



The Bar Council

## Notice of 2020 Annual General Meeting

**The Annual General Meeting (AGM) of the Bar of England and Wales will be held virtually (via Microsoft Teams) at 11.00 on Saturday 12 September 2020.** It will be preceded by a meeting of the Bar Council.

The agenda for the AGM will be made available to Subscribers, Circuits, Specialist Bar Associations and the Inns of Court as soon as possible after **the closing date for resolutions on Friday 21 August 2020**. In accordance with Part II, paragraph 16(a) of the Constitution, the Bar Council shall present its annual report and accounts at this meeting.

Regulation 32(c) of Part II of the Constitution of the General Council of the Bar states that the terms of any alteration to the Regulations in the Constitution shall be notified to all Subscribers in the notice convening the General Meeting (whether Annual or Extraordinary) next following the meeting of the Bar Council at which the alteration was made.

In compliance with that undertaking, this notice confirms the changes to the Constitution since the last AGM on 7 September 2019. There have been many changes this year, which have been approved on five separate occasions.

### **Occasion 1: Saturday 2 November 2019**

At its meeting, the Bar Council approved the following amendments (full details of which are set out below):

- *The removal of references to ICBET and its old constitution from the Bar Council Constitution;*
- *Changes to the Bar Council Constitution to ensure compliance with the new Internal Governance Rules (IGR); and*
- *Changes to increase the amount of Bar Council co-options to eight and to allow a Co-Chaired Committee to require only one of its Co-Chairs to be a member of the General Council of the Bar.*

***The removal of references to ICBET and its old constitution from the Bar Council Constitution***

On 3 December 2018 the Charity Commission made a scheme which now governs the Inns of Court and Bar Educational Trust (“ICBET”). This scheme replaced ICBET’s 1997 constitution, which was (i) referred to in Part I of the Bar Council’s Constitution, and (ii) set out in full at Part III of the Bar Council’s Constitution. ICBET is an independent charity with a new constitution.

In light of this, the Constitution was updated and amended to remove all references to ICBET and its old constitution.

### ***Changes to the Bar Council Constitution to ensure compliance with the new Internal Governance Rules (IGR)***

The Legal Services Board published its new IGR on 24 July 2019. As the Approved Regulator, the General Council of the Bar had 12 months from this date, within which to comply with the new IGR. Several changes were made to the Constitution:

- An amendment to Part 1 of the Bar Council Constitution to make it clear that Registered European Lawyers register with the BSB and not the Bar Council.

*“Registered European Lawyer” shall mean a European lawyer registered with the ~~Bar Council~~ Bar Standards Board as defined in the Bar Standards Board Handbook”.*

- The removal of Part II, Paragraphs 1(d-e) of the Constitution which set out the functions and powers of the BSB.
- The removal of Part II, Paragraphs 1(d-e) of the Constitution which set out the functions and powers of the BSB.
- An amendment to Part II, Paragraph 1(f) to enable the BSB to make and amend its own constitution in consultation with the Bar Council (in accordance with the new IGRs).

*As the Approved Regulator, to create a Board to be known as the Bar Standards Board, to which it delegates the discharge of its regulatory functions in compliance with section 28 of the Legal Services Act 2007. The Bar Standards Board shall be constituted in accordance with such constitution as ~~the Bar Council~~ it shall from time to time determine, in consultation with the Bar Council. Functions and powers of the Bar Standards Board are set out fully in its constitution.*

- An amendment to Part II, Paragraph 13(a) which suggested that the BSB was a committee of the Bar Council and that the Bar Council could delegate to it any of its functions and powers.

*The Bar Council may delegate any of its functions and powers to (and may make or approve any arrangements for the delegation of those functions by) ~~the Bar Standards Board~~ or any*

*committee, Officer or employee of the Bar Council and at any time revoke any such delegation.*

- An amendment to Part II, Paragraph 18(a) of the Constitution which previously suggested that the Bar Council's administrative officers may be 'provided exclusively' to the BSB.

*The Bar Council shall appoint a Chief Executive or other principal administrative officer and such other administrative officers for such periods and on such terms as to remuneration and otherwise it thinks fit. Such administrative officers shall discharge all such duties as the Bar Council shall assign to them respectively. ~~The services of such administrative officers shall be freely available to the Bar Council and its committees, save in the case of any administrative officers whose services are provided exclusively to the Bar Standards Board.~~*

- The correction of erroneous references to the 'Finance and Audit Committee' in Part II, Paragraphs 21, 22 and 23 of the Constitution. These were historical references to a Finance and Audit Committee. The powers of investment and borrowing, and the keeping under review the banking arrangements, are part of the remit of the Finance Committee. Therefore, the words 'and Audit' were omitted.
- Amendments to Schedule III, Paragraph 7(a) and Schedule V, Paragraph 1(b) of the Constitution which included references to '(including its obligations in relation to the principle of regulatory independence as defined in rule 1 of the of the Internal Governance Rules)'. Under the new IGR, there is no longer a specific definition at Rule 1 and the sentence, where it previously appeared, was removed entirely.

***Changes to increase the amount of Bar Council co-options to eight and to allow a Co-Chaired Committee to require only one of its Co-Chairs to be a member of the Bar Council***

Part II, 2(b)(x) of the Bar Council Constitution stated that, in addition to the members of the Bar Council, there should be '*Not more than 4 further subscribers who may be co-opted by the Bar Council*'. Co-opted members have the same rights and powers as other members of the Bar Council, but they are co-opted, by the Chair, for one year only.

As a general rule, Committee Chairs are required to be members (either elected or co-opted) of the Bar Council. In order to allow the incoming Chair more flexibility in the choice of her Committee Chairs, a proposal to increase the number of co-options from four to eight for 2020 was put to the General Council of the Bar. This was approved, for one year only, and Part II, 2(b)(x) of the Constitution changed to read: '*Not more than 8 further subscribers who may be co-opted by the Bar Council*'. It was agreed that the decision would be reviewed for 2021.

The Bar Council also approved the proposal that where a representative committee is co-chaired, only one of its co-chairs need be a member of the Bar Council. This was also approved for 2020 only and it was agreed that the decision would be reviewed for 2021.

The new logo and any changes to numbering caused by the amendments were also approved.

## **Occasion 2: Saturday 28 March 2020**

At its meeting, the Bar Council approved the following amendments (full details of which are set out below):

- *The implementation of a proxy system for all members of the Bar Council;*
- *An amendment to the wording regarding the frequency of meetings to enable greater flexibility with regards to the number of Bar Council meetings per year;*
- *A system to provide for 'voting outside of Bar Council meetings';*
- *The removal of the requirement for a barrister standing in the subscriber elections to have a proposer; and*
- *General corrections to the Constitution.*

These changes had largely been proposed by the Bar Council Modernisation Working Group, established by the Chair in February 2020 to make it easier for members of the Bar Council to have more effective engagement; and to ensure the greater diversity of the Bar Council.

### ***The implementation of a proxy system for all members of the Bar Council***

A paragraph outlining a proxy system has been added to the Bar Council Constitution at Part II, Paragraph 10. As proxies may not be appropriate for all matters requiring voting a 'Proxy Protocol' has been drafted and is available to all members of the Bar Council.

*10. Any member of the Bar Council may delegate their voting power to another member of the Bar Council to enable a vote in their absence at a General Meeting for matters that have been identified on that Bar Council meeting agenda as requiring a vote. Notice of the intention to appoint a proxy and the name of the proxy must be made available to the Chief Executive in time to be tallied in the vote count on the question at issue.*

NB: The insertion of a new paragraph 10 had a knock-on effect on the numbering of paragraphs after this at Part II. Therefore, subsequent paragraph numbers have changed.

In addition, changes were made to Part II, Paragraphs 9(a)-(d) to relax the wording around the provision of alternates.

*9. (a) Any of the following members of the Bar Council may ~~(and, in the case of any member that is known at least five clear days' in advance to be unable to attend a meeting of the Bar Council, must)~~ appoint an alternate to act and vote in his place at any meeting of the Bar Council:*

- (i) *the Circuit Leaders;*
- (ii) *the Chairs and Chairmen of the Bar Associations referred to in Regulation 2(b)(iii).*

*(b) Alternates may ~~(and, in the case of any member that is known at least five clear days' in advance to be unable to attend a meeting of the Bar Council, must)~~ be appointed by the Benchers of the relevant Inn to act and vote in the place of any of the subscribers appointed by them as referred to in Regulation 2(b)(iv).*

*(c) Alternates may ~~(and, in the case of any member that is known at least five clear days' in advance to be unable to attend a meeting of the Bar Council, must)~~ be appointed by the Leader of the relevant Circuit to act and vote in the place of any of the subscribers elected by the Circuit as referred to in Regulation 2(b)(v).*

*(d) Alternates may ~~(and, in the case of any member that is known at least five clear days' in advance to be unable to attend a meeting of the Bar Council, must)~~ be appointed by the Chairman or Chair of the relevant Association to act and vote in the place of any of the subscribers elected by the Association as referred to in Regulation 2(b)(vi) or (vii).*

### ***An amendment to the wording regarding the frequency of meetings to enable greater flexibility with regards to the number of Bar Council meetings per year***

The wording at Schedule II, Paragraph 1 of the Constitution has been amended so that instead of requiring at least four meetings per year to coincide with sittings, the minimum amount of meetings is still four (excluding the Inaugural Address) but they are evenly spread (and not tied to sittings).

~~*At least one meeting shall be held in or immediately before each Sitting. There shall be at least four General Meetings of the Bar Council spread across each year, not including the First Meeting.*~~

In addition, it was not clear whether the Inaugural Address, which is referred to in the Standing Orders as 'the first meeting', constituted one of the four meetings. This has been clarified in the new wording and the reference from the Standing Orders is now also included in the definitions section of the Constitution.

*"The First Meeting" shall mean the meeting of the Bar Council Elect referred to in Schedule One of the Standing Orders for Committees of the Bar Council of England and Wales.*

### ***A system for voting outside Bar Council meetings***

Changes to meeting frequency raised the need for a mechanism between meetings to facilitate efficient and timely decision making. The following wording has been added at Schedule II, Paragraph 13 and Schedule II, Paragraphs 9 and 11(a) have also been altered to reflect this.

*13 (a) A decision taken outside a meeting of the Bar Council is valid if:*

- (i) *At least four clear days' notice of the matter to be decided has been sent in writing (either in a letter or an email) to all members of the Bar Council;*
- (ii) *All members of the Bar Council are given the opportunity to vote;*
- (iii) *The decision is approved by email and the following conditions have been met:*
  - *For an extraordinary resolution, this must have been approved by two thirds of those who have voted (provided that at least 20 votes have been cast).*
  - *For a resolution that is not an extraordinary resolution, this must have been approved by more than half of those who have voted (provided that at least 20 votes have been cast).*
  - *In the case of a ballot, this must have been approved by half or more of all Bar Council members.*
- (iv) *The decision is noted at the next meeting and recorded in the minutes of that meeting.*

These words have been added to Paragraph 9:

*or (c) if the question is to be put to a vote outside a Bar Council meeting, the conditions set out in Schedule II, Paragraph 13 must be followed.*

Paragraph 11(a) now reads:

*If the question be put as one which, ~~in accordance with Paragraph 6(d) of the Introduction,~~ requires a resolution of not less than two-thirds of the members of the Bar Council at the time of the resolution, the matter shall be determined either at a meeting of the Bar Council of which not less than four clear days' notice has been given specifying that the resolution is one which requires to be passed by not less than two-thirds of the members of the Bar Council or, if the Bar Council so decides, upon a ballot. If the question be put to the vote outside a Bar Council meeting, the matter shall be determined within four clear days' of the question being put.*

A definition of an 'Extraordinary Resolution', which was missing from the Constitution, is now included in the definitions section:

*"Extraordinary Resolution" shall mean a resolution passed by the members of the Bar Council by a greater majority than is required to pass an ordinary resolution.*

***The removal of the requirement for a barrister standing in the subscriber elections to have a proposer***

Changes have been made to Schedule I, Paragraph 6 of the Constitution to remove the reference to those standing for election in the subscriber elections to have a proposer:

*Every candidate in the Subscriber Elections shall be proposed in writing by at least one Subscriber who is either a self-employed barrister or an employed barrister and his proposal form together with his signed consent to serve if elected complete a signed nomination form and either be delivered it to the offices of the Bar Council or email it to the elections inbox address not earlier than 7 September and not later than 21 September.*

Other references to being 'duly proposed' have been removed from Schedule I, Paragraphs 7-10.

### ***General corrections to the Constitution***

The wording at Part II, Paragraph 25, with reference to 'accounts and books of account', has been amended to make it clear that the accounts are presented at the 'the Annual General Meeting'.

In part II, 9(a) (ii) there was a reference to 'Chairmen' of the SBAs. To mirror the rest of the Constitution this has been changed to 'Chairs and Chairmen' as some SBAs are led by a Chair and others by a Chairman.

Part II, Paragraph 33 on 'transitional provisions' is out of date and no longer relevant. It has been removed.

The numbering at Schedule V, Paragraph 2 has been amended to mirror the format of that in the rest of Schedule V.

References to 'facsimile' and 'document exchange' have been removed from Part II, Paragraph 26 as the references are no longer current. Instead, provision for email has been included in Paragraph 27, in accordance with other references in the Constitution.

There was a reference to Paragraph 6(d) of the Introduction in Schedule II, Paragraph 11. Paragraph 6(d) of the Introduction no longer exists, and this reference has been removed.

### **Occasion 3: Saturday 16 May 2020**

At its meeting, the Bar Council approved the following amendments (full details of which are set out below):

- *The adoption of gender neutral wording in the Constitution (and other underpinning documents); and*
- *Changes to the AGM processes.*

***The adoption of gender neutral wording in the Constitution (and other underpinning documents)***

The line 'The masculine shall include the feminine' has been removed from the Standing Orders for Committees of the General Council of the Bar Council of England and Wales', from the Constitution (and, following approval from the BSB Board on 21 May 2020) from the Standing Orders for Joint Committees of the General Council of the Bar of England and Wales and the Bar Standards Board'. The wording has been changed throughout so that any instances of 'him', 'he' and 'his' have been changed to 'their' or 'they' as appropriate.

### *Changes to the AGM processes*

The Bar Council also approved changes to the Constitution to:

- (a) Remove the need to post physical notices of the Annual General Meeting at the Inns; and
- (b) Ensure that the wording in the Constitution provides for virtual meetings.

The arrangements for the AGM were previously set out at Schedule III of the Constitution. Schedule III, paragraph 1, outlined the methods by which members of the Bar (subscribers) should be informed of the AGM but also provided that "The accidental omission to post any such notice in manner provided shall not invalidate the proceedings of any meeting".

#### *Annual General Meetings and ballots of subscribers*

*1. Not less than twenty-eight clear days' notice of an Annual General Meeting shall be given in such one or both of the following ways as the Bar Council determines:*

*(a) by the posting of notices in each of the Inns and in such other places (if any) as the Bar Council may from time to time direct.*

*(b) by giving notice individually to every person who is entitled to attend and (having regard to Regulation 28) to receive notice of the meeting.*

*Such notices shall specify the place, the day and the hour of the meeting, and the general nature of any matter which is to be brought forward for discussion. They should also include the proviso set out in Paragraph 16 of the Bar Council Constitution. The accidental omission to post any such notice in manner provided shall not invalidate the proceedings of any meeting.*

Given the Covid-19 pandemic, it has been necessary to hold meetings of the Bar Council virtually in 2020, but the wording above implies that the AGM must have a physical location, which was considered unlikely for 2020 and may be unlikely in future years.

For these reasons, the wording has been changed to:



*Annual General Meetings and ballots of subscribers*

1. Not less than twenty-eight clear days' notice of an Annual General Meeting shall be given in ~~such one or both~~ any of the following ways as the Bar Council determines:

- (a) *by the posting of notices in each of the Inns by whichever means deemed appropriate by each Inn.*
- (b) *by the posting of notices in such other places (if any), and by whichever means as the Bar Council may from time to time direct.*
- (c) *by giving notice individually to every person who is entitled to attend and (having regard to Regulation 27) to receive notice of the meeting.*

*Such notices shall specify the day and the hour of the meeting and the general nature of any matter which is to be brought forward for discussion, and:*

- (a) *if the AGM is to take place in a physical location, the notice shall specify the place; and*
- (b) *if the AGM is to take place virtually, the notice shall specify that it is a virtual meeting.*

*They should also include the proviso set out in Paragraph 16 of the Bar Council Constitution. The accidental omission to post any such notice in manner provided shall not invalidate the proceedings of any meeting.*

The reference to Regulation 28 has also been corrected to Regulation 27. Any other incorrect references in the Constitution as a result of changes have also been corrected.

**Occasion 4: Monday 29 June 2020**

The Bar Council approved further changes to its Constitution made in light of the LSB's new IGRs out of committee rather than at a physical meeting of the Bar Council.

Since the implementation of the Legal Services Act 2007, the Bar Council had delegated its regulatory functions to the BSB, and this delegation had been enshrined in the Constitution. However, in order to fully comply with the new IGRs, the BSB removed the need for the Bar Council to approve changes to the BSB Constitution and the Bar Council altered the wording at Part II, Paragraph 1(d) of the Constitution to make the delegation agreement more explicit.

As stated above, these changes were approved at the Bar Council meeting on 2 November 2019, at which BSB representatives (including the Director General and Chair) were present. However, in April 2020, the LSB voiced concerns about the requirement for the

BSB to consult with the Bar Council before changing its own Constitution and requested a rule change application from the Bar Council covering.

Consequently, the Bar Council were asked to vote on a new form of wording, as set out below:

*(a) As the Approved Regulator, to create a Board to be known as the Bar Standards Board, to which it delegates the discharge of its regulatory functions in compliance with section 28 of the Legal Services Act 2007. The Bar Standards Board shall be constituted in accordance with such constitution as it shall from time to time determine, ~~in consultation with the Bar Council~~ and it shall notify the General Council of the Bar in advance of any change(s) being considered by the BSB Board. Functions and powers of the Bar Standards Board are set out fully in its constitution.*

Members of the Bar Council voted to approve the changes.

#### **Occasion 5: Tuesday 14 July 2020**

At its meeting, the Bar Council revisited the provisions for the increased co-options afforded to the Chair and the number of Co-Chairs required to be Bar Council members, that had been put in place for a period of one year last November.

An options paper was put to the Bar Council at its meeting on 14 July 2020. Bar Council members approved the option to increase the amount of Bar Council co-options to eight for a period of three years, after which there will be another review. Consequently, Part II, Paragraph 2(b)(x) of the Constitution has been amended as below:

*Until 1 January 2024, Not more than 8 further subscribers who may be co-opted by the Bar Council. This will be subject to a review in 2023.*

Bar Council members voted to retain permanently the need for only one co-chair (where a committee has co-chairs) to be a member of the Bar Council. The criteria for this is set out in the Standing Orders, for which no changes were required.

**Those wishing to attend the AGM should contact the Bar Council's Head of Governance, Natalie Zara at [nzara@barcouncil.org.uk](mailto:nzara@barcouncil.org.uk).**