

## **BRITISH HALLMARKING COUNCIL**

**Meeting of the Council held at Birmingham Assay Office, 1 Moreton St, Birmingham B1 3AX on Friday 13th October 2017 at 11 am**

### **PRESENT**

Mr Noel Hunter (Chairman)

Mr Bryn Aldridge

Mr Simon Batiste

Ms Carol Brady

Mr Malcolm Craig

Ms Louise Durose

Ms Helen Forder

Mr Robert Grice

Ms Kate Hartigan

Mr Peter Hayes

Mr Andrew Hinds

Ms Harriet Kelsall

Mr Michael King

Mr Tom Murray

Mr David Sanders

### **IN ATTENDANCE:**

Ms Katrina Ritters (Secretary)

Mr Ashley Carson (Assay Master- Sheffield Assay Office (SAO))

Mr Doug Henry (Assay Master, Birmingham Assay Office (BAO))

Dr Robert Organ (Deputy Warden - London Assay Office (LAO))

Mr Scott Walter (Assay Master- Edinburgh Assay Office (EAO))

Ms Marion Wilson (Birmingham Assay Office (BAO))

Mr Richard Sanders, (BEIS)

### **1 WELCOME AND APOLOGIES**

Apologies were received from Sir David Reddaway, Geraldine Swanton, John Pearce, Neil Carson and John Stirling.

Noel Hunter welcomed Richard Sanders to the meeting and explained that Richard was now our main link with BEIS.

### **2. Minutes of the Council meeting on 7<sup>th</sup> April 2017**

The minutes were agreed, subject to items relating to the IAAO report – Scott Walter

agreed to send an amended note

**ACTION:**

2.1 Scott Walter to send a note re amendments to the minute under item 16, report from the IAAO (done).

2.2 Katrina Ritters to amend and re-circulate

**3. Matters arising**

Item 2 – Declaration of Interests: KR reported that she had received no further DOI forms since the last meeting.

Item AOB – Meeting at Royal Mint: the Chairman reported that unfortunately we were unable to meet at the Royal Mint as he had hoped as the office was currently too busy. However, he hoped to be able to arrange something for the future.

**MATTERS FOR DECISION**

**4. Council Governance (Chairman's report previously circulated)**

The Chairman introduced his report which set out proposals for Council governance. He explained that this was work in progress but he hoped to be able to consolidate the proposals into the Council's standing orders. On agenda management, he expected to be consulted but would intend to be as helpful as possible.

A range of views were expressed.

Mick King welcomed the report which he said set out the basics of good housekeeping and standards and the expectations of good governance. He thought the framework was entirely sensible and what he would expect to see in a public body of this nature.

However, concerns were expressed by other members, particularly around the applications committee processes; the proposed greater role for the Queen's Assay Master and the need to have the Chairman's agreement before items could be placed on the agenda.

Simon Batiste raised the question of a dispute regarding test results which had arisen between the Assay Offices that he would have liked to see discussed at today's meeting; but the matter had instead been referred to the Council's Technical Committee.

The Chairman responded by saying that in his view the Technical Committee, which was also publicly accountable, was the proper place for this matter to be discussed.

David Sanders said that previous experience on other public bodies had made him wary of a Chairman's veto over items for discussion.

Some members also expressed concern at a greater role for the Queen's Assay Master on the basis that he was employed by the Royal Mint (a private organisation) which could be seen as a competitor to the work of the Assay Offices.

The Chairman's view was that in matters of controversy, the Queen's Assay Master was the person most likely to bring independence and technical knowledge to the matters in hand and had an oversight role under the Hallmarking Act.

Robert Grice said that it was important that any report coming back to the meeting addressed the three points made – ie the question of whether the BHC met without the Assay Offices being present; the Chairman's veto on agenda items; and the role of the Queen's Assay Master.

Various concerns were raised about the processes surrounding the Applications Committee which are reported under agenda 9.

#### **Agreed/ Action**

4.1 Various actions under the Applications Committee – see note under item 9

4.2 Governance Report: This would be reviewed and a further report brought to a future meeting (Chairman)

### **5. Consultation on overseas hallmarking – interim report (Secretary's report previously circulated)**

A discussion took place on the report previously circulated, in particular on the question of using an independent person to distil the responses and recommend a way forward.

Members felt it important they should be able to see all responses and that they should make the decision on a way forward. There were also concerns about the likely cost and about the time it might take to reach a conclusion. Members also felt that whoever did the work would need to have a good understanding of the background to the issue. It was felt that the review would need clear terms of reference and members would like to see these beforehand.

The Chairman gave details of the person he had in mind to do the work, its likely cost and timescales. This individual had experience of working at high levels of government and dealing with complex issues – he would circulate details of this experience and of how the person intended to approach the task. He would ensure that they had access to details of the history and background to the issue.

Robert Organ raised the question of 'who decides' whether an overseas hallmark should be distinguished or not, regardless of the outcome of the consultation – was it the Council or was it BEIS?

Richard Sanders said that the BEIS view was that there should be a distinguishing Mark and that the main purpose of the consultation was to gather views on how this should be implemented. However, the BHC were the experts on hallmarking.

Carol Brady made the point that the Council was an independent body.

The Chairman reminded the Council that the form of the consultation had been discussed at length with BEIS and would provide the basis for a future decision by the Council.

Scott Walter stressed the need for a decision to be made urgently. Responses from the IAAO had indicated that at least 3 countries would look at British hallmarks differently were we to decide that overseas marks did not need to be differentiated.

**Agreed:**

The Chairman would circulate details of the person he had in mind to carry out the work; together with terms of reference for their report. He would ensure that they received details of the background to the consultation and to all responses.

A special meeting of the BHC would be convened to review their report in January 2018. Birmingham Assay Office was happy to host the meeting. The Secretary would circulate members to find a suitable date.

Full details of responses would be made available to those members who wished to see them.

**Action:**

- 5.1 Details of proposed consultant, experience and terms of reference to be circulated to members (Chairman and Secretary) (attached to these minutes).
- 5.2 A further special meeting of the Council to be arranged to consider the findings in January. (Secretary)

**MATTERS FOR INFORMATION/DISCUSSION**

**6. Chairman's Report (previously circulated)**

Introducing his report, the Chairman thanked members for their work during the preceding six months, and particularly to Robert Grice for his work on the Touchstone award and Education and Enforcement Committee.

A discussion took place on the need for a more detailed understanding of the jewellery industry in the UK. Richard Sanders said this would be useful also to BEIS in lobbying for resources to assist their work.

However, accessing the sort of information that might be useful was seen as

problematic. Birmingham Assay Office had done a good job in pulling together what was available but it continued to be difficult to know for example, what volume of jewellery was being imported and exported to the UK.

Andrew Hinds said that there were people who analysed the industry on a paid-for basis with highly segmented information – it may be possible to see if they would release higher level information. The NAJ may be able to help with costs – but it would depend on how useful they saw the information being to them.

### **Agreed/ Action**

6.1 We would look to see what might be possible/ likely costs and bring a report back to a future meeting (Chairman/Secretary).

## **7. Secretary's Report (previously circulated)**

A discussion took place on the correspondence from a trader in New Zealand which had been described in the Secretary's report.

Members did not necessarily agree with the advice that had in the past been given to internet traders from abroad, ie that they would not need to have their items hallmarked when selling into the UK. The view was that if the website was aimed at the UK market (ie in English and accepting payment in GBP) then the sale would need to comply with British law and items would need to be hallmarked.

Scott Walter said it may be worth the BHC spending some money on this to bring a test case – if we won it would clarify the position; if we lost it would give us the information we needed to press for a change in the law. In future, the Secretary could circulate correspondence of this type to the Assay Masters who could advise on a position to adopt.

It was agreed that this was part of a wider issue relating to internet trading which was circumventing the normal UK safeguards and acting against a level playing field.

### **Agreed/ Action**

7.1 The Secretary would respond accordingly, taking advice from the Assay Masters and referring to trading standards where appropriate.

## **8. Accounts Update (previously circulated)**

The report, previously circulated, was noted.

Richard Sanders questioned the small figure of £298 expended on government reporting. The Secretary said that most of the work on this had been her own time and not accounted for separately. Shakespeare Martineau had helped with laying of accounts before parliament, but it was likely that they had not yet billed the Council for this work and therefore it was not showing in the accounts.

Noel Hunter mentioned the question of Council cash flow problems which became apparent during the early part of 2017. These resulted from a financial year running from December to December 2016 but a budget for 2017 not being agreed until the Council meeting in April 2017. For the first part of 2017 therefore the Council had no funds to cover expenses and other liabilities. He had spoken to Assay Masters who had agreed that they may be billed for a small amount at the beginning of each year to ensure there were no cash flow problems.

The audit planning report was noted.

### **Agreed/Action**

8.1 Assay Offices to be invoiced for a small amount at the beginning of the new financial year pending agreement of the final budget at the Council's April meeting, to ensure the Council did not suffer cash-flow problems.

8.2 The Council agreed the proposed audit fee of £3,500 outlined in the audit planning report.

## **COMMITTEE REPORTS**

### **9. Applications Committee (report previously circulated)**

This item was also discussed under agenda 4 (Council governance) but the key points of that discussion are summarised here.

Mick King (Committee Chair) introduced his report which set out the decision and lessons learned from a previous application by Birmingham Assay Office to open a sub office in Redditch. It was accepted that some non-confidential parts of the application should have been circulated to all BHC members and this had not taken place due to a lack of clarity in the procedure to be followed. However, the meeting accepted that the application itself was not controversial and were happy to confirm its acceptance. The Chairman made it clear that he had resigned from Birmingham Assay Office when he became Chairman of the Council and was no longer part of it. His aim was to see fairness in all decision making affecting all or any of the offices.

As discussed at the last meeting, the Applications Committee recognised the need to review the applications process and would bring a report to the April 2018 meeting of the BHC.

A wide-ranging discussion took place in which the following concerns were raised:

- Members recognised that it would be for the Secretary of State appointees to make the final decision but Assay Offices should be in possession of the non-confidential parts of the proposal and should be allowed to take part in the discussion.
- Some members felt that there seemed to be a differentiation between Secretary of State and Assay Office appointees which had not been recognized in the past.

- At present the Applications Committee lacks technical expertise as the Assay Offices themselves are not represented.
- Problems were exacerbated when, in the recent past, the whole Applications Committee stepped down together, resulting in a loss of continuity of experience.
- There was a need to capture, document and agree policies and procedures for the Committee.
- The Committee should review any application and make recommendations. However, the BHC should formally approve it.
- There was a difference of opinion as to what constituted properly 'confidential' information and this needed to be agreed and clarified. For example, some members of the Council felt that it would be important to know who the main customer of the proposed sub office was and whether the office might be open to business from other suppliers. Others felt this was commercially sensitive and should not be disclosed.
- It might be of benefit to find the original procedure set out for the Applications Committee to follow regarding sub-office proposals.

### **Agreed/Action**

9.1 The application by Birmingham Assay Office for a sub-office at Reddich was formally approved by the meeting.

9.2 A further report on the applications process would be brought to the April 18 meeting of the BHC, taking into account the points that had been raised and appropriate precedents.

## **10. Education and Enforcement Committee (reports previously circulated)**

### ***Touchstone***

Robert Grice introduced the report previously circulated which gave details of the 2017 award which went to London Borough of Ealing. The meeting expressed its support for the award and thanked Robert for his hard work in making it a success.

The award would be reviewed as part of the work of the Education and Enforcement Committee and Robert was also looking at succession planning for when he stood down from the BHC in 2018.

### ***Education and Enforcement Committee***

It had been agreed that the committee would meet twice a year, to co-incide with meetings of the BHC in order to keep costs down.

Ways of boosting the capacity and expertise of the Committee were being sought, and in the Chairman's view it was important to have some technical expertise on the group.

The committee had made much progress over the last six months. It was delivering training to each of the CTSI branches throughout the UK – in the next 12 months he expected that every branch would have had hallmarking training delivered. Each Assay Office was also to deliver three presentations to CTSI branches.

Carol Brady and the Secretary were looking at ways of improving the BHC website.

Trading complaints – correspondence and contact had been made with Kent County Council; Vale of Glamorgan and Cumbria to try to expedite some of these issues.

Review of Touchstone Award – the Committee would come back to the Council on this.

The Chairman said he was also looking at ways to strengthen enforcement activity. However, this was difficult because of considerations of resources (personal and financial) and of jurisdiction.

He was also looking at succession planning when he steps down in 2018 and would bring a report to the next meeting.

David Sanders said that as a result of one of his hallmarking talks in Kent he had managed to make contact with a member of Kent County Council in order to raise issues of hallmarking enforcement. He had also made contact with Wendy Martin of the National Trading Standards Board regarding the possibility of some scoping work on internet fraud. They may be prepared to do a threat assessment, but this could cost in the region of £10,000.

**Agreed:**

10.1 The meeting agreed the report, proposed terms of reference for the Education and Enforcement Committee; composition of the Committee and its proposed operational objectives and activities.

**11. Joint Assay Office Committee**

This group had not met since the last meeting.

**12. Technical Committee (minutes previously circulated)**

Given that the Chairman of the Technical Committee rotated depending on its meeting venue, the question of who should report back to the Council on its activities; and who was responsible for making sure that decisions were acted upon was raised.

Scott Walter said that the Committee existed to discuss matters of a technical nature, not necessarily of interest to the Council and also to deliberate on those actions mandated to it by the Council.

Agreed it was probably only those mandated items that should be formally reported back to the BHC.

Robert Organ raised a number of 'action required' issues that had been referred to BEIS to which there had as yet been no response. These were the status of the list of countries which were deemed to have equivalent systems; the question of approval of Italian hallmarks and that of proposed changes to the Hallmarking Act. He asked that it be minuted that he had received a formal request from someone wanting to introduce new standards for argentium – this would require a change in the legislation. On each of these matters it would be good to have some idea from BEIS as to how they were being considered.

Richard Sanders apologized that he didn't know what had happened to these issues due to a number of changes to personnel. He would take an action away to try to find out what had happened and to progress them.

Robert Organ asked whether the question of mutual recognition of marks could be raised by BEIS and could something be done immediately to recognize mutual recognition, regardless of the Brexit negotiations. There was already precedent for this involving Switzerland.

Richard Sanders said he thought this was something they should be working on, possibly through memorandums of understanding with other countries. We may be able to get help through the Department for International Trade re contacts etc on this.

Scott Walter said this would be a very useful piece of work, but recognition by other countries may be dependent on the outcome of the Council's decisions on overseas hallmarking.

Scott also said that in the next 18 months the Assay Offices would be looking at XRF procedures to see if they could be harmonized.

The Committee would also be considering the current status and functionality of the database of technical decisions.

Marion Wilson raised the question of whether the Council could pay for a dedicated resource to look at database issues and help with enforcement and suggested a future paper could be brought back to the BHC.

Robert Organ said much good work had been done by the Antique Plate Co and the Art Loss Register in bringing the question of un-hallmarked internet sales getting involved, which showed what a dedicated resource could do.

Work on the website would also strengthen the profile of hallmarking. This is something that the Education and Enforcement Committee was looking at. It was agreed that being on the .Gov website was not helping presentation of the issue and

there was also the question of how the BHC website should actively link to those of the Assay Offices.

### **Agreed/action**

12.1 BEIS to respond to the BHC/Technical Committee on the questions of Italian hallmarks; list of countries deemed to have equivalent hallmarking systems; and possible changes to the Hallmarking Act, including the recognition of argentium under the hallmarking regime. (BEIS)

12.2 BEIS to explore the possibility of formalising mutual recognition of marks with other countries. (BEIS)

12.3 The Technical Committee to bring a paper to a future meeting of the BHC regarding possible changes to the Hallmarking Act, to include the possible recognition of argentium (Technical Committee)

12.4 The Technical Committee would consider how XRF procedures could be strengthened and harmonized (Technical Committee)

12.5 The Technical Committee would bring a report back to the BHC on how a dedicated resource might be used to strengthen their database of technical decisions and enforcement (Technical Committee).

## **13. Report from the IAAO and Convention**

The Association currently meets once a year and the next meeting is at the end of October 2017. The members have completed a survey in response to the BHC request for consultation on offshore hallmarks.

### ***The Standing Committee of the Convention 80th meeting in Geneva March 2017***

#### *Delegation of testing*

Previously, the SC reached a consensus that Assay Offices should be able to delegate the testing of precious metal alloys under certain circumstances.

Chairperson called on the STG to consider minimum thresholds to allow for a delegation of testing competence.

The Convention is a treaty between States and Ministries have a duty to ensure that Assay Offices are competent. As there are many small Assay Offices in the Convention, there should be rules for the delegation of testing to another Assay Office.

#### *Accreditation*

The SC has discussed whether accreditation to ISO<sup>9001</sup>17025 should become the mandatory benchmark for all authorised Assay Offices.

#### *Conditions for XRF Testing*

Review the conditions under which XRF test results can be considered under the Convention; and (ii) to prepare a Standard Operating Procedure (SOP) for XRF testing to ensure a common approach.

### *New CCM*

Members agreed to introduce a dual CCM system under the Convention consisting of the current CCM (applied without a separate fineness mark) and a new, standardised CCM (without precious metal and fineness indication).

### *WORKING GROUP ON VISION AND STRATEGY*

The working group continued its work on identifying areas where the Convention should be amended. Unanimous voting – majority voting- conflict resolution and other governance issues- membership types. Regarding the timeframe, even if the Standing Committee can agree changes, it is necessary to have a long-term perspective, since the last amendment of the Convention took over 10 years to be ratified.

### *Membership Applications*

Membership applications were discussed from:

Serbia, Italy, Ukraine, Sri Lanka

The Italian application is currently being held up by an objection from the Czech Republic.

## **6. Activity and Enforcement reports from the Assay Offices (report previously circulated)**

Birmingham also reported low levels of activity. Overall the jewellery industry was doing well but hallmarking was not.

Edinburgh reported that business was busier than last year, with a lot of business from elsewhere in Europe.

London reported activity lower than last year and that the situation as a whole was worrying.

Sheffield reported activity slightly down on last year and a fragile market. Their offsite work was very quiet.

## **7. Any other business**

### ***Tailored Review***

Richard Sanders reported that the BHC was due for 'tailored review' as part of a regular programme of review for public sector bodies in 2018 or possibly early in 2019.

The BHC would also need to think about recruiting new members to the Council in 2018.

***Made in Britain Mark***

Andrew Hinds said he was working on this and the meeting agreed that it was happy for him to take this forward. Andrew said he would bring a report to a future Council meeting.

**Agreed/action**

The BHC could expect to be reviewed in 2018/19 (BEIS)

The BHC should begin to think about recruiting new members in 2018 (Chairman and Secretary).

Report on 'Made in Britain' Mark to be brought to a future meeting of the Council (Andrew Hinds).

**8. Dates and venues for meetings in 2018**

8.1 Proposed dates of Thursday 22<sup>nd</sup> March 2018 (Edinburgh) and Thursday 4<sup>th</sup> October (Sheffield) 2018 were agreed.

8.2 A further additional meeting of the Council would be convened in January 2018 at Birmingham Assay Office (date to be agreed). This would consider the findings of the consultation exercise on overseas hallmarking.

## **John Bridgeman (see minute for agenda 5.1)**

John has been active in the fields of regulation, competition policy and consumer welfare for over 25 years. With a successful business career in the international aluminium industry he served as a member of the Monopolies & Mergers Commission before appointment to a 5 year term as Director General of Fair Trading - enforcing over 30 Acts of Parliament associated with Competition and Consumer Protection.

Following 2 years as Competition Consultant to a firm of City Lawyers he joined the Jockey Club as Regulatory Chairman and went on to become founding Chairman of the independent Horseracing Regulatory Authority. He was also appointed Vice Chairman of British Waterways and Chairman of its Fair Trading Committee later becoming a founding Trustee of the Canal & River Trust, Chairman of its Audit Committee and a member of the Waterways Ombudsman Committee.

Since leaving the OFT John Bridgeman has been engaged as an Advisor to organisations in a wide range of sectors including airlines, airports, aerospace and defence, television broadcasting, electricity, banking, supermarkets, non-ferrous metal recycling, debt collection, private health care and new house-building.

John is currently a Trustee & Committee Chairman of the Horseracing Pension Fund, Chairman of the Audit & Standards Committee of Warwickshire County Council and independent Appeals Commissioner of The Direct Marketing Commission. He lives in Oxfordshire where he is active with a number of charities and was High Sheriff in 1995.

### **Terms of Reference for Study**

- Study and digest the Consultation Document
- Read the consultation responses
- Identify key issues from the responses
- Suggest what might be regarded as "flawed perceptions"
- Highlight any "understandable concerns" and "groundless fears"
- Advise on how BHC might consider giving more or less "weight" to various responses
- Point to ways in which consensus may be built.

