

**Minutes of the FLBA Committee Meeting  
Held in the Whitfield Room, Middle Temple  
on 7<sup>th</sup> June 2017**

**Present:**       **Philip Marshall QC (Chairman)**  
Frances Judd QC (Vice-Chairman)  
James Roberts (Treasurer)  
Ian Bugg (Secretary)  
Mark Twomey QC  
Cyrus Larizadeh QC  
Deepak Nagpal  
James Holmes  
Timothy Scott QC  
Siân Gough  
Katy Rensten  
Joy Brereton  
Charlotte Hartley  
Morgan Sirikanda  
Tim Parker  
Malek Wan Daud

The following joined the meeting by telephone link:

Victoria Flowers, Olivia Magennis, Nigel Page, Edward Flood, Victoria Miller, Tanya Zabihi, Justin Gray, Greg Williams, Kate Burnell, Caroline Topping, Richard Jones and Jacqui Wall.

**Item 1.       Apologies for absence**

Samantha Singer (attending a Pro-Bono meeting as an FLBA rep), Maria Hancock, Michael Jones, Victoria Wilson, John Wilson QC, Jeremy Weston QC, Richard Jones and Susan Grocott QC

**Non-attendance:**

Kelan McHugh, Mehvish Chaudhry, Neil Owen-Casey, Sam King, Corinne Iten, Ruth Henke QC, Jayne Pye, Katharine Bundell, and James Rees.

**Item 2.       Minutes of the meeting of 12<sup>th</sup> April 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.

### **Item 3. Sub-committees**

#### **i) Children**

CLQC prepared a children sub-committee report which was distributed to committee members.

- Joint Cafcass ADCS Guidance

This was distributed to the committee ahead of the meeting. CLQC explained that it would be useful to have a volunteer to carry out some legal research in to the legality of what Cafcass and ADCS are proposing. CLQC will provide a volunteer from sub-committee with the legal advice given and legal research conducted by NAGALRO and the ALC.

CLQC explained that he checked the minutes of the Family Proceedings Rules Committee meeting in February. Under JPD12J, they plan to remove the proposals that Cobb J made in relation to the prohibition of cross-examination by an alleged perpetrator. Section 47 of the Prison and Courts Bill is at the House of Commons committee stage.

In relation to the vulnerable witness training, CLQC attended a workshop last month and thought it was very impressive. CLQC wants to use their programme and the Inns of Court have kindly agreed that the FLBA may use their material and tailor it accordingly. This will be discussed further at the next meeting.

CLQC reported that HHJ Tolson QC would like volunteers for a Forced Marriage mock trial for secondary schools and Universities on 27<sup>th</sup> June and 4<sup>th</sup> July. The Chairman suggested that he email KK who would email the committee for volunteers.

#### **ii) Finance: Divorce (Financial Provision) Bill – for brief mention**

The Chairman explained that the general election has prevented any further work on this and Morgan Sirikanda (MS) reported that Baroness Deech must now re-introduce the Bill. The matter will be brought back in September.

#### **iii) Equality & Diversity**

- Extended court hours pilot – (start date delayed from May 2017) for mention

The Chairman reported that the flexible court hours pilot in Manchester, which was due to start in May, has now been put on hold because of the general election. The Vice-Chairman attended a meeting last week regarding the pilot scheme, where people from HMCTS and /or the MoJ were presenting to the Law Society. Members of the Bar and Resolution were also in attendance. They did indicate that they would not impose the extended court hours for care proceedings.

- Bar Council Protocol for Court Sitting

The Chairman sent a copy of the protocol ahead of the meeting. Save for in specified exceptional circumstances, the Bar Council believe, in principle, that no court or tribunal should sit before 10am or after 4.30pm. This was passed unanimously at a recent Bar Council meeting, supported by the FLBA, who were represented by the Vice Chairman and Greg Williams (GW). The Chairman reported that both he and the Chairman of the Bar met with the President, who thought telephone conference direction hearings starting at 9.30am was good for the Bar. The Protocol has gone to the Lord Chief Justice. The Chairman is hopeful that there will be some recognition of need to accommodate the other commitments of advocates.

- General Election manifesto commitments re Legal Aid – for mention

The Chairman reported that there is no reference to legal aid in the Conservative Party manifesto. There was more in the leaked draft Labour Party manifesto but there was only reference to providing legal assistance and advice, which of course is different to legal representation.

#### **Item 4. Prison and Courts Bill:**

- i) Proposed Part 4B of the Matrimonial and Family Proceedings Act 1984 (now deferred)

The Chairman explained that Part B is in relation to cross examination of victims or the alleged victim's perpetrators. The Prison and Courts Bill has been put on hold partly because of the general election. It is also the enabling legislation in relation to the on-line courts. Therefore, the Chairman expects that it will come back.

- ii) *Re A (a minor) (fact finding: unrepresented party)*

The Chairman reported that Hayden J had a case in front of him with a perpetrator, who was also an LIP, who cross examined his victim for 3 days. Hayden J said that he could not prevent it but would not be prepared to permit it again. Discussion about this took place.

- iii) *HJ v KJL (pending before Russell J) – for discussion (FLBA intervention)*

The Chairman reported that Russell J entertained a point about children's human rights in a case with an LIP. The FLBA were invited to consider whether we wanted to make representations, which we agreed to do, on the basis that the father was not granted legal aid. CLQC further reported that we later received notice that we had to apply to be joined before we could lodge our skeleton argument. The father has now obtained legal aid on the basis that he is making counter allegations against the mother for domestic violence. Neelam Soltan and Michael Mansfield QC are trying to get a ruling on this, even though he has now got legal aid. Russell J's order made clear that she wants to look at the impact of UN CRC in relation to Welsh Law. CLQC explained that he is reluctant to take it further and to issue an application. It was suggested we should let Russell J know that the grant of legal aid should bring our involvement to a halt.

## **Item 5. McKenzie Friends:**

- i) Bar Council: A study of fee-charging McKenzie Friends and their work in private family law cases (to be published)

The Chairman reported that the Bar Council commissioned a study by Cardiff University and Bristol University, which is to be published next week. It was a small study and the LIP's who came forward had positive experiences of fee charging McKenzie Friends. In broad terms it does give a reasonably good bill of health to the notion of fee charging McKenzie Friends. They estimate that there are possibly 100 fee paid McKenzie Friends in the country.

- ii) Chair of the Bar & PJMQC's meeting with the President on Wednesday 7 June 2017

The Chairman reported that the President confirmed at that meeting that he had seen the study and his initial view was that there should be a better understanding of the fact that McKenzie Friends involvement should be the exception rather than the norm.

## **Item 6. FLBA Events 2017 Update**

- i) Cumberland Lodge Conference 2017 – for brief review

The Chairman thanked everyone who spoke at the Conference; they were excellent and well received and feedback suggested the conference was a success. He also thanked KK and the Secretary for their hard work and involvement.

- ii) Bar Council and Polish Bar Foundation and Warsaw Bar Conference in Warsaw on 15 May 2017 – for brief review

The Chairman, along with others, attended and spoke at the conference in Warsaw. He reported that there was a reasonably good contingent of English Lawyers. It is hoped that it can be reciprocated here and the Chairman was very welcoming of that idea.

- iii) The FLBA Garden Party 2017 on 26 July 2017

- publicity (to go out *soonest*)

The Secretary confirmed that we would send an email to the members and guests as soon as we receive something from Middle Temple that confirms our pricing strategy.

- Price for members?

The Treasurer has looked at the figures from the last two garden parties in 2013 and 2014 and presented these to the committee. The Treasurer reported that we will be charged for a minimum of 150 people. It was agreed that the event should be heavily subsidised this year as we currently have the reserves and that we should offer a lower price for advanced booking at £20 and £25 on the day.

- Guest list

James Holmes (JH) has drafted this and is waiting to be approved by the Secretary.

- Timing (5.30 or 6pm to 8 or 8.30pm)?

After some discussion, it was agreed that it should be 5.30pm to 8pm.

On a different note, the committee agreed that they did not want the Garden Party to become a marketing event for solicitors, as in previous years, and therefore the letter needed to make clear that the event was only open to members and invited guests of the association. Should non-members wish to attend on the day, we will take their names and details and they will be required to become a member.

iv) FLBA/Scottish Family Bar Conference

The Chairman reported that the FLBA were invited by the Scottish Family Bar for a conference in Edinburgh 10 years ago. The committee agreed in principle that the invitation should be reciprocated. The Vice-Chairman considered inviting them to the National Conference this year.

v) Brexit Conference (26 June 2017) – for mention

The Chairman reported that both he and Timothy Scott QC (TSQC) would be speaking at the conference. The FLBA are sponsoring the event and members of the FLBA can attend. The Chairman encouraged people to attend and publicise the event in Chambers.

## **Item 7. Bar Council**

i) Elected officers for 2018 – for noting

- Chair of the Bar in waiting: Andrew Walker QC
- Vice Chair of the Bar: Richard Atkins QC (recently elected)

ii) The Bar's Engagement with new Processes across all Jurisdictions (Rewriting the White Book)

- GMC meeting with Ryder LJ on 15 June (volunteer required to attend)

This meeting will discuss reform and modernisation of procedures and Joy Brereton volunteered to attend on behalf of the FLBA.

## **Item 8. AOB**

i) Family Affairs Summer Edition – articles by 23 June

Should any committee member wish to submit articles, the deadline for doing so is 23 June.

ii) Deputy High Court Judge appointment (Nkumbe Ekaney QC of 1GC)

The Chairman congratulated Nkumbe Ekaney QC on his appointment, the only family Deputy High Court Judge appointed in this competition.

iii) Any other AOB

The Chairman explained that at Cumberland Lodge, we had a session where we discussed specific areas of family law and which the President was part of the panel. The President had reminded the Chairman that he has not received any communication or examples from us in relation to very long orders. The Chairman will circulate an email amongst the committee to elicit any responses.

The venue for the National Conference in 2018 was raised. The Chairman said that he would ask people to express interest in hosting it and consider it further at the next meeting.

Also, ideas about who should speak at the next Annual Dinner should be sent to the Vice-Chairman.

The meeting concluded at 5.59 p.m.

**Date of next meeting:** The next meeting of the Committee will take place on 12<sup>th</sup> July 2017 at 5p.m. in the Sherrard Room, Middle Temple.

Khadija Khan  
FLBA Administrator