

Minutes of the FLBA Committee Meeting Held in the Queen's Room, Middle Temple on 8th February 2017

Present: Philip Marshall QC (Chairman)
Frances Judd QC (Vice-Chairman)
Ian Bugg (Secretary)
Maria Hancock
Victoria Wilson
Victoria Miller
Cyrus Larizadeh QC
Samantha Singer
James Holmes
Tim Parker
Siân Gough
Mark Twomey QC
Caroline Topping
Joy Brereton
Mehvish Chaudhry
Charlotte Hartley
Sam King
Olivia Magennis

The following joined the meeting by telephone link:

Katy Rensten, Victoria Flowers, Jayne Pye, Corinne Iten, Michael Jones, Neil Owen-Casey and Nigel Page.

Item 1. Apologies for absence

James Roberts (Treasurer), Malek Wan Daud, Richard Jones, Greg Williams, John Wilson QC, Timothy Scott QC, Edward Flood, Ruth Henke QC, Justin Gray, Kelan McHugh and Susan Grocott QC.

Non-attendance:

Deepak Nagpal, Morgan Sirikanda, Jeremy Weston QC, Tanya Zabihi, Katharine Bundell, Kate Burnell, James Rees, and Jacqui Wall.

Item 2. Minutes of the meeting of 11th January 2017:

i) For approval + posting on the website

The minutes were approved as drafted for posting.

ii) Matters arising from the minutes:

No matters arising but on a separate matter, the Chairman congratulated Mark Twomey QC, who was awarded silk last month.

Item 3. Sub-committees

i) Children

- Sub-committee update and addendum

The Chairman referred the committee to a report prepared by Cyrus Larizadeh QC (CLQC), together with an addendum report, which was distributed ahead of the meeting. CLQC observed that there is a broad range of reform which is taking place at a fast pace. Therefore, it requires a lot of scrutiny to ensure there are no shortcuts, for instance. He requested anecdotal evidence regarding children matters, so he can collate as much information as possible. The committee discussed some of the changes taking place and the concerns surrounding some of them. CLQC raised concerns that CAFCASS are considering asking the LAA not to provide funding for legal advice and representation prior to the first hearing. This was discussed and CLQC's concerns were echoed by the committee. Mehvish Chaudhry (MC) thought we should engage with CAFCASS and the LAA and share our thoughts. The Chairman proposed that this issue is put back on the agenda in March or April. CLQC reported that the viability assessment toolkit came out on 2 February. It is very much a work in progress and would benefit from any feedback about its effectiveness. He also reported that the Law Society have prepared a document which raises concerns about Practice Direction 12J. They have agreed to provide CLQC with a summary of this document, which he will circulate once received.

ii) Finance: Divorce (Financial Provision) Bill second reading in HoLs on 27 January (for noting and response).

The Chairman provided an update on the Divorce (Financial Provision) Bill, which is a private members Bill, being currently piloted through the House of Lords by Baroness Deech. It would involve a revision to Section 25 of the Matrimonial Causes Act 1973. It received its second reading on 27 January. It does not have government support. The Chairman proposed that the finance sub-committee prepare a briefing note or a response to it. The Chairman expressed concern that the Bill should not go forward by default without some input from the FLBA.

iii) Equality and Diversity: response to BSB consultation

The Chairman thanked Katy Rensten for preparing the response to the BSB consultation on the future of training at the Bar.

iv) Cross-examination of complainants and other vulnerable witnesses (for update)

- Written submissions to MoJ on 23 January

The Chairman reported that he was asked by the MoJ to make some written representations as to what reforms might involve, which had been distributed to the committee ahead of the meeting.

- Chairman telecon with Sir Oliver Heald QC MP on 1 February 2017

At the telecon meeting, Sir Oliver Heald QC MP thanked the FLBA for its input and had clearly taken on board some of the points we had made.

- The way forward: amendment in Prison and Court Bill?

Sir Oliver indicated that it was likely that there will be draft proposals in the Prison and Court Bill, which was due to be published last week.

- FLBA – further involvement/ethics

The Chairman had indicated to Sir Oliver that we would make further representations when we see what the government is proposing. The Chairman reported that there is already (ethical) guidance for court appointed legal representatives in criminal cases on the Bar Council website. Rachel Langdale QC is the Chair of the Bar Council Ethics Committee and the Chairman hopes she will seek our input in relation to family cases in due course.

Item 4. Children and Social Work Bill

Richard Jones (RJ), who was unable to attend the meeting today, produced a paper in response to the Bill which was circulated to the committee before the meeting and the Chairman expressed his thanks. CLQC indicated that he had spoken to RJ, and understands that Edward Flood (EF) attended a meeting with the IAC. They are putting together a document which they would like the FLBA to co-sign. The Vice-Chairman agreed that the FLBA co-sign a letter with other organisations. She raised concerns about the extent to which the FLBA should get involved as we have a slightly different remit as an organisation than some of the others, which lean towards children's rights and social work issues, which is what the Bill is more about. However, it is most concerning that the Bill will allow Local Authorities to opt-out of legislation and this is something the FLBA needs to address and highlight. The committee discussed this and agreed that the FLBA should raise their concerns. CLQC observed that the time scales are very tight, with the third reading on 20th February and the Bill going through in March. He reported that EF was going to contact the IAC and try and obtain a draft of their document, which would then be circulated to the committee in time for the meeting in March. Once received, the FLBA will also draft a letter setting out its concerns.

Item 5. Cohabitees and Intestacy:

- i) Update and report of meeting held with *Resolution* on 7 February 2017

The Chairman reported that both he and John Wilson QC met yesterday with *Resolution*.

- ii) Agreement for FLBA to take the lead (with involvement of ChBA)

Resolution have agreed for the FLBA to take the lead.

- iii) Way forward/timing and funding:

There will be a further meeting in 4-6 weeks where we will discuss who we might be able to persuade to champion a private members bill through the House of Lords. The Chairman will report back to the committee in April and will discuss funding with the Treasurer, with the committee's approval.

Item 6. Wellbeing at the Bar:

i) Report

CLQC and Victoria Wilson (VW) had prepared a report ahead of the meeting, which was distributed to the committee. CLQC has been asked to present a seminar at the Bar Conference in November on behalf of the FLBA. VW asked the committee for their thoughts and any feedback in respect of the portal. She emphasised that it was important that people were fully aware that the service provided is completely confidential. She explained that they would like the FLBA to have an active role in talking about wellbeing, acknowledging that it is an issue and to have events throughout the year highlighting it. Any suggestions from the committee would be gratefully received. CLQC reported that his set have developed their own wellbeing policy and would be happy to circulate it for others to see. CLQC agreed to provide a short article for the Spring edition of 'Family Affairs'.

Item 7. FLBA Events 2017 update

i) FLBA Annual Dinner: 24 February

KK reported that so far, 121 members have signed up for the dinner and 28 guests have accepted the invitation to attend. The Chairman asked for further reminders to be sent to the membership.

ii) FLBA Garden Party: 26 July

The Chairman confirmed that the date had been provisionally booked and that we should start advertising it after the dinner.

iii) Middle Temple meeting rooms and facilities and events (correspondence from MT and response).

The Chairman reported that after the last meeting, we received a somewhat surprising letter from the new catering managers at Middle Temple suggesting that for too many years they have been providing us with free accommodation for our meetings. They said that if we wish to use the Queen's Room for future meetings, it would cost us in the region of £1000 with an added cost for the spider phone. The Chairman responded by explaining that if they continued to take this approach, we would cancel the Annual Dinner and Garden Party and all other future events. In response, we received a very conciliatory letter from the commercial operations director, apologising for the previous correspondence and confirming that we would not in fact be charged for use of the Queen's Room and spider phone for the remainder of the year.

Item 8. AOB

i) FLBA questionnaire on anonymisation of judgments by FLBMail

The Chairman expressed his thanks to Joy Brereton and Caroline Topping for the anonymised judgments questionnaire. They received very few replies but they were helpful.

ii) Advocacy Attendance Forms & Fees

The Chairman reported that Greg Williams submitted a response on the FLBA's behalf. The Vice-Chairman raised concerns regarding the remuneration of child abduction cases, where the LAA has started interpreting some regulations to suggest that counsel attending such hearings should be paid the same rate as solicitors, which is £70 per hour. The committee discussed concerns regarding this. MC reported that more claims are being rejected. There are draft templates of claims for Counsel available which seem to be working in obtaining higher rates. The committee agreed not to take any action at this time but to keep an eye on the situation.

iii) Transparency Project event: 5 April 2017 at Gresham College (request for sponsorship).

The Chairman explained that the Transparency Project, with which Lucy Reed is involved, is holding an event at Gresham College which is being chaired by Jo Delahunty QC on 5th April. They have approached the FLBA for sponsorship. The committee agreed to this in principle.

iv) Autumn Lecture Series

KK reported that dates had been identified and the LSE have been approached with these. VW queried that considering the changes to the CPD arrangements, whether we should think about changing the number of lectures within the series. After a brief discussion, it was agreed that we would keep with 6 lectures this year and change the number of lectures next year if the new CPD arrangements impact on the number of attendees.

v) Chairman's apologies for non-attendance on 8 March

The Chairman gave his apologies in advance of the next meeting.

vi) Other AOB

With regards to the BSB shared parental leave for self-employed barristers consultation, Sam King confirmed that she would provide feedback but was generally happy with it and found it to be comprehensive.

CLQC mentioned that McFarlane LJ was a speaker at the Bridget Lindley lecture in March, details of which have already been circulated to the membership. McFarlane LJ has asked whether anyone from the FLBA has a topic or a case that will illustrate concerns or anything positive. If so, CLQC asked the committee to email him. The Chairman suggested that CLQC may want to draft an email to send to KK so that she may circulate it amongst national committee members and regional officers.

The Vice-Chairman reminded the committee of an approach we received from the Nuffield Foundation, who were looking for evidence to set up a family justice observatory. The Vice-Chairman reported that she has spoken with Karen Broadhurst, who is one of the academics leading the call for evidence, who would like FLBA to respond in the next couple of weeks, and suggested that CLQC and she collaborate.

James Holmes referred to his addendum report which was distributed to the committee before the meeting. At the meeting referred to in the report, HHJ Tolson QC was quite keen on holding a day-long training seminar and would like the input of the FLBA. Chairman suggested that JH liaise with HHJ Tolson QC and bring it back for further discussion.

The Chairman reported that we had an article in a previous edition of 'Family Affairs' from a silent witness i.e. an article from an anonymous author providing a critical analysis. John Wilson QC is looking for another expert or witness to write an article. He asked the committee to please provide names of anyone who would be willing to do this, such as a medical expert.

Samantha Singer reported that members of her Chambers observed that the FLBA used to alternate the Annual Dinner between Thursday and Friday so that members of the Jewish faith could attend. The Chairman acknowledged their frustration and disappointment but explained that we had to try and balance the ability of those from the provinces travelling up on a Thursday against those of the Jewish faith who are unable to attend on a Friday.

Date of next meeting: The next meeting of the Committee will take place on 8th March 2017 at 5p.m. in the Queen's Room, Middle Temple.

The meeting concluded at 5.52 p.m.

Khadija Khan
FLBA Administrator