



NEW SOUTH WALES
BAR ASSOCIATION

THE NEW SOUTH WALES BAR ASSOCIATION
BAR COUNCIL

MINUTES OF PROCEEDINGS

Thursday 17 March 2016
in the Boardroom of the New South Wales Bar Association
at 4.30 pm

PRESENT: Hutley SC; Moses SC; Game SC; Loukas SC; Khandhar;
Bennett AC QC; Bell SC; Cunneen SC; Lonergan SC;
McHugh SC; Welsh; Mitchelmore; Shead; Hunt (by phone);
Gleeson; Antipas; Roy; Hutchinson

APOLOGIES: Walker; Higgins; Callan

IN ATTENDANCE: Executive Director; Deputy Executive Director; Director,
Professional Conduct (for professional conduct matters)

MINUTES

The minutes of the meeting of 25 February 2016 were confirmed.

The President welcomed David Bennett QC to the Bar Council, noting that he was filling the vacancy on Council as a result of the appointment of Tony Payne SC to the Supreme Court.

FINANCE

Financial statements for February 2016.

Noted.

The Executive Director advised that urgent repairs had now been effected to the Common Room floor.

MEMBERSHIP

Richard Scheelings – B

Douglas Menzies Chambers (VIC)

FOR CONSIDERATION

Memorandum to the Bar Council dated 2 March 2016 from Senior Projects Lawyer – Annual Report on the NSW Bar Association’s Professional Standards Improvement Program

Bennett QC abstained from consideration of this item.

RESOLVED to approve the 2015 Annual Report on the New South Wales Bar Association’s Professional Standards Improvement Program and to submit the Report to the Professional Standards Council prior to the due date of 31 March 2016.

The Bar Council thanked the Association’s Senior Projects Lawyer, Ms Kim Kemp, for her work on the report.

Memorandum to the Bar Council dated 8 March 2016 from the Education Committee – Legal Profession Uniform CPD (Barristers) Rules.

The Executive Director advised that the Australian Bar Association’s CEO had written to the Legal Services Council asking that the Bar Council be made the designated local regulatory authority for the purpose of the Legal Profession Uniform CPD (Barristers) Rules.

Memorandum to the Bar Council dated 9 March 2016 from the Education Committee – Reader/Tutor Guidelines

The Bar Council noted the updated version of the Reader/Tutor Guidelines prepared by the Education Committee in consultation with the New Barristers Committee.

Memorandum to the Bar Council dated 9 March 2016 from Director, Professional Development and Senior Policy Lawyer – Junior barrister mentoring program

RESOLVED to continue the junior barrister mentoring program in 2016 in the slightly amended format set out in the memorandum from the Director, Professional Development and the Senior Policy Lawyer.

Memorandum to the Bar Council dated 9 March 2016 from Senior Policy Lawyer – Cross examination of victims of alleged family and domestic violence offences

RESOLVED to support the view of the Criminal Law Committee that the *Uniform Conduct (Barristers) Rules 2015* in conjunction with section 41 of the *Evidence Act 1995* provide adequate protection for victims in such cases, and as a result, further amendment of the Barristers Rules should not be supported.

FURTHER RESOLVED that the Australian Bar Association be informed of the Bar Council's position; a copy of the Committee's report is to be made available to the ABA.

Memorandum to the Bar Council dated 9 March 2016 from the Common Law Committee – CTP Scheme Reform; Note titled: 'CTP Reform consultation 2016: History of motor accident reform'.

Elizabeth Welsh spoke to the Common Law Committee's memorandum.

The Bar Council noted that the NSW Government has released a Discussion Paper seeking submissions on four options for CTP scheme reform. It appears that the most likely course is a hybrid scheme incorporating no fault and common law elements. The consultation period will end on 22 April.

Bar Council agreed to the two suggestions contained in the Committee's memorandum regarding costs disincentives for legal practitioners in children's' claims and small claims generally.

The Council noted that the Common Law Committee would continue to meet to consider further options for reform and a negotiating strategy before the President meets with the Minister in a few weeks' time. Elizabeth Welsh indicated that one of the options being considered by the Committee is a possible increase in the ceiling for the Accident Notification Form system, which allows certain medical costs to be paid immediately to injured people on a no fault basis. The Bar Council noted that, given the relative urgency of the issue, proposals from the Committee may need to be determined by the Executive.

Contingency fees.

The President advised that he had been asked to address the Law Council Director meeting on Saturday 19 March to give the 'No' side of the argument concerning the introduction of contingency fees.

FOR INFORMATION

Minutes of the meeting of the Practice Development Committee held on 16 February 2016

Noted.

Letter from the President dated 1 March 2016 to the Hon Gabrielle Upton MP – Crown Rates

Noted.

Minutes of the meeting of the Criminal Advocacy Review Committee held on 3 March 2016

Noted.

Minutes of the meeting of the Common Law Committee held on 7 March 2016

Noted.

Minutes of the meeting of the Criminal Advocacy Review Committee held on 9 March 2016

Noted.

Papers circulated via e-mail prior to the meeting -

- Email to the Bar Council dated 26 February 2016 from the Deputy Executive Director – Media release – Jeffreys J
- Email to the Bar Council dated 3 March 2016 from the Deputy Executive Director – NSW Bar Association – position paper on contingency fee arrangements

The meeting closed at 5.25 pm.

Confirmed as a correct record:

Noel Hutley SC
President

Date: