACFI's Hon Secretary  
[hfrogers@bacfi.org](mailto:hfrogers@bacfi.org).

We are also keen to have general feedback on the new process.

The BSB has also announced LSB approval of some **changes to its Pupillage rules**. Perhaps the most significant is that the BSB now has a very broad discretion to amend both criteria and guidelines for Authorised Training Organisations ("ATOs"). The BSB claims this will make the process easier for employers. We are not convinced and are currently in discussion with the BSB and the Inns to promote the creation of more employer ATOs. See further details below.

## *BACFI congratulates*

**Kevin McGinty**, a BACFI member from the Attorney General's Office, on his **election to the Bar Council**. Despite a strong field in the over 7 years' call category, the under 7 years' candidates were elected without opposition. At least we have filled the complement of seats for the employed bar this year. We can hardly make complaint about under-representation when we have such difficulty persuading members to stand!

**Stephen Collier**, who takes office as **Treasurer** of the Bar Council in 2012.

## **RECENT EVENTS**

**2011 BACFI AGM** was held on 8<sup>th</sup> Dec 2011 and preceded by a well attended and entertaining talk by Lord Hoffmann entitled "Bridging the gap: Arbitration, Mediation or Litigation". Less well attended, the AGM passed an amendment to our Constitution, to enable us to recruit Corporate Members. This class of membership will be non voting but will entitle employees of the corporate member to ordinary individual membership of BACFI at a reduced rate.

Would any member who thinks his/her firm would be interested in Corporate Membership of BACFI, please contact [tricia.howse@hotmail.co.uk](mailto:tricia.howse@hotmail.co.uk).

**This year's DENNING LECTURE** was given by Lord Munby, Chairman of the Law Commission. Lord Munby pulled no punches in describing how the Commission narrowly escaped the Government's cull of quangos and mounted a powerful case for a national body dedicated to promoting the reform of the law. Fascinatingly, Lord Munby had acquired, from the Commission archives, a copy of the Denning Lecture given in 1991 by Mr Justice Peter Gibson. BACFI wishes the Law Commission a happy Golden Anniversary next year, and many happy returns.

After the Lecture members and guests enjoyed the annual **BACFI Christmas drinks party**. Both the 2011 and the 2012 Bar Council Chairmen arrived together and Lords Hoffman and Munby found they had memorable cases in common. Thanks to Inner Temple staff for their cheerful service. Click here [website](#) for photos.

Other events this Autumn included the [BACFI European Issues Seminar](#), held with the European Circuit of the Bar at Brick Court Chambers; the **Gray's Inn Dinner** for the Employed Bar and a special **Judicial Seminar** at 6 Pump Court Chambers, designed to encourage CFI barristers to consider judicial office. Mr Justice Gary Hickenbottom and Sehba Storey, a senior Asylum Judge, gave their experiences and Nigel Reeder, Chief Executive of the Judicial Appointments Commission, fielded some difficult questions.

Our thanks to Brick Court Chambers, 6 Pump Court and Gray's Inn for their hospitality. Special mention must be made of Stephen Hockman, QC, who gallantly served drinks at the Judicial Seminar and to Esme Chandler, who made the delicious eats served after the European Seminar! Beyond the call of duty....

Lucinda Orr also organised a BACFI event at the **Bar Conference** on 5th November. Wittily entitled "The Bribery Act, good for business?" The speakers included Helen Malcolm QC, Paul Feldberg from Fulcrum Chambers (first MDP) and Matt Cowie from Skadden Arps. We concluded that it was!

## **Bar Council Matters**

Peter Lodder, QC retired as Chairman at the last Council meeting. He has been a good friend to BACFI and we hope not to lose touch. Perhaps we can persuade him to join BACFI, like Stephen Hockman, BACFI strongly supports the practice of using retired officers to improve continuity, and this is understood to be one of the ideas being considered by the Green Review (below).

Mike Todd QC takes over as Chairman this month and Maura McGowan QC will be Vice Chairman.

Nevertheless, we have objected strongly to the way in which the 2012 budget and the various increases to the PCF have been pushed through both the General Management Committee and the Bar Council (BC), without any reasonable opportunity for debate. BACFI has put a letter in to the Council Officers and [you can read it here](#).

The **Green Review** on the BC's administrative arrangements is still only part done. The committee hurriedly produced terms of engagement for a new Chief Executive and invited consultation; but without providing any idea of what the new governance context or organization for the BC might look like. Sadly, we think the committee has assumed that everything will stay the same! BACFI sincerely hopes not.

Current governance arrangements were graphically illustrated at the November BC meeting by the BSB, which produced "before and after" organograms to show how hopelessly complex and inefficient the current structure is.

We will try to get permission to publish these, but BACFI suspects that you can imagine them for yourselves.

- BACFI believes that power and policy should reside firmly with elected members; but it is clear that the BC is far too large to be other than a parliamentary debating chamber.
- The BC should consider a formal Board to take day to day decisions and formulate policy - and it is obviously vital that this should contain a proper percentage (20%) of employed barristers.
- BACFI will continue to press for better representation on the Bar Council for those barristers who pay the MSF, but who do not have practicing certificates.

We remain anxious to recruit **members for BACFI's own committees**. Please think about contributing to your professional association. Contact the Hon Secretary, Helen Fletcher Rogers for details of how you can help: [hfrogers@bacfi.org](mailto:hfrogers@bacfi.org).

**Our website** [www.bacfi.org](http://www.bacfi.org) contains details of all our events, Responses to and details of BC and BSB consultation papers and we are also on <http://www.linkedin.com>.

## **PROFESSIONAL ISSUES**

### **BSB News (reprise)**

**ON line PCs:** from 2012 we will have to apply online for the Practising Certificate. Details are on the BSB website under the Practising Cert. section.

The actual fees for 2012 are in the Bar Council's Budget for the year (see below) and are likely to be increased by a number of factors:

- % to be determined by Finance & Audit Committee, between 4 & 5%
- Per capita imposition of OLC/Ombudsman levies
- Equalisation of employed and self employed fee
- New categories for young practitioners (those between 3-5 years pay more)

## **Representation**

### **Legal Education and Training Review (LETR)**

The LETR website, due in July, was not up and running until September. The Review itself looks set to continue into 2013. There have only been two meetings of the LETR Consultation Steering Panel, which is to provide guidance and advice to the LETR research team, headed by Professor Julian Webb. Prof. Webb would very much like BACFI to be involved. We may ask him to address a seminar next year. Two wide ranging Consultation papers, based on the Research Team's findings, will be issued next year, in March and July.

The LETR will be looking at all aspects of legal education, including paralegals and the unregulated sector. If you have ideas or would like to get involved in BACFI's work on the LETR, please contact [esme.chandler@gmail.com](mailto:esme.chandler@gmail.com).

### **New Code of Conduct for the Bar**

BACFI submitted a response to this BSB Consultation before Easter. In the last few days, the BSB announced that it will be issuing a new Consultation on a future Code of Conduct in the New Year, to take into account of the new business structures. The BSB's intention is to produce a single Code of Conduct for both individual barristers and alternative business structures - so the introduction of a new Code is still some way off.

### **CPD Consultation**

BACFI submitted a response to the latest [Consultation on CPD](#) last month. Despite the fact that the LETR is conducting wide ranging research into CPD and has this firmly in its sights, the BSB has announced that it will be going ahead with its own plans to introduce new rules on CPD rather than await the outcome of the LETR. No timetable for implementation has been given.

### **Case T 226/10: (EU judgement refusing rights of audience for in house lawyers)**

BACFI and the Employed Barristers' Committee lobbied the Chairman, who wrote to Ken Clarke asking the Government to consider intervening. The Law Society did likewise; both received a dusty reply. The Law Society continues to fight and BACFI has invited Mike Todd to do likewise. The Polish government is appealing. We will keep you posted.

## **Education**

### **New Practitioners' Programme (NPP) Advocacy and Ethics Training**

BACFI has supplied all four Inns with material tailored to the needs of the employed bar, based on the very successful courses run by Middle Temple. If you are an NP wishing to attend one of the courses, please make sure that you ask for the EB session. If you have any difficulty registering for one of these courses or if you attend one, please give feedback to [hfrogers@bacfi.org](mailto:hfrogers@bacfi.org).

**CPD seminars:** BACFI remains an accredited provider of CPD seminars and we have ensured that events in our [outline 2012 programme](#) will qualify for maximum points.

BACFI has been lobbying for a simpler, self accreditation system for CPD that recognizes the need for soft skills and reflects the requirements of the employed bar. We are pleased to note that the present BSB proposals (see above) address most of our suggestions.

### **Support**

**Pupillages:** are down from 460 to 402 this year and there are still very few EB Authorised Training Organisations (ATOs). The BSB continues in our view to be complacent about the reduction and even retains firms on its list of ATOs that have long ago ceased to offer pupillages.

BACFI met BSB officials in October to lobby for greater flexibility on the ATO rules, but they remain of the view, despite all the evidence, that firms will be prepared to apply for waivers from the essentially “chambers friendly” framework. We asked the BSB to send a letter to companies offering solicitor training contracts, encouraging them to consider becoming an ATO and we asked it to hold a workshop/meeting where interested companies could come and discuss their questions and explore solutions outside the strict format of a chambers type pupillage. We will let you know what happens.

Meanwhile, we would like to hear from anyone whose firm has applied or is thinking of applying to be a PTO, so that we can continue to monitor the difficulties. Contact [hfrogers@bacfi.org](mailto:hfrogers@bacfi.org).

**Student Health warnings:** BACFI has been lobbying both the BSB and the Inns to ensure that students are kept properly informed of the difficulties of securing pupillage and the consequences of failing to complete their professional training. We note that current BPTC numbers have fallen this year, so maybe students are now becoming aware of the pupillage shortage.

However, it is vital that our profession should not lose out to solicitors in attracting the best candidates and we have formed a focus group to cover pupillage issues generally. If you would like to help with this group, contact [secretary@bacfi.org](mailto:secretary@bacfi.org).

**Mentoring scheme:** BACFI has joined with the Commerce and Industry Group to launch a mentoring scheme for young in-house barristers and solicitors and those working as sole lawyers. A number of members have volunteered as mentors and a report on the scheme will be published in a forthcoming Newsletter. If you are interested in acting as a mentor or wish to be mentored, then please contact [secretary@bacfi.org](mailto:secretary@bacfi.org) to register for the next round of the scheme.

### **2012 DATES FOR YOUR DIARY:**

Wednesday 25 April

**Spring Debate: The Press v. The Law**

Followed by **Supper Party** at Middle Temple

Wednesday 23 May

**Professional Issues Seminar**

Speakers to include **Dr Vanessa Davies, Director**, Bar Standards Board  
At Macfarlanes

Monday 13 June

**Garden Party at Middle Temple**

Jointly with Middle Temple

Wednesday 26 September

**Legal Practice Seminar: Negotiation Skills**

At Hardwicke Chambers, Lincoln's Inn

Monday 19 November

**2012 Denning Lecture**

**The Hon. Mr Justice Briggs**

At Inner Temple

Followed by the **BACFI Christmas Reception**

Wednesday 5 December

**Annual General Meeting**

For more details, links to maps and full year's events, please see [diary](#) on website. Be sure to book your places at events with Sandra: [events@bacfi.org](mailto:events@bacfi.org).

**Membership drive:** If you know someone in your firm who might like to join BACFI, or if your firm would be interested in corporate membership, do point them to our website where the membership forms can be downloaded: [www.bacfi.org](http://www.bacfi.org).

**Reconnection with the Inns:** If you are prepared to serve as an Inn representative, please contact Sandra: [secretary@bacfi.org](mailto:secretary@bacfi.org).

**Lincoln's Inn** has started a special evening meeting for the Employed Bar members, to be held in the Members common room on the first Tuesday of every month. Why not drop in and meet other Lincoln's colleagues? The meetings start on **Tuesday 7th Feb 2012**.

Current BACFI Inn representatives are:

Middle Temple	<a href="mailto:Christiane@valansot.com">Christiane@valansot.com</a> ; <a href="mailto:stuart.bazley@mobileemail.vodafone.net">stuart.bazley@mobileemail.vodafone.net</a>
Gray's Inn	<a href="mailto:Tricia.Howse@hotmail.co.uk">Tricia.Howse@hotmail.co.uk</a> ; <a href="mailto:hfrogers@bacfi.org">hfrogers@bacfi.org</a> ; <a href="mailto:Lucindaorr@hotmail.co.uk">Lucindaorr@hotmail.co.uk</a>
Inner Temple	<a href="mailto:EsmeChandler@googlemail.com">EsmeChandler@googlemail.com</a>
Lincoln's Inn	<a href="mailto:William.sprigge@orange.net">William.sprigge@orange.net</a> Ian Beeby <a href="mailto:ipb@peak-intelligence.com">ipb@peak-intelligence.com</a> <a href="mailto:Simon.broomfield@brooksmacdonald.com">Simon.broomfield@brooksmacdonald.com</a>

**BSB and BC committees:** 2011 BACFI members sitting on Bar Council or Bar Standards Board committees and subcommittees:

Bar Council	Tricia Howse & Esme Chandler (ex officio), Lucinda Orr, Kevin McGinty, Stephen Collier (Treasurer) & Lorinda Long (elected)
General Management Committee	Tricia Howse (ex officio)
Employed Bar Committee	Lucinda Orr, Tim Reading & Sara George
Professional Practice Committee	Tricia Howse & Sara George
Young Barristers' Committee	Lucinda Orr
Policy Advisory Group	Stephen Collier
Finance & Accounts Committee	Stephen Collier
International Committee	Lucinda Orr & Lorinda Long
European Committee	Lorinda Long
Training for the Bar Committee	Sara George & Tim Reading
Bar Conference Committee	Lucinda Orr
City Working Group	Lorinda Long
BSB Qualifications committee and its Pupillage panel	Helen Fletcher Rogers
BSB CPD sub committee	Tricia Howse
BSB Practising Rules Working Group	Helen Fletcher Rogers

**EXTRAS**

BACFI has a section on its website for appointments - in particular, opportunities in Europe for a *stage*. The BACFI office holds further details. Three post-graduate students are currently seeking placements or internships in London. You can get their CVs from Sandra: [secretary@bacfi.org](mailto:secretary@bacfi.org).

BACFI also publicises **events run by other organizations** that might be of interest to members. If you would like to have something put on our website, contact Sandra [secretary@bacfi.org](mailto:secretary@bacfi.org).