

BRITISH HALLMARKING COUNCIL
Council Meeting 22 March 2018
MINUTES

Minutes of the meeting held at Gillespie Macandrew 5 Atholl Crescent Edinburgh EH3 8EJ on Thursday 22 March 2018 at 11.00am

1 Welcome and apologies

Present

Noel Hunter, Chairman

Bryn Aldridge

Carol Brady

Helen Forder

Robert Grice

Kate Hartigan

Peter Hayes

Andrew Hinds

Harriet Kelsall

David Sanders

Matthew Sibley

John Stirling

In Attendance

Ashley Carson, Sheffield Assay Office

Doug Henry, Birmingham Assay Office

Dr Robert Organ, London Assay Office

Scott Walter, Edinburgh Assay Office

Marion Wilson, Birmingham Assay Office

Richard Sanders, BEIS

Sue Green, Secretariat

Katrina Ritters, Secretariat

Apologies for absence

Neil Carson

Malcolm Craig

Louise Durose

Mick King

Tom Murray

Sir David Reddaway

Geraldine Swanton, Shakespeare Martineau

The Chairman welcomed Matthew Sibley to the Council and introduced Richard Sanders of BEIS, and Sue Green.

1.2 Secretariat, change of personnel

The Chairman reminded the Council that due to personal reasons, Katrina Ritters unfortunately needed to stand down from the role of Secretary to the Council. Since January 2018 Sue Green had been working on aspects of the Secretariat work. Sue Green's CV had been previously circulated. The Chairman asked for approval of the appointment of Sue Green as Secretary to the Council. The meeting approved this proposal.

Thanks to Katrina Ritters were expressed for her hard work and commitment over the previous year as Secretary.

2 Minutes of previous Council Meetings

Draft minutes of the meeting on 13 October 2017, and the special meeting on 18 January 2018, had been circulated with the papers for the meeting.

2.1 Meeting 13 October 2017

The minutes of the meeting on 13 October 2017 were approved subject to the following change:

P5 item 8 change wording to read "Richard Sanders questioned the small figure of £298 expended..."

2.2 Special Meeting 18 January 2018

The minutes of the meeting on 18 January 2018 were approved subject to the following changes:

P1 Attendance: Michael Winwood should be shown as "Present" rather than "In Attendance" as he attended as a representative of London Assay Office and was a proxy holder.

P3 para 4 third sentence delete words “*had to take a*” so that it reads “The UK had a 600-year tradition that differentiated hallmarking is valued and the BHC should make any judgment on differentiation using the same logic.”

P3 paragraph 5 change wording of second sentence to read “The Dutch had already taken a decision not to apply a differentiated mark and this had worked out badly for them – this had led directly to the bankruptcy of one Dutch assay office.”

P5 para 1 adding the words “for a wheatsheaf mark to be struck abroad” after “proposal”.

P8, in respect of the first vote, add the words: “There was no quorum. Noel Hunter sought to add himself to the quorum and to vote. John Stirling objected to him doing so.”

3 Action points from last meeting, and matters arising

The action points set out in the list of items from the meeting on 13 October 2017 which had previously been circulated were discussed. Items not on the main agenda were discussed:

List item 12.1: Richard Sanders of BEIS reported that due to changes of personnel at BEIS and reduced resources there had been a hiatus in dealing with issues such as Italian hallmarks, equivalent hallmarks etc. He suggested a proposed way forward in relation to technical issues, that they should be dealt with by the BHC rather than the government department. This was agreed. It was noted that there were some clarification questions to be asked of the Italians regarding their accreditations.

Action: *Scott Walter to send latest correspondence to Richard Sanders so he can take this forward*

List item 12.2: Mutual recognition of marks with other countries: this item was discussed. There is an existing guidance document setting out application criteria, which needs to be updated, making most of the process and recommendations BHC functions. The possibility of BHC charging for such applications may be considered. It was noted that, for example, an application to Portugal costs €600. It was also noted that this might result in a proliferation of charges to the UK. The question of whether BHC has vires to charge would need to be established. The question of whether this work would be delegated to the Technical Committee was raised and it was noted that the Technical Committee is an advisory committee to the BHC.

Actions:

- *Chairman to obtain advice from Shakespeare Martineau on vires issue*
- *Chairman and Technical Committee to review and propose way forward*

List item 12.3: It was noted that the review of changes needed to the Hallmarking Act was a work in progress at the moment.

List item 12.4: XRF processes, and 12.5 Database of technical decisions: the Chairman noted that there was no timetable set in the minutes for these items of work and the need to progress them bearing in mind risks if they are not progressed. Work had begun on the

technical decisions database and some areas had been scoped out but progress was restricted by the practicalities of getting essential staff together and it could take up to two years. In relation to XRF processes, Scott Walter referred to the current situation with all Assay Offices accredited and participating in two round robins every year. The further work was more about learning and producing a single method of agreed best practice. The aim was to conclude both pieces of work during 2019.

List item 13.1: Recruitment of new Council members, Secretary of State appointees. Agenda item 6 was dealt with at this point in the meeting. The Chairman explained that there had been a change in government policy and that there would be a limit of two terms on Secretary of State appointments. This would cause a significant problem to the BHC because there are already three people ending their third term in 2018 (Bryn Aldridge, Robert Grice and John Pearce); Mick King who was ending his first term in 2018 was regrettably having to step down due to pressure of work in his role as Local Government Ombudsman. Accordingly the BHC was already expecting four new Secretary of State appointments in the year. The new requirement to limit service to two terms would affect three more people: Helen Forder, Andrew Hinds and David Sanders. This would mean that seven new members would be needed in the year. It would cause significant problems with succession planning and loss of continuity, and loss of knowledge and experience.

The Chairman had made representations to Richard Sanders and other BEIS colleagues, requesting ways to remove this “cliff edge” and suggesting a staged process of recruitment, for example one person moving on each year rather than all three at once. The outcome of these discussions would not be known until after Easter.

Richard Sanders of BEIS explained that new guidance had been issued after the last round of appointments. It was acknowledged that there had been delays in the last round of recruitment and so they had been pushing to get up and running earlier in the year this time. They had then been alerted to the change of policy. Noel Hunter had had a very robust discussion with BEIS but Richard was not very optimistic that these representations would make any difference.

The question whether any current terms could be extended by BHC was raised but it was noted that this would not be possible as these are Secretary of State appointments. However Richard Sanders mentioned that it may be possible to extend someone’s appointment by one year as an exception, to facilitate staggering the recruitment process.

The Chairman reiterated that he continues to press the issue with BEIS.

Action: *Chairman and BEIS*

List item 13.1: Report on “Made in Britain” Mark: Andrew Hinds reported that this was in the hands of the NAJ. It was hoped that the initiative would go live during 2018 but there is a need to have a legal agreement in place for licensees and licensors, which was in hand. It was noted that the role of Assay Offices needed to be clear: putting the mark on and nominating others, but no involvement in policing the scheme.

Actions from the meeting on 18 January 2018 were dealt with under agenda item 5.

4 Declarations of Interests, and updated Register of Interests

Sue Green updated the meeting on progress on Council members' updated Declarations of Interests (DOIs). Only two were outstanding. She reminded the meeting that in the Annual Report and Accounts the Council makes a declaration that DOIs are made and that a Register of Interests is maintained, which can be inspected by members of the public.

The remaining two would be followed up.

It was agreed that Council members should share the information in the DOIs and the full set would be circulated.

Actions: Secretary

- *to follow up remaining two DOIs*
- *circulate set of DOIs*

5 Consultation on overseas hallmarking

The Chairman introduced this item, referring to the special Council meeting on 18 January and the Joint Assay Offices Committee meeting on 9 March and the recommendations in the notes of that meeting which had been circulated. These represented significant and important progress and the recommendations were being put forward to the Council for adopting to become BHC policy on overseas hallmarking. The Chairman asked for comments.

The Council discussed the issue and the recommendations noting that the Assay Offices had seen the advantages in agreeing on a compromise and a common way forward. Birmingham Assay Office had acted in line with BHC policy; that policy was now changing and, in order to avoid conflict and waste of resource and effort, BAO had made this proposal.

The question whether there would be one single additional mark for all offices was raised and it was noted that there was a technical legal reason in the Hallmarking Act which prevented this and so the offshore mark has to be different for each office. As and when any other Assay Office may decide to carry out hallmarking offshore, it will need to apply to BHC for approval of its mark. It was noted that it was desirable to keep marks simple to avoid confusion to consumers.

The time period for transition to the new mark was discussed. Since the JAOC meeting on 9 March there had been correspondence regarding timing and Birmingham Assay Office had agreed to a period of one year from the date of agreement of the Mark.

The notes of the JAOC meeting circulated with the papers for the Council meeting contained the amendment reflecting the agreed transition period.

There had been correspondence regarding the proposed Mark itself and this issue remained to be finally resolved. It was agreed that the Assay Offices would continue their discussions regarding the Mark and put an agreed Mark to the BHC for approval within one month. If agreement could not be reached, it could be put to the BHC for a vote by email.

Other questions considered by the meeting included whether this could be interpreted as an import mark, and if so, what would be the way forward. It was noted that the Dealers Notice was to be amended to state that hallmarks are not a statement of origin of the item.

It was noted that communications and education would be important, particularly information for the trade.

The Chairman summed up the discussion. The note of the JAOC meeting on 9 March, and notably the six recommendations contained in the notes, would be approved subject to agreement of the Mark. The Council voted and the proposal was carried unanimously.

Richard Sanders of BEIS commended this pragmatic decision and especially the steps taken by Birmingham Assay Office.

There followed discussions on provision of guidance notes, and communications. It was agreed to bring a communication plan back to the Council for agreement.

Actions: Assay Offices and Chairman

- *Assay Offices to agree form of overseas hallmark for Birmingham Assay Office by 22 April*
- *Hallmark to be presented to BHC for approval*
- *If agreement cannot be reached between the Assay Offices, BHC to vote by email*
- *Communication plan to be presented to BHC for approval and action.*

6 Council

New Council members – Secretary of State

This item was dealt with under item 3, Action Points from last meeting and Matters Arising (item 13.1).

7 Annual Report and Accounts to 31.12.17

7.1 Draft Annual Report and Accounts to 31.12.17

Sue Green presented the draft Annual Report and Accounts to 31 December 2017. She drew the Council's attention to key items. It was noted in particular that Noel Hunter's appointment as Accounting Officer took effect from 7 April 2017, although not formally confirmed until 5 December 2017; that the Report section recorded achievements, plans, operation and make-up of the Council and its sub-committees, statements on risk, viability reports from Assay Offices confirming that the BHC is a going concern, and standard tables setting out key statistics on hallmarking in the year. The Accounts section, in standard format, had been prepared by Shakespeare Martineau.

7.2 NAO Audit Completion Report

The Annual Report and Accounts had been audited by the National Audit Office (NAO), who had now produced their Audit Completion Report, Letter of Representation, and also wording for the Audit Certificate to be included in the Annual Report and Accounts.

The meeting noted that the Remuneration Report on page 16 had been audited by the NAO and the points contained in the note on outstanding issues, and the NAO's Audit Completion Report, both circulated previously.

In particular, the NAO's approach on off-payroll arrangements had led to the inclusion of specific required wording on this issue, and to a detailed review of off-payroll arrangements. The Chairman's role had been ascertained to be likely to be caught by IR35 but the Secretary's role was not. However, formal advice to confirm the position was recommended by the Secretary.

The Secretary also drew the Council's attention to the outstanding issue regarding an apparent overcharge by BEIS for the previous Chairman's remuneration. Clarification was awaited from BEIS and the NAO had stipulated that the Annual Report and Accounts could not be signed until that issue was resolved. It was noted that this item was likely to result in a repayment and that this would affect the final figures in the accounts.

7.3 Letter of Representation

A draft Letter of Representation had been provided by the NAO for signature by the Accounting Officer.

The Council approved the Annual Report and Accounts, subject to:

- Discussion of the strategy and business plan under agenda items 8 and 9;
- Resolution of the outstanding BEIS overcharge issue.

It was agreed that the revised Annual Report and Accounts would be circulated with changes highlighted once available, requesting comments from Council members within two working days, following which they would be deemed to be approved for signing and laying before Parliament.

Actions: Secretary

- *Resolve outstanding issue with BEIS*
- *Amendment of accounts with Shakespeare Martineau accordingly*
- *Any amendments to Chairman's section consequent on discussion in agenda items 8 and 9*
- *Circulation of amended version for approval*
- *Formalities for final NAO report, signature and laying before Parliament*
- *Professional advice on IR35.*

7.4 2017 Costs / Expenditure

The 2017 Costs / Expenditure spreadsheet, circulated previously, was noted. Expenditure had been close to budget and had been used as the foundation for the draft 2018 Budget.

8 Chairman's Report

The Chairman introduced this report which had been circulated previously, and which had also been discussed at the JAOC meeting on 9 March. The three main topics had emerged from his round of visits and discussions around the industry, and the current challenging conditions. Funding for these proposed initiatives had not been provided for in the draft budget; working with partners would be key to resourcing the projects.

Item A, Proposal 1 mapping the jewellery industry in the UK, was widely agreed to be useful and necessary both in the context of the Brexit negotiations and in a wider context. London Assay Office had already offered to lead on this and this proposal had been accepted.

In relation to Proposal 2, the Chairman's involvement in the BEIS workstream on the future legal and structural framework, there was a question whether this posed a conflict of interests and it was confirmed that the Chairman's participation in the work was on behalf of BHC, to assist the Council in understanding the emerging picture, and therefore there was no conflict.

Item B, and proposal 3, was discussed in some detail. It was clear that there were issues with enforcement and the limits on the resources of Trading Standards were recognised. There was debate about whether enforcement was part of the remit of the BHC. Edinburgh Assay Office was working on a potential enforcement case and looking for input from Trading Standards.

Item C, Buyer's Certificate and proposal 4 led to some discussion. There were mixed views, and particular concerns about any plan to make it mandatory; it should not duplicate hallmarking. There was comment that the bigger issue was perhaps with increasing the value and profile of hallmarking with the trade and in education / training, helping retailers leverage the value of the hallmark at point of sale.

There was broad support for the proposals but given the challenging trading conditions, concern about potential cost and where funding might come from, with some questioning how much of this was truly within the BHC's remit.

Richard Sanders of BEIS confirmed the wording of the Hallmarking Act: the BHC has powers of enforcement and accordingly it has a role as a Regulator.

Action: Chairman and Secretary

- *Revise draft Business Plan to reflect discussions*
- *Make any consequential amendments to Annual Report and Accounts to 31.12.17*

9 Strategic Issues

9.1, 9.2 Report on 2017 Business Plan / Business Plan 2018

It was agreed that the draft Business Plan previously circulated would be amended in line with the discussion under item 8. The Business Plan was agreed, subject to those changes.

9.3 Budget 2018

The draft Budget for 2018, annexed to the Business Plan, was approved.

9.4 BEIS Tailored Review

Richard Sanders confirmed that the BHC would be subject to a Tailored Review, which is the equivalent of the previous Triennial Review, within the BEIS current financial year, ie before 31 March 2019. The likely time would be January to March 2019.

Action: Chairman and Secretary

Work with BEIS on Tailored Review.

9.5 BEIS changes in sponsor relationship

Richard Sanders explained that the former NMO executive agency was abolished in 2016 and its functions moved to BIS which then became BEIS, with a resulting transition in sponsorship arrangements. The BHC is an NDPB, Non-Departmental Public Body, but it belongs to the Minister and the Chairman as Accounting Officer, is accountable. It is in everyone's interests to work together.

The Chairman thanked Richard Sanders for his constructive approach.

10 Business Impact Target and Growth Duties

The draft response, previously circulated, was approved for submission by the 31 March deadline. It was noted that an equivalent submission would be made by the Assay Offices.

Action: Secretary

Submission of BIT return by 31.3.18

11 Committee Reports

Reports from the sub-committees had been circulated previously.

11.1.1 Applications Committee Report

The Chairman mentioned that unfortunately, due to pressure of work in his role as Local Government Ombudsman, Mick King would be standing down at the end of his current term on the Council. This would mean that the Applications Committee would lose its Chair.

David Sanders reported on behalf of the Applications Committee.

The first part of the Applications Committee report was Mick King's paper, agreed by all of the Committee, on how to improve the process for applications, make it more transparent and avoid pitfalls, protecting the integrity of hallmarking and not regulating commercial interests or policing the market.

It was suggested that 6 months, rather than 3 months, should be allowed for UKAS or equivalent accreditation and this was agreed; there should be accreditation within the next scheduled audit period.

There was a comment that, although confidentiality was important, there would come a stage when it was necessary to disclose the name of the applicant and location before final approval so that an informed decision about the adequacy of hallmarking resources could be made.

The paper was approved, subject to these comments. Wording for changes to be agreed separately outside the meeting.

Action: Chairman and Applications Committee

Amend wording to reflect comments re UKAS accreditation and appropriate stage for disclosure.

11.1.12 Application by Birmingham Assay Office

David Sanders introduced the paper previously circulated containing the recommendations of the Applications Committee in relation to Birmingham Assay Office's application to move their sub-office within the premises of Cooksons. This had been treated as a new application as things had changed since the original sub-office was established. It was noted that two of the Applications Committee's conditions (items 2 and 3) had already been complied with and only one remained outstanding, relating to the inspection visit.

The meeting approved the application subject to the further inspection as set out in the paper.

11.2 Education & Enforcement Committee

The E&E Committee papers, circulated previously, were presented by Robert Grice. He updated the meeting on CTSI Branch training as set out in the schedule previously circulated. There had also been updates to NAJ Jet course notes.

He updated the meeting on BHC letters sent to Trading Standards departments regarding failures to enforce. One in particular had led to positive action in relation to internet sales, which may in turn lead to an application to the Touchstone Awards.

The Touchstone Awards report was noted and Robert Grice reported that 6 entrants were anticipated for 2018. He had put together a generic schedule (previously circulated) which contained details of actions and timings, for handover of the process to his successor.

Carol Brady introduced the two papers previously circulated regarding development of the BHC website on gov.uk. The link to BEIS for changes etc was through the Secretariat. The appendix document showed the current layout of the site and there was scope to smarten it up and make it user-friendly for three main groups of users: Trade; Trading Standards; Consumers. There were limitations on what could be achieved, owing to the gov.uk structure. Costs of changes would be mainly Carol Brady and Secretariat time, including liaison with BEIS, and materials.

There was discussion about content and purpose of the website and whether, as a regulator, the website should hold a great deal of information, or whether it should mainly signpost to the websites of the assay offices. It was agreed that consumer information is vital. One suggestion was that the BHC website should signpost to Trading Standards, as well as Assay Offices. These comments would be taken into account in reviewing the way forward. The proposal in the papers was agreed.

Action: Carol Brady and Secretary*Development of the website*

The E&E paper on succession planning was noted and the issue of the restriction of Secretary of State member terms to two meant that the succession plan needed to be revisited.

Robert Organ reported that Goldsmiths were producing brochures and planning seminars on antique plate and fake items and would be taking advice on the effect of the Hallmarking Act in this area.

Scott Walter reported on EAO's project purchasing 56 samples of jewellery for analysis of precious metal content. They were working SAO who would be testing the heavy metals content, leading to a complete analysis of the jewellery involved. It was planned to involve TSDs in the legal action.

11.4 Technical Committee

The minutes of the two preceding Technical Committee meetings had been circulated with the papers for the meeting. Marion Wilson introduced these. It was noted that the Technical Committee was planning to report on the issues of XRF testing and the database of technical decisions in 2019.

11.5 IAAO

The Report on the Standing Committee of the Vienna Convention and the International Association of Assay Offices had been circulated previously. There were no questions or comments.

11.6 Assay Offices – Activity and Enforcement Reports

It was agreed that written reports would be produced for future meetings, and that a standard template of headings would be produced for use.

All offices commented that trading conditions are challenging and unpredictable.

Action: Chairman and Secretary

Standard template / headings for Assay Office reports to be circulated for use in reporting prior to future Council meetings.

12 Documents for information**12.1 Assay Offices sub-office reports**

The reports were noted.

12.2 Royal Mint Inspections 2017 – certificate of satisfactory inspections

The letter from the Queen's Assay Master had previously been circulated. A question was raised on the comment that standards in sub-offices had been mentioned. It was noted that attention needed to be paid to this, and that the work of the Applications Committee on changes to the applications process was in part aimed at this and the new processes should have the desired effect, wherever the office is based.

12.3 Assay Office viability reports

These reports, which had been circulated previously, were noted.

12.4 Cyber security

This note, which had been circulated previously, was noted.

13 Any Other Business

Richard Sanders of BEIS updated the meeting as follows:

BEIS had written to the Assay Offices requesting their views on change to EU mutual recognition regulation.

Draft legislation was being produced for use in the event that there is ultimately no Brexit deal: this would remove recognition of EEA hallmarks.

Croatia has joined the Precious Metals Convention.

There was a question regarding implementation of GDPR requirements and the Secretary reported that this was being reviewed with Shakespeare Martineau during April.

Andrew Hinds on behalf of the NAJ said that the NAJ was willing to become a formal partner in the Touchstone Awards, and this was agreed.

14 Date of next meeting

Thursday 4 October 2018, Sheffield.

Actions

Agenda item	Who	Action
2.1	Chairman and Secretary	Minutes of meeting 13 October 2017 Amendments to Minutes of Meeting 13 October 2017 and signature Minutes to be posted on BHC website
2.2	Chairman and Secretary	Minutes of meeting 18 January 2018 Amendments to Minutes of Meeting 18 January 2018 and signature Minutes to be posted on BHC website
3	Scott Walter	Italian hallmarks (13.10.17 Actions item 12.1) Scott Walter to send latest correspondence on Italian hallmarks to Richard Sanders so he can take this forward
3	Chairman	Mutual recognition of marks (13.10.17 Actions item 12.2) Chairman to obtain advice from Shakespeare Martineau on vires issue in relation to charging for applications for recognition of hallmarks
3	Chairman and Technical Committee	Mutual recognition of marks (13.10.17 Actions item 12.2) Chairman and Technical Committee to review and propose way forward
3	Technical Committee	Database of technical decisions (13.10.17 Actions item 12.4) Database of technical decisions – to be completed during 2019
3	Technical Committee	XRF testing (13.10.17 Actions item 12.5) XRF testing, agreed process – to be completed during 2019
3 / 6	Chairman and BEIS	Recruitment of Council members and issue re terms of office (13.10.17 Actions 13.1 and main agenda item 6) Recruitment of Secretary of State appointees and representations re terms of office
4	Secretary	DOIs <ul style="list-style-type: none"> • Follow up remaining two DOIs • Circulate set of DOIs
5	Assay Offices and Chairman	Overseas hallmarking <ul style="list-style-type: none"> • Assay Offices to agree form of overseas hallmark for Birmingham Assay Office by 22 April • Hallmark to be presented to BHC for approval

Agenda item	Who	Action
		<ul style="list-style-type: none"> • If agreement cannot be reached between the Assay Offices, BHC to vote by email • Communication plan to be presented to BHC for approval and action.
6	See above	Recruitment of Council members and issue re terms of office See above
7	Secretary	Annual Report & Accounts <ul style="list-style-type: none"> • Resolve outstanding issue with BEIS • Amendment of accounts with Shakespeare Martineau accordingly • Any amendments to Chairman's section consequent on discussion in agenda items 8 and 9 • Circulation of amended version for approval • Formalities for final NAO report, signature and laying before Parliament • Professional advice on IR35
8; 9.2	Chairman and Secretary	Business Plan <ul style="list-style-type: none"> • Revise draft Business Plan to reflect discussions • Make any consequential amendments to Annual Report and Accounts to 31.12.17
9.4	Chairman and Secretary	BEIS Tailored Review Work with BEIS on Tailored Review
10	Secretary	Business Impact Target Submission of BIT return by 31.3.18
11.1.1	Chairman and Applications Committee	Applications Committee Report Amend wording to reflect comments re UKAS accreditation and appropriate stage for disclosure.
11.6	Chairman and Secretary	New reports: Assay Offices, Activity & Enforcement Standard template / headings for Assay Office reports to be circulated for use in reporting prior to future Council meetings.