

CHAIR'S LETTER

Many happy returns to the Chancery Bar Winter Conference, which turns twenty in January 2023! The world has changed significantly over the last two decades, but the Chancery Bar Association has kept pace and continues to innovate for the benefit and wellbeing of its members, its future members and all who come into contact with the Business and Property Courts. As this Review demonstrates, the reach and impact of the Association's work over the past year has been particularly impressive.

Building on the work begun by my predecessors, I am determined to promote increased diversity at the Chancery Bar. The report of the Black Inclusion Group, jointly commissioned by

the Association, COMBAR and TECBAR, was published in April and launched at a well-attended event in December. Huge thanks are due to its authors and all those who contributed to it, whether by responding to questionnaires, attending round-table discussions, or otherwise. We must all do our utmost to improve the record of the specialist commercial bar in attracting, recruiting and retaining Black barristers. I encourage you all to read the report and implement its recommendations in your chambers.

In a joint initiative with the Inns of Court College of Advocacy, we have recently contributed £100,000 to establish a fund to provide social mobility bursaries. This is designed to enable students to take up a place on the ICCA Bar Course who might otherwise be unable to afford it. Besides financial hardship, applicants will need to demonstrate a commitment to Chancery work and be from a background which is under-represented at the Bar, or at the Chancery Bar in particular.

In other areas, we are fortunate that 2022 has seen a return to relative normality for the Association following the pandemic. With fewer hearings now taking place virtually, CLIPS has returned to in-person volunteering. The enthusiasm and dedication of our volunteers, who are not only members of the Association but include members of COMBAR, ELBA, the Property Bar Association and the Solicitors' Association of Higher Court Advocates, deserves special gratitude.

Over the year, they provided nearly 230 days of free, high-quality advice and representation to litigants in person across the High Court and Central London County Court.

In a further welcome return to our former ways, we were able to host two well-attended overseas conferences in 2022, first in the Isle of Man in May and then in Guernsey in November, both showcasing the impressive range of legal expertise our members can offer. I am delighted that more distant travel is on the agenda next year: please book up to join us in the BVI on 27 April 2023. Closer to home, the Association has continued to provide a varied and informative seminar programme. One of the positives to come from the pandemic is the revelation that online seminars are convenient for us all and enable many more of our members outside London to participate. We intend to continue to deliver seminars online, whilst seeking to create convenient opportunities for members to attend and meet in person where possible.

The Association continues to respond to a wide range of important consultations. Notable amongst recent responses are substantial papers addressing the Law Commission's consultations on the Arbitration Act 1996 and (along with COMBAR) on Digital Assets. None of this would be possible without the commitment and dedication of all those who give up their time to serve on the Association's main committee, on one of our many sub-committees, as CLIPS volunteers, or in so many other ways. It is a privilege to serve as Chair of such an active and enthusiastic group of people. I also want to record my thanks to Francesca, our administrator, who has worked tirelessly throughout the year to keep everything running smoothly.

Best wishes to you all for 2023.

Andrew Twigger KC



Academic Liaison

The two main activities of the Academic Liaison sub-committee this year have been, firstly, the inaugural academic forum and dinner which took place on 10 October 2022 and was attended by seven of our academic members and eight other members of the Association including members of the sub-committee. There was a frank and wide-ranging discussion around subjects such as student liaison, academic liaison, and challenges for our academic institutions. Several action points emerged for 2023, which the sub-committee intends to take forward.

Secondly, the Bar Council Pupillage Fair took place partly online: Lesley Anderson KC chaired the online panel session on Life at the Chancery/Commercial Bar on 11 October 2022 which was joined by 235 students and then the fair itself took place on Saturday 15 October 2022 in London. 714 students attended the latter and there was significant interest in, and understanding of, the work of the Chancery Bar. I am grateful to all who assisted on both projects.

Lesley Anderson KC



Mentoring

The mentoring scheme has continued to flourish throughout this year. Thank you to all the new mentors who have volunteered to join us and to those who continue to mentor. We are delighted to report that our mentees have ranged from successful silk applicants to successful students awarded Chancery Bar Scholarships as part of the Inner Temple PASS Scheme.

The sub-committee strives to ensure the scheme continues to meet the many and various requirements of those making use of it. We have matched new pairs and re-matched where mentoring relationships have reached a natural end or where a new match may be useful. Increasingly, we match mentors to provide confidential tailored short-term support and advice around a specific issue. That could be moving chambers, work/life balance, career breaks or working towards a professional application. We also continue to provide mentors for pupils.

In 2022 we revised our guidance materials (available on the Association's website), to help support new mentors and mentees in framing their mentoring relationship and setting expectations and goals. Existing mentors and mentees are encouraged to take a look at the guidance and re-visit their own mentoring goals.

Please remember that no one is too junior or senior to join the scheme as mentor or mentee or both. Applications from would-be mentors and mentees are always welcome and should be made to Francesca. We cannot run the scheme without you!

Janet Bignell KC

Education & Training

2022 has been another good year for Education and Training. After experimenting with hybrid seminars/webinars, the decision has now been made to focus on one or the other. So, in 2023, members can look forward to a combination of online webinars which can be viewed from the comfort of your home or chambers and in person seminars with the usual glass of wine to follow. The most recent in person seminar – our back to basics on winding up petitions – was a full house which was particularly good to see.

As ever, our thanks go out to those who have given up their time to arrange or speak at any of our presentations, but particular mention should be made of Richard Dew who tirelessly chaired the committee with such success until the summer.

James Pickering KC

Pro Bono

The Association's flagship pro bono scheme, CLIPS, will be 10 years old in December 2023. In that (nearly a) decade it has provided invaluable support to litigants in person in the High Court and County Court at Central London. In 2022, 112 volunteers from 43 sets of chambers and 2 firms of solicitors provided nearly 230 days of assistance to LIPs. 31 of those volunteers volunteered three times and were well-deserved recipients of the Pro Bono Champion Award for 2022.

The figures do not tell the whole story, however. The real success of the scheme is that Francesca's inbox is regularly filled by emails from LIPs and Judges alike who are exceptionally grateful for the assistance which CLIPs advocates provide and who recognise the important role that CLIPs is playing in providing legal advice and representation to those who would otherwise have none. As recently as December 2022, one High Court Judge's clerk said that the Association's 'assistance on CLIPS is so vital, and I wanted you to know how appreciated it is.' It is a scheme of which the Association can rightly be extremely proud.

However, that does not mean that there is not more we can do. For 2023 we would like to widen the range of members who contribute their time and expertise to the scheme. We estimate that between a quarter and a third of the Association's membership has volunteered at least once in the last 5 years, but the core of the volunteering effort comes from a much smaller pool with more than half of the days in 2022 being contributed by the Pro Bono Champions. It would be fantastic if we could persuade more members to give it a go.

Beyond CLIPs, the sub-committee has continued to oversee the pro bono mediation scheme which was launched several years ago. It offers up 4 hours of free mediation for suitable cases. There is a ready pool of volunteer mediators from the Association. So, if members are involved in cases where there is a litigant in person, we would ask them to consider taking advantage of the offer of free mediation assistance.

My sincere thanks to all the sub-committee members and the volunteers who continue to showcase their skills and provide support to those who need it.

Andrew de Mestre KC



Equality & Diversity

In June 2022, the 'Charter for Fairness' was created and published in response to the enormous amount of work done by Nicola Rushton KC and the Equality & Diversity sub-committee, following the 'Voices of Women at the Chancery Bar' report published 3 April 2021. The Charter sets out 13 practical recommendations relating to work allocation, career development, marketing and earnings. The sub-committee continues its efforts to encourage its member chambers to formally adopt the Charter and put into place some or all of the recommendations.

After the Bar Council's Race Working Group report in November 2021, and adding to that important work, in May 2022, the Black Inclusion Group, a cross SBA working group jointly set up by the Association with COMBAR and TECBAR published its first report, 'The Specialist Commercial Bar & Black Inclusion – First Steps'. The report draws together the extensive evidence gathered by the Black Inclusion Group from the Bar Council and Government, a bespoke questionnaire and round-table discussions with Black [query 'and Minority Ethnic'] barristers and aspiring barristers at the Commercial Bar. A launch event where the authors discussed their findings and recommendations took place in December 2022. Each of the Specialist Bar Associations have prepared an action plan setting out their intentions in respect of the recommendations made by the Black Inclusion Group. These include continued cross SBA cooperation in events relating to: (i) the Directories treatment of equality issues; (ii) support and advice for those seeking to apply for silk; and (iii) training to assist member Chambers in data gathering with a view to measuring improvement in relation to representation, retention and recruitment among black barristers.



Individually, the Association is taking its own action by providing a £100,000 fund to be administered by ICCA to provide financial assistance to students from underrepresented groups at the Chancery Bar during their year of study. The bursary will provide £5,000 for 2-4 students in each academic year who express an interest in Chancery work.

There has also been a number of events on a variety of other topics, both student outreach and for members, including a billing best practices workshop in May 2022 and the Women at the Chancery Bar event in December 2022.

Yasmin Yasseri

International

This was the year the Association returned to its former ways so far as overseas activity is concerned.

We held two overseas conferences this year. The first in the Isle of Man on 10 May 2022. Particular thanks are owed to Lesley Anderson KC for chairing the conference, and to Matthew Morrison for shouldering much of the administrative burden of arranging it. A significant feature of the conference was to have a panel session composed of junior practitioners; an initiative developed with the Junior Chancery Bar committee and which we consider is now an important part of the Association's conference package.

The second conference took place in Guernsey on 4 November and was, as ever, well-received with a highly topical programme. Many thanks to those who organised it and who spoke.

For 2023, there will be plenty of opportunity for members to showcase their legal expertise overseas. We will be travelling to the BVI on 27 April 2023 for the conference which was due to take place in November 2020. Members are encouraged to book up to join us and to express interest in speaking. In this respect, junior members are reminded that we remain part of the Bar Council's International Grants Scheme, which is back up and running after a period of suspension.

Michael Gibbon KC

Publications

Over the last twelve months, the sub-committee has continued to oversee the Association's various digital and print publications. The plan to overhaul the website is in motion. Members can look forward to a fully redesigned website and re-brand, with a focus on the modern aims, priorities and outlook of the Association.

Oliver Marre



Junior Chancery Bar

We are pleased to say that, over the last year, things have got back to normal for the Junior Chancery Bar. It has been fantastic to see junior practitioners at our events and refreshing to catch up face-to-face rather than over a screen. We are, however, delighted to be able to reach members outside of London through our virtual events and we plan to continue holding events in both formats.

It has been a busy year. We hosted a very well attended drinks event in March; a RADA-qualified instructor taught us how to be better public speakers in May; and we learned about the relationship between project management and litigation together with the Junior London Solicitors Litigation Association in November.

We have also continued to expand our international ambitions with the generous support of the International sub-committee. The 'juniors' panel' at the Isle of Man Conference was well received and we look forward to a similar panel farther afield as part of the Association's BVI conference next year.

The membership of the Junior Chancery Bar committee has gone through some change over the course of the year. We are grateful to Harriet Holmes, Grace Cheng, Oliver Marre and Anthony Pavlovich for their dedication and hard work over many years, and were fortunate to welcome Jessica Clark-Jones, Lara Kuehl and Rumen Cholakov. We look forward to seeing you throughout 2023!

Albert Sampson

Below: The BVI, the proposed destination of the Associations's 2023 long haul international conference.

Wellbeing & CSR

2022 has been a year of adjustment for us all as we re-emerged into a post-pandemic world. Some of the initiatives taken by the Wellbeing and Social Responsibility sub-committee have sought to react to that and provide support to members as adjustments are made. In that vein, in May, the sub-committee hosted a panel event on 'Dealing with a post-pandemic world'. We were fortunate to have a mixed panel of practitioners and those with experience dealing with wellbeing in the legal sector.

In September we held a successful online panel event, Inspiring Governance, which was aimed at encouraging members of the Association to become school governors.

Otherwise, the sub-committee has continued to:

- work with the Bar Council's Sustainability Network, promoting that network and the Greener Litigation pledge; and
- sit on and work with the Bar Council's Wellbeing at the Bar committee.

In terms of new developments, the sub-committee has revised the Best Practice Policy, to reflect post lockdown working patterns and this will be launched in early 2023. Laurie Scher and I have been working with the Bar Council and Advocate to launch two CSR awards (one for sustainability projects and the other for community projects) and the first awards were made in November 2022. Members of the committee attended a round table discussion on flexible working.

The Association's wellbeing and CSR would simply not happen without members of the sub-committee and our administrator Francesca Compton. I extend my sincere thanks to them all.

Gary Blaker KC

THE INTERVIEW

The Hon Mrs Justice Kelyn Bacon DBE



‘When I was at the Bar, I used to tell juniors if they could halve the length of submissions then that would be a good thing’

Term has just ended, and the festive period is upon us. It has been a long and busy term. Yet the seemingly tireless Mrs Justice Bacon greets me with a beaming smile and the high energy you might expect from a trailblazer.

Kelyn Bacon was born in Mumbai and moved to England as a child where she attended state schools in Somerset. Having graduated from Oxford, she embarked on pupillage and a stellar career at the Bar as a member of Brick Court Chambers, working for ‘big name’ clients such as Microsoft, GE and ‘Big Pharma’. She took Silk swiftly, in 2014. In 2017, she was appointed a deputy High Court Judge. The appointment as a full-time judge came in October 2020 and marked two firsts: she is the first individual from an ethnic minority background to be assigned to the Chancery Division and the first female member of Brick Court Chambers to be assigned to the bench as a full-time judge.

But before we get into any discussion about how that path was forged or other matters, Mrs Justice Bacon wants to mention something else: CLIPs. She cannot speak highly enough of the scheme and the positive impact it has on the administration of justice and, sometimes, the careers of the volunteers themselves through the High Court advocacy opportunities it creates. The message she has to convey to members of this Association is clear: volunteer.

In some ways, Bacon’s career appears to have led inexorably to an appointment to the High Court bench. Yet, with a highly specialist career at the Bar focussed on competition and European law work, some might have been surprised by her assignment to the Chancery Division. It seems the intellectual challenge of hearing and deciding cases in areas of law which had been unexplored for some years was a motivating factor.

‘In the practice I had, I was doing a lot of quite similar work for some years,’ explains Bacon. ‘It was a really interesting career but when I came to the Bench, I was doing cases in areas of law I had not looked at for many years in practice. ... I enjoy that intellectual challenge.’

Bacon talks with affection and admiration for those she considers helped her along her way. She recalls turning up at Brick Court, then a set with very few female members, for a mini-pupillage to find Nicholas Green (now Lord Justice Green) had been assigned as her mini-pupil supervisor. She was ‘in awe’ of the Factortame briefs and papers in other well-known cases in his room but what really struck her was how ‘extremely warm, friendly and welcoming’ he was. When she joined chambers, she was often led by Green and Gerald Barling. Bacon explains that ‘it is really important as a young lawyer to have leading silks who will trust you and bring you into cases, which helps you develop your practice.’

This philosophy has followed Bacon to the Bench. She is keen to ensure and actively encourages juniors to take on advocacy. ‘We can and should encourage the participation of junior counsel

to avoid the court room being dominated by leading counsel who tend to be male,’ Bacon explains. ‘At the Competition Bar, it is common for juniors to take on some of the advocacy, and there was a transformation of that field during my time in practice, with many female silks now practising in that area of law.’ She also considers there is little reason for this practice not to become more widespread. ‘It is a sign of strength in the leader that they recognise the contribution that their junior may make to the trial advocacy, and it is also good for clients because it enables them to see the performance of junior counsel and spreads the load across the team.’

Bacon has other thoughts regarding courtroom performance and the traits she most values in an advocate:

‘When I was at the Bar, I used to tell juniors if they could halve the length of their skeleton arguments then the judge would be twice as likely to read them.’

Her view has not changed since joining the Bench, and it applies to both written and oral advocacy.

‘The most effective advocacy is both measured and, most importantly, concise. There comes a point where your eyes glaze over. ... Reduce the length of your submissions, and remove the adjectives.’

That is not to say Bacon suggests submissions need to become dull. ‘Given that I made reference to the titles of Star Wars films in my submissions in one case, I won’t say that you shouldn’t ever crack jokes. But in general dialling down on the rhetoric is a good thing.’ Which Star Wars movie was most difficult to incorporate into the submissions? ‘Return of the Jedi was a bit tricky’ but she managed it.

Bacon has managed rather a lot in her lightning-fast progression to taking Silk and the Bench. She has two children and, in her own words, ‘did things differently in some ways to others... draw[ing] boundaries around the things which are important’, which included her family. How did she manage the juggle?

‘I always tried to keep weekends free and did what my juniors called the 8-10pm shift on weekday evenings. I also took most school holidays off and I tried to have non-quality time with my kids so that they would tell me stuff, rather than always focussing on quality time. ... I am really grateful that chambers and clients were supportive of this. But we need there to be more people at the Bar who set those boundaries.’

She recalls there being some impact on her practice. She ‘did not take longer trials, or cases which would not take me overseas for more than a few days. ... There were constraints on the kind of cases I could do but I took the view that we earn enough money – the commercial bar is very lucky in that regard.’

Bacon has views about how things could improve for others with caring responsibilities, however.

‘One thing the Bench could do is to try and case manage to avoid huge trials. Trials have been getting longer and longer and that should be reined in because it is more difficult for those with family responsibilities. Women are likely to be disproportionately affected by that.’

The second suggestion is one for members of the Association to consider: ‘Women can be encouraged to communicate to the Judge if they have caring responsibilities which affect the trial

timetable.’ She recalls a time at the Bar when, as leading counsel in a trial, the Judge asked if they could sit late. ‘I said I couldn’t because I had to take over childcare after court. A number of other women afterwards said they were very glad I had done that. If others in that position have the confidence to speak up, Judges will be accommodating where possible.’

Addressing the other manner in which she was a mould-breaker, Bacon says that she would prefer not to have been the first ethnic minority appointment to the Chancery Division. She is clearly thinking deeply and taking steps to try and identify the obstacles for ethnic minorities, as her work with Bridging the Bar illustrates. Though she considers we are not talking enough about social mobility. While recognising the profession cannot fix all social ills, she considers a lot of thought needs to be given to how the profession can ‘address the systemic imbalances’ which disadvantage applicants for pupillage from disadvantaged backgrounds. One suggestion is for the profession to work out how to support those from such backgrounds ‘to enhance their skills so that they have a chance of getting pupillage.’ What Bacon has in mind is a ‘pre-pupillage programme,’ though she considers that a collective effort across the Bar is required rather than chambers being left to design something on an individual basis. Perhaps a challenge for the Association to take up?

For those who might want to follow in her footsteps, Bacon advises seeking judicial experience in a part time appointment. She describes her time as a deputy High Court judge as a very good ‘try before you buy’ scheme, but ‘whether in courts or tribunals, there are lots of part-time positions which are worth doing and they are a good entry point’. And the judicial role may not be for everyone, of course. ‘It wouldn’t suit someone who finds it difficult to come down one side of the line. You do think anxiously about the right result.’

Those who are assigned to the Chancery Division might like to know that their waistlines may be affected. The judges take turns to provide cakes for a weekly tea. Bacon bakes her own, and it seems that has encouraged some of her colleagues (including the men) to follow suit. So, there is now stiff competition for the best judicial bake.

Baking and spending time with her family is not where Bacon’s interests and activities end. She plays the cello, though she confesses the pressures of a judicial career has meant practice has fallen by the wayside somewhat, and she is part way through walking the South West Coastal Path in sections with a friend.

It has become traditional for the Review to borrow a question from the radio programme Desert Island Discs for our annual interview: which one book would Mrs Justice Bacon take to her island? ‘Well, if we are talking about non-fiction, the Dishoom cookery book. It taught me a lot about the city in which I was born, Mumbai, and has the best recipes ever.’ Her fictional book would be Men at Arms from Terry Pratchett’s Discworld series – ‘it is about diversity, humanity, compassion and humility, and the delicate balance trodden by those in positions of authority. Those are all themes which are important for me. Every time I read his books, I find a new insight.’

Harriet Holmes

Consultation responses

Responding to the many important consultations which occur annually remains an important part of the Association's work and is time-consuming for those involved. Many thanks to those who gave their time and ideas to the responses.

In the last 12 months we have either responded ourselves, or had input into the Bar Council's responses, to thirteen consultations. These have covered a wide range of topics, which have required careful consideration.

Alexander Learmonth KC

Title	Consulter	Closing date	ChBA team
Practising certificate fees	Bar Council	14.01.2022	Francesca Perselli, Tom Sherwin
Pre-Action Protocol for BPC work	CJC	21.01.2022	Andrew Twigger KC, Emma Horner, Alexander Learmonth KC, Christopher Greenwood, Rupert Cohen
Singapore convention on mediation	MOJ	1.04.2022	Prof Suzanne Rab, Lyndsey de Mestre KC, JJ Liew
Human Rights Act Reform: a modern Bill of Rights	MOJ	19.04.2022	Sophia Hurst, Albert Sampson, Dilpreet Dhanoa, Andrew Twigger KC
Costs consultations	CJC	10.2022	Sophia Hurst, Alan Tunkel
Mediation in the Civil Justice System	MOJ	4.10.2022	Jonathan Arkush, Kelly Stricklin-Coutinho, JJ Liew
Regulation of Non-Professional Conduct	BSB	20.10.2022	Alexander Learmonth KC, Charlotte John
Digital Assets (Joint response with ComBar)	Law Commission	4.11.2022	Sophia Hurst, Grace Cheng, Chloe Bell, Leigh Sagar, Nik Yeo
Review of Arbitration Act 1996	Law Commission	15.12.2022	James Bradford, Andrew Holden
Judicial pensions	HMCTS	-	Keith Bryant KC, David E Grant KC
Ratification of Hague Convention 2019	MOJ	-	Prof Jonathan Harris
Parental leave	Bar Council	-	Carly Sandbach
Chancery Guide 2022	Judiciary	-	Alexander Learmonth KC, Richard Ascroft, Andrew Twigger KC, Edward Hewitt, Elis Gomer

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