

CHAIR'S INTERIM REPORT JANUARY 2021

Bar Mutual's Financial Position

In my Chair's Report accompanying the Directors' Report and Financial Statements to 31 March 2020 I reported that, despite the challenges presented by the measures taken by the government to try and suppress the spread of the covid-19 virus, Bar Mutual's financial position remained sound. I noted that as part of a controlled and gradual plan to reduce the level of capital held by Bar Mutual – guided by our risk appetite policy for capital – the operating result for the year to 31 March 2020 was an operating deficit of £1.570m. I also observed that Bar Mutual exceeded its solvency capital requirement of £19.0m by £21.8m, given its held regulatory capital of £40.8m.

Since the start of the current financial year (2020/21), the impact of the covid-19 pandemic on Bar Mutual's financial position has not been as searing as perhaps originally feared, with the investment markets having recovered from the large falls earlier in the year. Of course, some areas of the Bar, particularly the publicly funded Bar, have been severely affected by the varying degrees of lockdown introduced by the authorities to try and curtail the spread of the covid-19 virus. As a way of easing the financial pressures on those of its Members acutely impacted by the closure of the courts and other restrictions, Bar Mutual offered Members that required it the option of paying their annual premium for the 2020/21 policy year in two instalments, the second instalment falling due for payment on 31 December 2020. Bar Mutual also made a substantial charitable contribution to the Barristers' Benevolent Association and continued its funding of Wellbeing at the Bar.

I am pleased to report that, as at the date of writing this Interim Report (January 2021) only about £41,000.00 remains to be paid in premiums for the 2020/21 policy year. The total premium billed for the year was £16.6m and our expectation is that the outstanding 0.3% will be paid in short order.

The forecast result for the year to 31 March 2021 is an operating deficit of £1.7m. As with the result to 31 March 2020 (an operating loss of £1.570m), the Board is comfortable with this forecast result as it is part of a policy aimed at ensuring that the amount of capital held by Bar Mutual is commensurate to the guidance contained in its risk appetite policy. It should be noted that despite the forecast operating loss to 31 March 2021, Bar Mutual will continue in robust financial health. Its forecast solvency capital requirement as at 31 March 2021 is £20.3m against forecast held regulatory capital of £39.0m. On these figures Bar Mutual will exceed its solvency capital requirement by £18.7m. Additionally, its held regulatory capital is forecast to sit in the middle of its target range for capital under its risk appetite: about £5.9m below the upper target level and £6.4m above the lower target level.

Rates for the 2021 Renewal

Members will know that, as a mutual insurer, Bar Mutual's policy is to set its premium rates at a level that allows it to meet its costs and its regulatory capital requirements. The onus is not on generating a profit to distribute to shareholders; it is instead on setting rates that are fair and reasonable.

In December 2020 the Board received and agreed the rating recommendations of the Rating and Reinsurance Committee, a committee which, amongst other things, examines the rates charged by Bar Mutual and makes recommendations to the Board. As I explained last year, the Committee decides on the premium rate for each area of practice by considering the projected cost of each area of practice for the coming year (the largest element of which is the total claims costs incurred) against each practice area's forecast fee income at renewal. The result is a "notional rate" for each area of practice (how much of the forecast fee income would be required to cover the projected costs), and, broadly, the Board endeavours to ensure that the actual rate charged to Members is commensurate to the notional rate.

I am pleased to report that for the 2021 renewal the rating changes are minimal. The rate for Other Common Law will increase from 1.5% to 1.65% and the rate for Revenue: Non-Crown: Non-Contentious will increase from 7.25% to 7.5%. The rates for all other areas of practice are unchanged.

As regards the premium deferral for the 2021 renewal, this will reduce from 15% to 7.5%. Given that our rates for areas of practice are set taking into account many years of claims experience, premium deferrals are not a reflection on the rating levels but are simply a mechanism of smoothing out the peaks and troughs in claims experience, investment return and so on, which affect the level of capital held by Bar Mutual. The high levels of premium deferral in recent years have now achieved their object of addressing the amount of any excess capital held by Bar Mutual as against the guidance in its risk appetite policy, and the policy of the Board is to continue to manage the levels of premium deferrals so that it can maintain an appropriate level of capital. This requires a reduction in the level of premium deferral this year and may well require a further reduction in the level of premium deferral next year. Following the reduction in the level of the premium deferral for the 2021 renewal, some Members may experience an increase in their annual premium. However, this should be viewed in context. The rates charged to the vast majority of practice areas have not increased at a time when market rates for liability insurance have increased markedly. Thus, and for example, despite a claim-free record, there was a 65% increase in the quoted premium for Bar Mutual's Directors' and Officers' liability insurance policy for the same limit of cover as the expiring policy. And to take another example, premiums for solicitors for the 2020/21 policy year have increased by an average of between 25% and 35% with, in some cases, higher deductibles. Furthermore, the premium payable by Members of Bar Mutual net of the deferral will still be 7.5% below the "full" rate.

At its December 2020 meeting the Board considered but decided not to adopt for the 2021/22 policy year the option made available to Members for the 2020/21 policy year to pay their annual premium in instalments. From the Managers' analysis of the relevant data a large number of chambers and/or Members chose to use the facility when it appeared that their financial position did not require them to do so, the facility having been intended for Members facing serious financial difficulty in paying their annual premiums in one payment. Although payment by instalments will not be available for the forthcoming policy year, in cases of extreme hardship Members are encouraged to contact the Managers to discuss their particular circumstances.

On the practicalities of renewal, and because of the difficulties of working in the current lockdown, I would encourage Members to renew their policies using Bar Mutual's online portal in place of completing hard copy forms. To facilitate this, the Managers will be emailing Members or their clerks the necessary renewal codes in good time. I should add, however, that the option of completing hard copy renewal forms will of course still be available to those who wish to do so.

Brexit

A small number of self-employed barristers have a legal practice in England and Wales which they conduct whilst being based in an EU Member State. Following the end of the transition period on 31 December 2020 and in the absence of any provision relating to the sale of insurance by UK-based insurance entities to policy holders situated in an EU Member State, Bar Mutual's ability to provide insurance to this group of practitioners may be impacted. If you consider that you may be habitually resident in an EU Member State, you are encouraged to contact the Managers to discuss whether Bar Mutual can continue to provide you with professional indemnity insurance.

Defence of Disciplinary Proceedings and Complaints to the Legal Ombudsman Office

The insurance cover provided by Bar Mutual was extended in 2007 to include an indemnity for the costs of defending disciplinary proceedings, provided the conditions triggering this cover under the Terms of Cover are met. In the course of 2020 Bar Mutual assisted a number of

Members in successfully defending serious disciplinary proceedings brought against them by the Bar Standards Board.

Although the Legal Ombudsman's Office receives approximately 250 complaints a year against self-employed barristers, Bar Mutual's interaction with the Legal Ombudsman's Office is limited. Members are, however, reminded that, as with the defence of disciplinary proceedings, assistance may be available from Bar Mutual, provided the complaint triggers the requirements of the Terms of Cover for assistance.

Board of Directors

I periodically provide an update on the composition of the Board of Directors and, given recent changes, it is appropriate that I do so in this Interim Report.

Bar Mutual has been fortunate in its ability to attract the very best practitioners to serve on its Board, who then make a material contribution to the self-employed Bar by contributing to the operations of Bar Mutual. As well as attracting some of the very best, we also lose them.

So I start on a sad note. Conrad Dehn QC passed away in early 2020. Conrad was a founding Director of Bar Mutual and served on its Board for 21 years, part of that time as Chair of the Audit Committee. His years of service to Bar Mutual bequeathed to the self-employed Bar an insurance company it owns and which operates solely in the interest of the self-employed Bar. The Board noted this with thanks at its meeting in July 2020 and it is appropriate that I mention Conrad's enduring contribution to Bar Mutual.

In my July 2020 Chair's Report I advised the departure from the Board of Gregory Denton-Cox and Nina Goolamali QC. Having served the maximum period provided by Bar Mutual's Nominations Policy, Gregory was ineligible for re-election and so did not seek it at the October 2020 Annual General Meeting. We lost Nina as a result of the increased demands of her thriving practice.

Sadly, we have also now lost Joanna Smith QC, who became the Honourable Mrs Justice Joanna Smith on 22 December 2020. Joanna joined the Board in 2014. She was a Deputy Chair of the Board of Directors and a member of the Claims, Rating and Reinsurance, Reserves and Management Fee and Oversight Committees. Her contribution to Bar Mutual was immense and she will be hugely missed. The only consolation is that the administration of justice will instead now be the beneficiary of her obvious talents and industry.

Before listing the current non-executive members of the Board of Directors, I would like to record my gratitude to all my fellow Directors for their indefatigable commitment to ensuring the continued success of Bar Mutual. Excluding myself, the current non-executive Directors are:

M Brindle QC	Fountain Court
T Coghlin QC	Cloisters
J Dhillon QC	Brick Court Chambers
C Dougherty QC	2 Temple Gardens
M Horne QC	Serjeants' Inn
C Pocock QC	1 King's Bench Walk
D Railton QC	Fountain Court
N Rudolf QC	25 Bedford Row
R Sabben-Clare QC	7 King's Bench Walk
S Salzedo QC	Brick Court Chambers
D Scorey QC	Essex Court Chambers
S Shivji QC	4 Stone Buildings
F Sinclair QC	4 Pump Court

I also wish to thank our Managers for the continuing quality of the service they provide to Members and to the Board of Directors.

Adequacy of Cover

Some of you may wonder why in almost every Chair's Statement I raise the need for all of Bar Mutual's Members (both whilst in active practice and on retirement) to ensure that they purchase a sufficient limit of cover to reflect the risks generated by their practice. I do so having had experience of Members who, unfortunately, and admittedly for a variety of reasons, do not purchase enough insurance and are faced with the prospect of a claim or claims that exceed their limit of cover and have witnessed at first hand the misery this brings.

My working assumption is that no Member of the self-employed Bar would wish to find themselves in such an acutely worrying position, and so I repeat my encouragement to all Members to ensure that they purchase a sufficient limit of cover for their practice, both whilst in active practice and on retirement from the self-employed Bar. I would add that it is also a requirement of the BSB Handbook to do so.

Finally, I sincerely hope that all of our Members and their families are safe and well during these incredibly worrying times, and that 2021 will be a better year for us all – hopefully free from the grips of this awful pandemic.

Colin Edelman QC
Chair
January 2021