CHAIRMAN'S INTERIM REPORT
JANUARY 2018

Bar Mutual's Financial Position

In recent reports I have drawn attention to the fact that the amount of capital held by Bar Mutual has exceeded the upper range of its capital resources policy ("the Policy"). As with all regulated insurance companies, Bar Mutual is required to hold a prescribed level of regulatory capital above its claims reserves to guarantee its ability to meet its claims liabilities. The Policy is set by the Board to provide, as a guideline, a target range for the capital held by Bar Mutual in excess of its regulatory capital, with upper and lower limits. The purpose of the Policy is to seek ensure not only that Bar Mutual holds adequate capital such that, in the event of unexpected events, its capital will not reduce to a level imprudently close to or below its regulatory capital requirement, but also that Bar Mutual does not hold too much capital.

Given Bar Mutual's practice of not calling on Members to part with cash which Bar Mutual does not need, the premium deferral for both the 2016 and 2017 policy years was increased to 20% and 27.5% respectively, thereby reducing the total premium income received by Bar Mutual.

Despite the reduction in Bar Mutual's total premium income, I am pleased to inform Members that Bar Mutual continues to be in robust financial health as it approaches the thirtieth anniversary of the commencement of its provision of professional indemnity insurance to the self-employed Bar. Although, primarily as a result of the Board's continuing programme of gradually reducing excess capital so that it is within the range set by the Policy, a deficit of £2.4 million is projected for the financial year to 31 March 2018, Bar Mutual is nonetheless forecast to have free reserves of £43.5 million in excess of its projected claims liabilities and to exceed its regulatory requirement by 236%.

The Board's continuing programme of gradually reducing excess capital has also resulted in the Board maintaining the premium deferral at 27.5% for the renewal of Members' policies on 1 April 2018.

Members will appreciate that, if Bar Mutual has an adverse claims experience and/or the performance of its investment portfolio in the current difficult economic conditions cannot match the results achieved in recent years, the excess of capital will be reduced more quickly than is currently expected. The Board will continue to give close attention to this issue in order to ensure that the reduction of capital occurs in a prudent manner.

Rates for the 2018 Renewal

At its meeting on 12 December 2017 the Board received the Rating and Reinsurance Committee's rating recommendations for the 2018 policy year. Following careful consideration, the Board adopted all of the Committee's proposals, which involve rating increases for (i) Arbitrator, Umpire and Mediator, (ii) Crime and (iii) Family: Other and reductions for (iv) Chancery: Non-Contentious, (v) Construction and (vi) Revenue: Non-Crown: Contentious.

Each of these rating changes has been made as a result of each practice area's claims experience. In particular, the notional ratings (which reflect the true cost of each area of practice to Bar Mutual) for both Crime and Family: Other have been higher than their actual rates for several years, necessitating an increase for the 2018 renewal. The effect of this increase (assuming fee income of £100,000 and that income deriving solely from each area of practice) will be to increase the premium for criminal practitioners from £200 to £250 before deferral and the premium for matrimonial finance barristers from £900 to £1,200 before deferral.

For the reasons discussed above, the Board decided to maintain the premium deferral at 27.5%.

I am also pleased to report that, in accordance with its now usual practice, the Board agreed to waive the right to call for payment of the premium deferral of £2.175 million for the 2011 policy year, a year which has in fact been the most expensive of any of its policy years to date.

Entities

Since the Bar Standards Board was authorised by the Legal Services Board to approve and regulate entities, Bar Mutual's Board has considered on an annual basis whether Bar Mutual should insure entities.

The Board reviewed the position at its December 2017 meeting and agreed that Bar Mutual should continue with the practice it had adopted in previous years, which is to provide professional indemnity insurance to all single person entities on the same basis as it provides insurance to self-employed barristers, but to provide this insurance to multi-person entities and alternative business structures on a case by case basis.

Cover for Secondments

For many Members (but especially those who are junior practitioners), undertaking a secondment with a firm of solicitors or a lay client is an increasingly frequent and important part of their practices. Following a growing number of enquiries to the Managers about whether Members would be covered by Bar Mutual in respect of claims arising out of work performed as part of a secondment, the Board decided to amend the definition of "Self-Employed Barrister" in the Terms of Cover so that it provides that such claims would be covered where the barrister in question had been practising as a self-employed barrister prior to the commencement of the secondment and the length of the secondment does not exceed six months. This amendment came into effect on 4 October 2017, simultaneously with the amendments concerning cover for pro bono work that I highlighted in my last Report to Members.

Adequacy of Cover

Once again, I make no apology for repeating my annual reminder to Members of the need to take great care when determining the level of cover they purchase for the forthcoming 2018 policy year. Rule C76.1 of the BSB Handbook requires all authorised to practise by the Bar Standards Board to have adequate insurance covering all legal services they provide to the public, having regard to the nature of their practices.

When considering this question, Members must remember that their Bar Mutual cover is written on a "claims made" basis and that the level of their cover will need to be sufficient to meet not only claims arising from their current practice **but also** claims arising from their practices in the past, which may be capable of giving rise to claims with substantially higher quantum.

In this regard, I especially urge those Members who may be considering winding down their practices prior to retirement to take particular care. During the past year, it has been necessary for a (now retired) Member to contribute a six figure sum from his own assets, in order to settle a claim against him. Furthermore, Bar Mutual is also entitled to demand from Members a pro-rated contribution towards the defence costs incurred in the defence of a claim when their third party liabilities exceed their limit of cover. Had that Member paid no more than (at most) an additional £100 to increase his limit of cover by £500,000, the claim would have fallen within that limit and the personal contribution he made would not have been necessary.

New Directors

My last report thanked Charles Flint QC, Leigh-Ann Mulcahy QC and David Wolfson QC for their respective substantial contributions to Bar Mutual prior to their retirement from the Board in October. It has been Bar Mutual's very good fortune throughout its existence to have had no difficulty in finding well-qualified candidates for appointment as a Director from across all areas of practice at the Bar. I am delighted to report that Charles Dougherty QC (2 Temple Gardens), Fiona Sinclair QC (4 Pump Court) and Thomas Coghlin (Cloisters) have accepted invitations to join the Board since the Annual General Meeting. Between them, they bring a broad range of experience and skills that will strengthen the Board. On behalf of the Board and all Members, I thank them for their willingness to serve as a Director.

Colin Edelman QC
Chairman
January 2018