

**For circulation to Members of Bar Council  
Item of AOB – Meeting 7 July 2018**

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**ANNUAL GENERAL MEETING OF COMBAR**

**THURSDAY 28 JUNE 2018**

**At 5pm Outer Temple Chambers**

**Chairman: Andrew Spink QC**

**Treasurer: David Josephs QC**

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**Note of what was said by Amanda Tipples QC  
in relation to Item 3 of the Agenda**

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This note has been prepared by Amanda Tipples QC, who attended the AGM in her capacity as a member of COMBAR. The purpose of this Note is to record what she said in relation to Item 3 of the Agenda. This is not a complete note of what was said on that item, which will no doubt be available in due course from the minutes of the AGM.

Item 3 of the Agenda provided:

“Annual Membership Subscription 2018/9 - A recommendation of the subscription levels will be made when the accounts have been finalised. Currently £143 (Individual members) £130 (Member sets).”

Further, on 27 June 2018 the Combar Administrator circulated an email from Andrew Spink QC, the Chairman of Combar, which said this:

“Information to those attending the AGM concerning the Judicial Assistants Pilot Scheme

Members will be aware that a 6-month long Judicial Assistants Pilot Scheme has been running in the Commercial Court since January 2018 with the support of COMBAR, under which 3 Judicial Assistants who are in their first year of tenancy at different COMBAR sets have been working as assistants to the judges of the Commercial Court.

On an experimental basis the funding required to compensate the JAs for the time spent by them away from practice was provided to each of them by the set at which they have tenancy.

An open dialogue and discussions have taken place recently between the Judges of the Commercial Court, officers of COMBAR and the Heads of the COMBAR sets as part of a consultation process intended to ascertain the level of support for a continuation of the Judicial Assistant Scheme and on what basis. The outcome of those discussions is that, to date, every COMBAR set who has responded to the consultation (a total of 17 sets) has indicated strong support for a further 10-month pilot commencing in October 2019 under which the Scheme will be extended to all barristers, not just those at COMBAR sets, and will be funded for that period by an additional subscription payable by COMBAR members. There will be up to 6 JAs appointed for 5 months each to cover the 10 month period. Each will receive £18,000 from the central fund established through an additional subscription of £67.50 to the subscription payable on behalf of each COMBAR member (the subscription last year was £130 each for members of COMBAR sets and £143 for individual members who are not at COMBAR sets).

It is a normal part of the business of the AGM to decide on the annual subscription payable by members. As part of that decision, the AGM will be asked to implement the above proposal that £67.50 additional subscription should be payable by each member of COMBAR to fund the further pilot scheme for 2018-19. Members are encouraged to discuss this matter with their Head of Chambers, who will be familiar with the issues and with the proposal to which the 17 sets have agreed.”

Therefore, under item 3, the proposal to the meeting was to increase the annual subscriptions to:

- (i) £197.50 (£130 + £67.50) for member sets; and
- (ii) £210.50 (£143 + £67.50) for non member sets.

The Chairman explained that the proposal is to continue the Judicial Assistant Pilot Scheme from October. He said this had been debated at a recent meeting, which was attended by the Heads of all the Combar sets<sup>1</sup>. The vast majority of the management committees had approved the proposal to continue the scheme. He then explained how the proposal to fund the scheme had changed, and it was no longer proposed that the sets from which the JA comes from are being asked to pay. He explained to the meeting that the concept of funding being provided by individual members of Combar had given rise to considerable debate. Further, he made it quite clear that no funding will be provided by HMCTS for judicial assistants in the Commercial Court. The Chairman said that the feedback from the pilot scheme was very strong from both the JAs and the judges. He said that the scheme is making a big difference in the ability of the judges to discharge their judicial duties. He then said that all Combar sets practice in the Commercial Court, and this scheme is very much in the interests of clients, and judges.

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<sup>1</sup> The AGM was told that this meeting was attended also by Mr Justice Popplewell and Mrs Justice Cockerill.

The Chairman said that Combar had consulted the Management Committees of Combar sets and 20 sets had confirmed that they supported the proposal to take the pilot scheme forward for a further year. In terms of the amount that JAs would be paid, the proposal was that they should be paid the same amount as JAs in the Supreme Court (ie £18,000), and that that should be funded through the increased subscription of the Combar membership.

Amanda Tipples QC spoke against the proposal to increase the subscriptions to fund the Judicial Assistants Pilot Scheme.

She said this:

*“The first thing I wish to say is that I have no doubt this scheme is well intentioned in providing assistance to the judiciary, and in providing young members of the Bar with invaluable experience at the outset of their careers. However, notwithstanding that, this proposal for a judicial assistant scheme in the Commercial Court to be funded by Combar members through their subscriptions is misconceived. There are three points I wish to make.*

*First and foremost, if, as it appears, there is a need for Commercial Court judges to have judicial assistants, then the Commercial Court should be properly resourced and funded by the government through the court service. It is not for Combar to paper over the cracks when issues arise as a result of inadequate funding. We at the Bar are all too well aware of the chronic lack of funding at the Ministry of Justice and the impact that has on the Courts. This affects the criminal justice system and the civil justice system. It is for this SBA, together with other SBAs, and the Bar Council to lobby the government for more funding, and also to educate the public that this country needs a properly funded justice system. The public understands this in respect of health and education – but they do not understand why it is so crucial to our justice system. We, of course, all know it is critical to the rule of law. It seems to me that it is quite wrong for Combar, because it perceives its members can afford it, to bail out the Ministry of Justice in respect of funding judicial assistants in the Commercial Court. What about the other divisions, and court centres, of the Business and Property Courts? What about Family Court judges? What about Crown Court judges? What about the County Court? They all suffer by dint of the cuts. Other SBAs, such as the Family Law Bar Association or the Criminal Bar Association, cannot afford to help in these situations, nor should they. It is an extremely dangerous step for Combar to create a precedent in the Commercial Court. Further, it sends a disastrous message to the government that an apparently wealthy SBA, namely Combar, can afford to do this. One dreads to think what next the government, or indeed anyone else, will expect the members of Combar to fund. The proposal is wrong in principle.*

*[Note: The second point related to whether the proposal was permitted under Combar’s constitution. This point is not relevant for Bar Council, and not set out here].*

*My third point is about consultation. I understand there are 37 Combar sets and 1,600 members. Yesterday's email identified 17 sets strongly support this proposal. I do not know the views of the other 20. The trouble with this is that it is most unlikely that any of the Combar sets are going to come out and say in terms they disagree with it for fear of upsetting the Commercial Court judges. However, the individual members may have a different view, and it is your 1,600 individual members that you are looking to pay this 50% increase in subscriptions of £67.50 to fund £108,000 for 6 judicial assistants over a period of 10 months. You need to consult them all as it is those people individually who you are asking to pay for this, and that has not happened. You will then know whether or not they are prepared to pay the increased subscriptions or whether, as a result, you will see a significant drop off in your membership.*

*The last thing I wish to say is this. I am the Chairman of the Chancery Bar Association<sup>2</sup>, and I wish to put down a very clear marker in relation to the Business and Property Courts as a whole. I can say that if our Association had been presented with such a proposal by The Chancellor asking us to fund Judicial Assistants for some or all of the 17 judges in the Chancery Division, we would not have supported any such proposal and we would not have asked our members to fund it.”*

The proposal to increase the Combar subscriptions as set out above was put to the vote, and was carried by the majority of those present and voting.

**Amanda Tipples QC**

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**Maitland Chambers**

**3 July 2018**

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<sup>2</sup> Amanda Tipples QC's term of office as Chairman of the Chancery Bar Association ceases at the Association's Annual Meeting on 4 July 2018. The in-coming Chairman is Eason Rajah QC.