

THE GUERNSEY BAR

Minutes of the Annual General Meeting of the Guernsey Bar held at the Dorey Room, St James' Concert and Assembly Hall, St Peter Port, Guernsey on Wednesday 20 October 2021 at 4.00pm

PRESENT

Guernsey Bar Committee

Simon Davies (Bâtonnier) (**SHD**)
Tom Carey (Deputy Bâtonnier) (**TC**)
Christian Hay (Secretary) (**CJH**)
Anthony Williams (Treasurer) (**AW**)
Gordon Dawes (**GD**)
Alasdair Davidson (**AD**)
Gavin Farrell (**GF**)
Robin Gist (**RG**)
David Thompson (**DT**)

In person:

Michael Adkins	Benjamin Manchak
Wayne Atkinson	Alan Merrien
Gemma Campbell	Sarah Millar
Tom Carpenter	Iona Mitchell
Elizabeth Couch	Patricia Montgomery
Robin Cowling	Mathew Newman*
Rachel Donaldson	Mark Priaulx
Sandra Duerden	Megan Pullum QC
Richard Field*	Mike Riddiford
Candy Fletcher	Heidi Sandy
Paula Fry	Richard Sharp
Elaine Gray	William Simmonds
Alex Horsbrugh-porter	William Simpson
Simon Howitt	Peter Stahelin
Ian Kirk	Robert Titterington QC
Tony Lane	Fay Warrilow
Kerrie Le Tissier	
Abel Lyall	

*Present but register not signed

By Proxy:

Annette Alexander	Benedict Havard
Christopher Anderson	Jason Hill
Jon Barclay	Karen Hill Tout
Gareth Bell	Christopher Jones
Andrew Boyce	Andrew Lister
Abby Brown	Sarah Mallett
Adrian Brown	David Moore
Angela Calnan	Benedict Morgan
Paul Chanter	Paul Nettleship
James Cooke	David O'Hanlon
Leonie Corfield	Victoria Pratt
David Crosland	John Scanlan
Rachel de la Haye	Julia Schaefer
Bryan De Verneuil-Smith	Allan Skirrow
Peter Ferbrache	James Tee
Jason Green	Sarah Wallis
Rachel Guthrie	

CHAIRMAN

The Bâtonnier chaired the meeting.

WELCOME

The Bâtonnier welcomed those present. The meeting was declared quorate with the minimum requirement of 20% of the practising Bar in attendance in person or by proxy.

1. APOLOGIES FOR ABSENCE

Peter Atkinson	Jemma Le Sauvage
Abby Brown	Tonia Leigh-Morgan
Kathryn Christie	Sam Maindonald
Sara Collins	Sarah Martin
Thomas Cutts-Watson	Philip Nicol-Gent
Liz Dene	Hilary Pullum
Sally French	Kate Rabey
Chris Green	Fred Raffray
Rachel Guthrie	Jason Romer
Louise Hall	Julia Schaefer
Nicola Hopkins	Samuel Steel
Christopher Jones	Diana Thompson
Andrew Laws	Mark Torode
Hollie Le Cras	Andrew Walters
	Alison Wood

2. APPROVAL OF MINUTES FROM PREVIOUS AGM

The minutes of the Annual General Meeting of the Guernsey Bar held on 15 October 2020, having previously been circulated, were proposed by SHD and seconded by CJH and approved.

3. BÂTONNIER'S REPORT

The Bâtonnier's Report for the year 2020/2021, having previously been circulated, was noted. The Bâtonnier then ran through the contents of his report and the following points were highlighted:

The Bâtonnier noted that the single biggest expense year on year (and increasing) relates to La Chambre de Discipline.

He noted that the Bar Council had spent a lot of time thinking about the structure of the Bar and how legal services may look in the future, acknowledging that the current structure of the Bar and the regulation of legal service providers is no longer fit for purpose in 2021, sometimes being open to abuse both by advocates and complainants. He noted that FATF had also enquired why Guernsey does not regulate the providers of legal services provided by non-Guernsey advocates who work in the Bailiwick of Guernsey.

He noted that Guernsey is expecting the next Moneyval visit in 2023 and that it was inevitable that they will raise issues about the operations of the Bar Council and the regulation of legal services.

He drew attention to the significant firm failure which had caused consternation at every possible level and he expressed his gratitude to Advocates Sarah Brehaut and Sarah Morgan for all they have done to deal with the difficult issues arising from this unprecedented failure.

The Bâtonnier stressed that the intended reforms and

modernisation of the provision of legal services in the Bailiwick must include provisions to formalise how the risk of future firm failure can be prevented. He noted the Bar's obligation to act in the interest of the public and that the intended modernisation of the Bar is aimed at pro-actively dealing with known issues with the current regulation of legal services in Guernsey.

He noted that the 2007 law is outdated compared to what is expected of it in 2021, and that it was also clear from the number of complaints received regarding the professional conduct of practitioners who are legally qualified but who are not Guernsey Advocates, that there is a clear need for the providers of legal services in the Bailiwick to be regulated.

The Bâtonnier noted that the opportunity should now be taken to modernise the Bar structure and systems in order to make them future proof and fit for purpose. With the relatively imminent visit of Moneyval, this was the perfect opportunity to get regulatory issues onto the States' Agenda.

He then referred to the diagrams which had been circulated ahead of the meeting and which gave a rough indication as to what the Bar and legal services might look like in future. He noted that it was based heavily on Gibraltar legislation and that the Bar Council was trying to utilise a similar structure to work in Guernsey.

He reminded those present that the diagrams were still in a very rough state but he was eager to share the Bar Council's initial thinking with the Bar at this meeting as it was the intention that work on the structure would be extended beyond the Bar Council to various parts of the Bar to develop and deal with.

He invited feedback via the Guernsey Bar Secretary to the new Bar Council. He also encouraged everybody to think about the proposals, to feed back and share their ideas as he was interested to hear them and to be able to bring them to reality.

Following a meeting the previous day with the members of St James' Chambers, he particularly noted to those present how grateful he was to HM Procurer and Jon McLennan for their valuable time, advice and guidance. He noted that his next priority was to work with the drafting team in order to bring together a draft policy letter for further consideration at Bar Council level, and ultimately to justify to the States why they should make the Bar reform a priority at the present time.

Once a more firmed up proposal was in place the Bar Council would consult with the Bar and other interested bodies so that a much more detailed paper could be considered at an EGM in the coming months, and most certainly before the next AGM in October 2022.

He said that he was not going to ask the Bar to vote at this meeting on matters covered by the diagrams but he rather encouraged them to raise any comments or concerns with himself or another

Bar Council member, either at the drinks after the meeting or whenever points occurred to them at a later date.

The Bâtonnier was very pleased to draw the meeting's attention to the upcoming event on 11 May 2022 celebrating 100 years of women in the law which is being organised by Advocate Sarah Brehaut and Helena Lavin.

The Bâtonnier invited comments on his report. There being no further comments, the Bâtonnier's report was proposed by SHD, seconded by GD and approved without any objection.

**4. APPROVAL OF
ACCOUNTS FOR
THE GUERNSEY
BAR**

The accounts for the year 2020/2021, prepared by Cleland & Co, having previously been circulated, were tabled for consideration.

The Bâtonnier noted that whilst the accounts showed that the retained cash was significantly greater than in previous years, there were two extra pieces of information that he wished to bring to the attention of the AGM, both to do with the timing of publishing the accounts for this meeting:

1. The current retention of cash was greater because it represented two years' bar levy coming into the same annual accounting timeframe; and
2. Significant Chambre accounts had yet to be processed and had not made it into the 2020 accounts. Once those amounts have been taken into account, there will be a significant reduction in the current cash balance.

The Bâtonnier asked if there were any further comments or questions.

It was agreed that the accounts for the year 2020/2021, proposed by SHD and seconded by GD, be noted and approved.

**5. ELECTION OF
AUDITORS**

The Bâtonnier noted that Cleland & Co Limited had been the elected auditor in accordance with section 11 of the Guernsey Bar (Bailiwick of Guernsey) Law, 2011 for the past six or seven years.

At this stage there was no reason to consider changing the auditors as there were no issues with the quality of their services. However, the caveat was raised that come next year or the year after the Bar could look very different to how it does at present and perhaps that would be the time to change auditors.

The reappointment of Cleland & Co as auditors, proposed by SHD and seconded by GD, was agreed by those present.

**6. ELECTION OF
MEMBER OF THE
BAR COUNCIL
FROM A SMALL
PRACTICE**

The Bâtonnier noted that last year there was no candidate to represent small firms on the Bar Council. He thanked Advocate Sarah Brehaut for staying on the Bar Council for this purpose until DT was elected. The Bâtonnier informed the meeting that DT had been in active liaison with the smaller law firms and that he was grateful for all of DT's hard work. He noted that a nomination form

had been received for DT to stand for another year and, following a question from the Bâtonnier to those present, this nomination remained unopposed. David Thompson was duly re-elected to the Bar Council.

7. ELECTION OF 7 MEMBERS OF THE BAR COUNCIL

The Bâtonnier noted that seven candidates had been nominated for the remaining seven positions on the Bar Council and he thanked Gemma Campbell for coming forward.

These positions being uncontested and there being no objections from those present, the following candidates were duly elected to the Bar Council:

- *Alasdair Davidson*
- *Gordon Dawes*
- *Gavin Farrell*
- *Robin Gist*
- *Christian Hay*
- *Anthony Williams*
- *Gemma Campbell*

The Bâtonnier noted that he was about to enter his second and final year as Bâtonnier and his intention was to stand down at the end of the next AGM in October 2022.

8. TO SET THE MINIMUM AMOUNT OF INSURANCE COVERAGE

The proposal to set the amount for which practising members shall maintain insurance cover against their professional liabilities arising from practice for the purpose of rule 32(1) of the Guernsey Bar Rules, 2010 at the unchanged amount of £2,000,000 aggregate cover above any excess was proposed by SHD, seconded by CJH and approved without any objections.

9. SUBSCRIPTIONS

After due consideration it was unanimously agreed that the Bar levy would remain at the same rate of £800 per practising Advocate and £400 per non-practising Advocate for the coming year.

10. AOB

Insurance

It was noted that there had been an enormous increase in the PI insurance contributions and the Bâtonnier noted that the Bar Council had looked into the reason behind this large increase. The Bâtonnier and AW had met with Grant Mitchenall (**GM**), main broker of the Bar's own insurance, to discuss this particular issue. GM made the point that the increase represented 20 years' of catching up with premium increases which should have been put in place gradually over the years.

The Bâtonnier informed the meeting that GM had kindly offered to attend a meeting with members of the Bar if there was an appetite to hear about the reasons for the 2021 hike and also what to expect in the future. He invited those present, or representatives from their firms, to let the Bar Secretary know if they would be interested in attending a meeting.

GF raised question enquiring if it was possible to put some type of captive in place. It was agreed that this point would be discussed at the next Bar Council meeting

Legal Aid

The Bâtonnier referred to the email which had been circulated by the Bar Secretary earlier in the day and invited Advocate Allan Merrien (**AM**) to address the meeting about the out of hours rota which has been in place for some years.

AM highlighted the problems in keeping the rota duties covered with too few advocates and he encouraged anyone who was able to do so to put their name forward for inclusion on the rota.

CJH asked if the advocate dealing with an out of hours call would be obliged to continue with the matter but AM confirmed that the requirement was just to give advice at the time of receiving the call.

The Bâtonnier invited those who may be interested to approach AM directly or else to contact the Bar Secretary.

Two items were raised by Advocate Elaine Gray (**EG**):

- 1) She asked if there was a plan to reinstate advocacy weekends as had previously taken place. The Bâtonnier replied that there was no plan at this stage as this was largely an initiative of Sir Richard Collas during the time he was Bailiff, and nobody had taken over the mantle. He said that he would raise this in his meeting with the current Bailiff the next week.

In response to a comment from EG, the Bâtonnier informed the meeting that he had been in touch with Hazel Marshall and she had agreed to deliver some talks to the Bar. GD noted that Jersey delivers similar talks for their advocates and that it might be possible to join these remotely.

- 2) EG noted that she had been approached by the Association of Guernsey Charities who noted that many charities and Not For Profit organisations were finding it hard to source people with a legal background to help them out. It was agreed that it would be good for the Bar to be seen to have an interest in helping the community and providing support. EG asked if there was any easy way to connect people as often emails requesting help languished in firms' generic info boxes.. She asked if the Bar Council could facilitate the connection between the Bar and the Third Sector. The Bâtonnier instructed the Bar Secretary to put this item on the agenda for the next Bar Council meeting and he said he would report back to EG.

Jersey and Guernsey Law Review

Madam Procurer put out a quick appeal for articles for the Jersey and Guernsey Law Review.

There being no other business, the Bâtonnier thanked TC for all his hard work as Deputy Bâtonnier, particularly in dealing with numerous complaints, some of which he himself was unable to deal with owing to conflicts.

There being no further business to discuss, the meeting concluded at 16:35.

At a meeting held directly after the AGM, the Bar Council noted that Simon Davies would stand for his second year as Bâtonnier and that the following were duly elected:

Robin Gist as Deputy Bâtonnier (for which the Bâtonnier indicated his gratitude for his willingness to take on this role)

Anthony Williams as Treasurer

Christian Hay as Bar Secretary

Gordon Dawes as Education Secretary

Alasdair Davidson as Website Officer

Gemma Campbell as Social Secretary (was strongly encouraged).

GF tabled a vote of thanks to SHD. He noted that the Guernsey Bar Council owed him a huge debt of gratitude for all of his hard work, both that which the Bar Council knows about and that which it does not.

The Bar Secretary was instructed to circulate a date for the new members of the Bar Council to meet.



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Simon Davies, Bâtonnier