

The Board Room Brief



Message from the Chair

Dear Members,

Welcome to the Autumn edition of the Board Room Brief and we still have plenty of events to keep you educated and informed during the long winter evenings.

I attended the Bar Council meeting and AGM held on the 18th September. The main themes this year related to supporting Afghan lawyers following the takeover by the Taliban and the Bar Race Summit on the 5th of November (more details below). The BSB reported on their consultation on the aptitude test for students wishing to apply to do the Bar Vocational Course. The BSB is also looking at the standards of practice in the Coroners' Courts. Paul McFadden, the new Legal Ombudsman, was a guest speaker. He spoke about his plans for the ombudsman service, trying to clear the backlog and make the organisation work better for both the public and the legal professions. In terms of the Bar, our profession has relatively few complaints, which is reassuring. The next Bar Council meeting will be held in Bristol on 13th November and I shall be attending in person.

October is Black History Month and our committee member, Sharon Blackman is a member of the Bar Race Working Group and will be attending the Bar Race Summit on the 5th November. To attend this event please go to the Bar Council website. I would like to congratulate Sharon for being awarded an OBE, which is a great accolade for the work she is doing for inclusion and diversity. You can find more details about Sharon below. Following the theme of Black History Month, we have a great speaker for the 3rd of November, when Simon Regis, Employed Barrister of the year 2020 and co-chair of the Bar Council's Race Working Group, will talk about "Race and the Bar – moving things forward". More details are on the event page of the BACFI website.

The Professional Standards Group had a positive joint meeting with the BSB, Bar Council, Bar Council Ethics Committee, Employed Barristers' Committee and Young Bar Committee looking at ways to improve the rules of conduct for employed barristers and to remove unnecessary restrictions which put us at a disadvantage to both the self-employed bar and solicitors. These include issues caused when an employed barrister changes their employment status, difficulties of doing pro-bono work, ethics, gaining Direct Access rights and the Three Year Rule. The Bar Council Ethics Committee has been looking at these issues, so we agreed to wait for their report on these matters before agreeing an action plan.

BACFI has its annual elections for members of the general committee at the AGM on Wednesday 24th November. If you are interested in standing please let Sandra know, and if you want to find out more about what it entails Sandra will put you in touch with a current committee member.

I wish you all well and look forward to seeing you all at our future events.

With very best wishes,

Ian

Ian Brookes-Howells, Chair

Past events

“Firming” up the Bar: How law firms are now investing in chambers’ style set ups and what it could mean for you - 15 July 2021

Sahar Farooqi and Jonathan Robinshaw, Partners at DAC Beachcroft LLP and joint heads of 8 DAC Beachcroft Buildings spoke about how they set up an in-house “Chambers” style business in both their previous employment and also at DAC Beachcroft. They outlined that they provide two levels of support from both qualified and those yet to do pupillage. They are both pupillage supervisors and now offer pupillage and are regulated by both the BSB and SRA. They detailed how they provide the opportunity for those involved to have financial security of employment but also to have work that is high quality and exciting. They believe that this model will be followed by many firms in the future. A recording of the event is available on the BACFI website.

Around the Inns: Employed Bar Groups at the Inns

We are very keen to get members back to their Inns and get more involved in the amazing activities of these historic institutions. Middle Temple, Inner Temple and Gray’s Inn have set up Employed Bar Groups with the intention of making sure that the Employed Bar and their views are heard, along with providing specific training and events for employed practitioners. Several of the BACFI committee members are involved with their respective Inn’s group. If you would like to get involved with your Inn please contact the BACFI members named below through Sandra.

Middle Temple: The Employed Bar Conference which was being planned for the autumn is now postponed until the spring. Details will be sent to members as soon as we have them. Lunch in hall restarted on the 4th October.

BACFI Members on the MTEBSG: Ian Brookes-Howells and Laurence Fry

Inner Temple:

BACFI Members on the ITEBWG: Rebecca Dix and James Kitching.

Gray’s Inn: Lunch in Hall is now reopen along with the Bridge Bar. Gray’s Inn will host the Treasurer of Inner Temple, Guy Fetherstonhaugh QC and Benchers, Members of Hall and Students at an Amity Dinner for Inner Temple on Tuesday, 12 October 2021. The event will be Black Tie in Hall and the cost is £95.

The Employed Bar Dinner will take place on Wednesday, 27 October 2021. Cost is £70 and guests along with members of other Inns are welcome to attend. The event will be Black Tie in Hall.

BACFI members on the Employed Bar Working Group: Patrick Rappo, Gaynor Wood and Sara George.

Lincoln’s Inn: There will be a session at Lincoln’s Inn for BPTC students on 1st November discussing pupillages at the Employed Bar.

BACFI Fellowship award – nominations close 31st October

The BACFI Fellowship is a lifetime achievement award presented by BACFI in recognition of outstanding achievement in supporting the professional development of employed barristers and other unregistered barristers working in commerce, finance and industry. The award is the highest honour that BACFI can bestow and winners receive an engraved trophy. The first recipient of this award was Helen Fletcher Rogers who received it in an online presentation at our 55th anniversary celebration last year. The General Committee is now welcoming nominations of a BACFI member for the second award. To nominate someone please email Sandra with their name and up to 500 words as to why you think that they deserve to receive the award. The judging panel will include the BACFI chair, Ian, committee member Ryan Porter and Vice Presidents Ros Wright and Lucinda Orr. The award will be given at the Denning Lecture on 8th December. Closing date for nominations is 31st October 2021.

BACFI committee member profile: Sharon Blackman OBE



Sharon Blackman OBE is a Managing Director and General Counsel in Citi's General Counsel's Office, Markets and Securities Services Division.

An English law qualified Barrister and NY Attorney, Sharon has worked for Citi since 2004 and currently heads the Foreign Exchange and Local Markets (FX & LM) Legal Team for Europe, Middle East & Africa (EMEA). Sharon has represented Citi at a variety of industry level committees, most recently as the Citi legal representative on the Bank of England Foreign Exchange Joint Standing Committee, legal subcommittee of which she is Chair.

Married with 3 children, Sharon is an enthusiastic violinist and sits as trustee and playing member of the Croydon Symphony Orchestra. Latterly she has been an advisory board participant in support of Dami Adayeye's black mental health documentary 'A Dark Mind'. As chair of the Citi EMEA Pro Bono Committee she was delighted to accept the award for In-House Pro Bono Legal Team of the year, Trust Law Awards 2015. Sharon is a founding member of the UK In-House Pro Bono Group representing Citi, she sits on Citi's EMEA Legal Diversity Committee, represents EMEA on Citi's Global Legal Diversity Council and is the BACFI representative on the Bar Council's Race Working Group.

Sharon has recently been elected as a Bencher at Lincoln's Inn and also received her OBE in the latest Queen's Birthday Honours list in June. Sharon is interested in ensuring the interests of the employed Bar are fully represented within the Inn and has a keen interest in diversity and inclusion and in contributing to work related to future proofing the Bar.

BACFI Lexology Newsstand

Over the past few years we have offered this service to our members as part of the BACFI membership. If you have yet to sign up we [invite you to trial](#) this 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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BACFI's 55th Anniversary Dinner

This event has now been postponed until 23rd September 2022. This will be a black-tie event at the House of Lords and Baroness Hale will be guest of honour. Further details to follow nearer the time, however, Sandra is happy to reserve spaces now. It is expected that the cost will be around £120 per person which will include a drinks reception and three course dinner with wine. Places are strictly limited to 120 and guests are very welcome.

Other News

The UCL Laws Faculty Centre for Ethics and Law hosted an event over the summer titled *Justice for Sub-postmasters in the Post Office case*. Details and a link to the event are below.



[Justice for Sub-postmasters in the Post Office case](#)

This event brings to you an account of the justice secured for the maligned Post Office sub-postmasters by a number of the barristers who acted in the case. Although the wrongfulness of their prosecutions is now exposed, there remain lessons to be learnt not only for the justice system, but for legal professionals, and commentators and ...

www.youtube.com

The UCL Laws Faculty Centre for Ethics and Law has also just issued its annual report for 2020/21 which includes among other things an update on the two-year Independent Review of Legal Services Regulation, supported by the Centre for Ethics and Law. The reviewed concluded in June 2020 with the submission of the final report to the Lord Chancellor. The 320-page report was prepared by Professor Stephen Mayson, Honorary Professor at UCL Laws. Clare Hayes (Deputy Director of UK Legal Services at the Ministry of Justice) said that 'we do think those are really interesting proposals'. The Ministry of Justice confirmed that they wanted to explore the potential gains and benefits of short-term reform, balanced against the risks and costs of any change. The Annual Report can be found at: <https://www.ucl.ac.uk/ethics-law/news/2021/sep/ucl-centre-ethics-law-202021-annual-report>

A Coroner's Court competences and toolkit has been published by each of the regulators:

<https://www.sra.org.uk/solicitors/resources/practising-coroners-court>

<https://cilexregulation.org.uk/regulated-individuals/coroners-court/>

" Everyone has a [Social Care] plan...until..." – Mr Mike Tyson

The Economist had the strident headline 11th Sept 2021 - "**Boris Johnson deserves credit for reforming Britain's Social Care...BUT national insurance is the wrong way to pay for it**".

The government's bold move has divided opinion once again, with many lauding the steps taken to addressing what seems an intractable problem i.e. the increasing social care costs for the UK's aging population. Many feeling that Mr Johnson has been **bold in tackling an issue now**, rather than leave it to future generations, whilst others see it as not only a breach of a manifesto promise – not to raise taxes – but **equally the wrong strategic approach**.

Those in the **Mike Tyson school of economic theory** are very clear i.e. that you can have all the plans in the world but the harsh realities of our geo-political competition, with rising energy prices, imperfections in the working population's skill shortage etc, will conspire to provide a metaphorical '**punch to the nose**', and rain down unintended consequences that hadn't been foreseen by the UK government.

'Wasn't it ever thus'... I hear you cry but more **importantly what can we do now** to navigate our financial planning through these 'headwinds'?

Social Care Levy

The new Health and **Social Care Levy of 1.25% will apply from the next tax year along with 1.25% increases in all the dividend tax rates**. The Health and Social Care Levy will initially be applied in **tax year 2022/23** as an increase in Class 1 (employer and employee) and Class 4 main and higher rates of National Insurance Contributions (NICs). From 2023/24, NIC rates will return to the standard rates and there will be a separate 1.25% charge applied to all employed and self-employed earnings. **What does this mean for pension planning?**

There are **two key areas** of planning where these changes make the **advantages of pension planning even greater**:

Salary Sacrifice - the increases have no impact on those making personal pension contributions either personally or via their employer. There are no NIC savings to be made on these and this will be the same in respect of the Health and Social Care Levy.

However, The Health and Social Care levy makes salary sacrifice more attractive. As many employers and employees are already aware, there can be significant advantages where the employer operates a salary sacrifice scheme, allowing personal contributions to be converted to an employer contribution by exchanging salary for pensions. The additional benefit of this is the NICs savings for both employer and employee, made by reducing salary. Employers make their own decisions of how much of the NIC saving they pass onto their employees, with some passing all and some nothing at all. However, even if none, the employee will still benefit from their employee NICs savings.

Profit extraction from owner-managed limited companies - for those in control of how they distribute funds from their company there are broadly three main ways to extract the funds - either as salary, dividends or by making employer pension contributions. The Health and Social Care Levy and the increase in dividend tax rates both make the extraction of profits via pension contributions more attractive.

To provide a shareholding director with their immediate income needs the company accountant will often suggest paying a minimal salary, perhaps up to the secondary earnings limit, with the rest in dividends. As the rate payable on both the employer and employee NICs will have increased by 1.25%, this is unlikely to change despite the increase in dividend tax rates. Therefore, advisers will usually be comparing paying further dividends with employer pension contributions at the director's marginal rate of tax.

Any further dividend payments will be subject to both corporation tax and the higher dividend tax rates (assuming the tax-free dividend allowance has already been used up) of 8.75%, 33.75% and 39.35%.

In contrast, a pension contribution can be made gross, and, providing it meets the usual “wholly and exclusively” rules, will be treated as a business expense. There will, of course, be tax when the pension is paid, but 25% of this is normally paid free of tax and the rest subject to income tax at the recipient’s marginal rates of tax.

Examples - tax year 2022/23

Consider a shareholding director with £10,000 of funds to distribute, assuming they are and remain a basic rate taxpayer and the dividend allowance has already been used.

For simplicity the examples have assumed no growth on investment of either the pension or extracted funds.

Basic rate tax payer	Dividend	Pension
Cost to company	£10,000	£10,000
Corporation tax @ 19%	£1,900	-
Amount paid	£8,100	£10,000
Dividend tax 8.75%	£708.75	
Tax on pension if withdrawn*		£1,500
Net benefit	£7,391.25	£8,500

*Assuming income tax rates remain the same, 25% tax free cash is taken, and the residual is taxed at 20%.

Higher rate tax payer	Dividend	Pension
Cost to company	£10,000	£10,000
Corporation tax @ 19%	£1,900	-
Amount paid	£8,100	£10,000
Dividend tax 33.75%	£2,733.75	
Tax on pension if withdrawn*		£3,000
Net benefit	£5,366.25	£7,000

*Assuming income tax rates remain the same, 25% tax free cash is taken, and the residual is taxed at 40%

The pension has a clear advantage for both basic and higher rate taxpayers. ***Where the client is a higher rate taxpayer when the payment is made, but becomes a basic rate taxpayer in retirement the benefits of the pension are even greater,*** i.e. they could receive £5,366.25 as a dividend now or an after-tax pension payment of £8,500 in retirement.

The pension will become even more favourable for companies from ***April 2023, when the corporation tax rate increases to 25%***, unless they are subject to the small profits rate which will be maintained at 19%.

The benefits of salary sacrifice from 2022/23 onwards will be even greater. For employees, they will save an additional 1.25% on any of their earnings they choose to give up. Employers will save the same and may be willing to pass some or all of this onto the employee. This may lead to an increase in contributions via salary sacrifice and more employers wanting to set up salary sacrifice arrangements.

This may cause the Government to take another look at salary sacrifice arrangements. It has been curtailed for other benefits over the years, but pension contributions have so far escaped any tightening of the rules.

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Dates for your diary

- 21st October: Student evening with City Law School on MS Teams. Speakers will include Lady Rose, Sharon Blackman (Citi Group), Sonia Hayes (assistant Coroner), Patrick Rappo (DLA Piper), Dan Byrne (AA Thornton and Deputy District Judge) and Thomas Keane (Pupil at No5 Chambers).
- 3rd November: Inclusion and Diversity seminar with the EBC on MS Teams – “Race and the Bar - moving things forward”. What the Bar Council and other bodies and individuals at the Bar are doing in relation to race to instigate lasting change. Simon Regis, Employed Barrister of the Year 2020 will be speaking.
- 24th November: AGM – on MS Teams
- 8th December: Denning Lecture on MS Teams. Speaker: Sara Lawson QC, General Counsel at the Serious Fraud Office. Sponsored by Marque Wealth Management.

BACFI members on Bar Council and BSB Committees 2021

Bar Council

Ian Brookes-Howells, Lucinda Orr (elected), Lorinda Long (Treasurer), Alexandria Carr, Charlotte Pope-Williams (elected), James Kitching (elected)

General Management Committee

Lorinda Long, Ian Brookes-Howells,
Alexandria Carr, Lucinda Orr

Employed Bar Committee

Lucinda Orr, James Kitching, Sara George,
Patrick Rappo, Charlotte Pope-Williams,
Mike Jones QC, Samuel Main

Young Bar Committee

Charlotte Pope-Williams

Wellbeing at the Bar Group

Rebecca Dix

Finance Committee

Lorinda Long

Bar Representation Committee

Lucinda Orr, James Kitching,

Race Working Group

Sharon Blackman

Audit Committee and European Committee

Alex Carr

Susskind Challenge Working Group

Amanda Williams

Ethics Committee

Brian Cahill

Education and Training Committee

James Hampson

BACFI Committee members 2021

Chair: Ian Brookes-Howells
Senior Vice-Chair: Patrick Rappo
Junior Vice-Chairs: Grant Warnsby, Laurence Fry
Hon. Treasurer: James Kitching
General Committee: Rebecca Dix
Ryan Porter
Stephen Potts
Lorinda Long
Gaynor Wood
Alex Carr
Daniel Byrne
Sharon Blackman
Charlotte Pope-Williams
Sara George
Sonia Hayes

BACFI Inn Representatives

Gray's Inn

Lucinda Orr Lucindaorr@hotmail.co.uk
Patrick Rappo Patrick.Rappo@dlapiper.com
Sara George, Gaynor Wood

Middle Temple

Bart Kavanagh, Amanda-Jane Field, Ian Brookes-Howells, Laurence Fry

Lincoln's Inn

Sharon Blackman, Charlotte Pope-Williams

Inner Temple

Alexandria Carr, James Kitching, Ayah Elmaazi, Elaine Ngai, Rebecca Dix

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