

From: Lana Collaris <lane.collaris@vicbar.com.au>
Date: Friday, 8 March 2024 at 10:15 am
To:
Subject: Bar Council Update - The \$600,000 Silks' Fund

Dear friends and colleagues,

We are writing to you as Bar Councillors who think all members should know of the \$600,000 Silks' fund.

What is the \$600,000 Silks' Fund?

The Chief Justice has informed Bar Council that she has a fund of approximately \$600,000 accumulated by the fees paid by applicants for silk.

Her Honour would like to give this money back to the Bar and contribute it to a project that will benefit the profession.

What do the majority of Bar Councillors want to do with the \$600,000 Silks' Fund?

There is a push by a majority of Bar Councillors (the 15 who are not signatories to this email) to give \$400,000 to BCL so that BCL can spend it on fitting out the old Dominos site as a childcare centre.

This is notwithstanding BCL's recent announcement that it will start charging members penalty interest on overdue accounts from 1 July 2024.

The majority also consider that \$200,000 should be used to fund a scholarship to the Readers' Course.

The signatories to this email are of the view that the \$600,000 should only be used for a purpose that benefits the whole of the Bar, and not a small section of it. Alternatively, it should be returned to those members who paid the fees that make up the fund.

The childcare centre proposal

Bar Council is yet to see any business case for the proposed childcare centre or hear the considered view of the whole board of BCL. In our view, it is premature to allocate \$400,000 to a project that doesn't have a business case.

Last year, Bar Council was broadly informed of a possible fit-out cost of between \$1 million to \$1.7 million. This was on a "back of the envelope" basis. At present, no proper costing or financial analysis has been undertaken. At this stage, we cannot have any confidence that a childcare centre would be financially viable for BCL or the commercial operator.

We also note that no opinion has been obtained as to whether the regulator is likely to approve a childcare centre in barristers chambers (where accused and convicted criminals including child sex offenders can be found) and no analysis has been undertaken of barrister demand for a childcare centre.

Further, the risks to the Bar have not been properly explored. Noting that there may be a non-delegable duty of care owed by the landlord, what happens if a child injures themselves while at the childcare centre? What happens if a child injures themselves in ODCW on the way to or from the childcare centre? What will be the cost of any available insurance premium? Will barristers themselves (particularly criminal barristers) owe a duty of care personally if something was to happen involving a client in circumstances where the barrister knows a childcare centre is on site?

The scholarship proposal

In our view, using the funds for a scholarship is too narrow and will not have a broad enough beneficial effect on the whole of the Bar or at least a substantial portion of it. Further, there have been no details put to Bar Council regarding the criteria to be applied to applicants to determine scholarship allocation.

Better proposals

We support a use of the \$600,000 Silks Fund which benefits the whole of the Bar.

One way in which to lessen the financial burden of all members (we are mindful of the increasing rental expenses being imposed by BCL on barristers) is to use the money to reduce subscription fees. In addition to the \$600,000 Silks' Fund, it is important to note that the Bar currently has about \$3.5 million in the bank and \$6.8 million in investments managed by JB Were. We are of the view that a properly considered plan needs to be put in place to use these significant funds to benefit all members by reducing subscription fees.

Another possible use that would benefit all members, at least potentially, is to donate the \$600,000 Silks' Fund to the Barristers Benevolent Fund of Victoria (**BBFV**). The BBFV is a charitable fund which is able to assist all barristers in dire need or distress. All barristers are subject to the vicissitudes of health, accident, or unforeseen change to their financial circumstances. Each of us is subject to those same risks. The BBFV has a proud history of coming to the aid of such barristers and their families and such a donation would substantially enhance its resources and capacity to provide such support when needed.

We would be grateful to receive any suggestions or ideas that you may have for use of the funds that we can put to Bar Council for consideration.

Current status

No final decision has yet been reached by Bar Council in relation to the use of the \$600,000 Silks' Fund.

However, on 1 February 2024, a majority of Bar Councillors resolved to suggest to the Chief Justice that the \$600,000 Silks' Fund be used for the development of on site childcare and for a scholarship to the Readers Course.

The majority of 15 Bar Councillors voted down our motion of suggesting to the Chief Justice that the funds be donated to the BBFV.

We will keep you informed.

Kind regards,

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