

BRITISH HALLMARKING COUNCIL
Council meeting 4 October 2018
MINUTES

Minutes of the meeting held at Sheffield Assay Office Guardians Hall 2 Beulah Road Sheffield S6 2AN on Thursday 4 October 2018 at 10.30am.

1 Welcome and apologies

Present:

Noel Hunter, Chair
Carol Brady
Malcolm Craig (item 2 onwards)
Louise Durose
Robert Grice
Kate Hartigan
Peter Hayes
Andrew Hinds
Michael King
Thomas Murray
David Sanders
Matthew Sibley

In attendance:

Ashley Carson, Sheffield Assay Office
Doug Henry, Birmingham Assay Office
Dr Robert Organ, London Assay Office
Scott Walter, Edinburgh Assay Office
Chris Heaton, Sheffield Assay Office
Richard Sanders, BEIS
Geraldine Swanton, Shakespeare Martineau
Sue Green, Secretary
Jon East, P2P (Item 2)

Apologies for absence:

Bryn Aldridge
Helen Forder
Harriet Kelsall
Sir David Reddaway
John Stirling
Marion Wilson

Peter Hayes, Chairman of Sheffield Assay Office, welcomed everyone to the meeting.

The Chair Noel Hunter thanked SAO for hosting the meeting and congratulated Ashley Carson on 25 years as Assay Master at SAO. He welcomed Chris Heaton, a member of the SAO executive committee and former Chair of SAO as a guest of the meeting. He welcomed Jon East of P2P who was here for item 2.

2 Brexit planning

2.1 Brexit market study and research

The Chair introduced this item. There had been little information available about the Industry in the UK. It was important to get that information to inform strategy. The BHC was grateful to Robert Organ and the Goldsmiths' Company for this work.

Jon East of P2P gave a presentation of the interim findings from the market research conducted for the BHC. The slides had previously been circulated.

The objectives of the research had been to create a detailed profile of the current UK jewellery industry and to gain an understanding of the industry's concerns around Brexit. Existing market research reports had been analysed in detail and telephone interviews conducted with a sample of large businesses. The next phase would be a national online survey of businesses across the industry.

(Malcolm Craig joined the meeting)

The Industry had been impacted by the 2008-9 recession and the aftermath. There had been stability and low levels of growth from 2013 onwards and modest growth is forecast for the coming five years. This was indicated in relation to the number of businesses, employees, market value of UK jewellery sectors, revenue from precious metal jewellery and the UK jewellery market value overall. However the number of items hallmarked in the UK had dropped. There was a very clear inverse correlation between the number of items hallmarked and the average gold price, which had increased sharply at the time when the number of hallmarked items showed a significant drop. It appears that the Industry is mitigating gold price fluctuations by varying product or price while total revenue remained fairly stable.

Possible reasons for the decline in hallmarking volume were considered. There were a number of questions to consider including market adjustments related to gold prices, how hallmarking data breaks down by carat, whether there has been an increase in revenue from product that does not require hallmarking, and whether product hallmarked overseas is increasingly being imported for sale in the UK.

Other potential contributory factors included customer awareness and attitudes and trust in brands. The rapid growth in online sales is in stark contrast to the decline in hallmarking volumes.

The percentage of people who have bought precious metal jewellery is increasing, and online sales generally are increasing and will continue to increase.

The telephone survey had so far entailed interviews with ten larger / international businesses. The results will inform the BHC's policy position on Brexit as well as plans for the design of a larger industry-wide survey.

Key Brexit concerns included increased costs and volatility due to exchange rate fluctuations; breakdown of frictionless movement of goods; decreased spending power and decline in consumer confidence in the UK; uncertainty about the tax regime post-Brexit; and about the final Brexit deal, making business planning challenging; questions about the Irish border.

Feedback from the interviews on hallmarking was universally positive. All were very satisfied with the services they receive from the Assay Offices. Mutual recognition of

hallmarks is very important. Some of the concerns over Brexit have the potential to impact negatively on hallmarking volumes in the UK if businesses feel it necessary to hallmark items in other countries post-Brexit.

The government can help by ensuring frictionless movement of goods; stimulating demand by introducing a beneficial tax system; providing support to small businesses through the transition and continuing to protect British hallmarks and ensure mutual recognition across Europe.

Next steps for the research would involve further investigation of import/export data, further analysis of hallmarking data, and an online survey to add depth to the understanding of the industry data. The final report would probably be available around Christmas.

Discussion followed.

Where the contract is made in the UK, the consumer has rights in relation to online sales and it would be worth finding out whether consumers are aware of this. It was noted however that in relation to sales of items from abroad, the Hallmarking Act imposes criminal liability which is very difficult to enforce against a seller located outside the UK.

Information about consumer awareness of hallmarking and its importance is one thing; in addition those who were not previously aware of it could also be asked how they valued it once they have been made aware of it.

It was noted that there are business models in which an organisation connects with sellers around the world but to the consumer in the UK they look like a UK business and a UK company is part of the set up; items are sold without hallmarks in breach of the HMA and there is now a "second phase" of behaviour where these companies carry on doing this, in the belief that there will be no enforcement action against them.

It was noted that hallmarking activity increases after special marks are introduced eg the Silver Jubilee and the Golden Jubilee.

The Chair summed up. There are clearly vulnerabilities for hallmarking in the post-Brexit wider world and there needs to be a regulatory solution to that. The research and discussion so far has been a useful exercise, forming the basis of further discussion with government. The information about the scale of the jewellery industry shows how significant it is in the UK economy.

Jon East was thanked for his presentation. Next steps would include getting further costings for the next steps and financial approval to take the work forward.

(Jon East left the meeting)

The Chair reported that a seminar with BEIS had been held in May on the issues for the jewellery industry and Brexit. The BHC's concerns had been registered and the point had been forcefully made that the regulatory vacuum will be even more pronounced post-Brexit. The tax regime and customs barriers would be of great importance. One Assay Office already had a customer who was planning to move its distribution to the Netherlands. The Council would continue to work on the Brexit agenda.

There was discussion about enforcement action that could be progressed now, based on what is already known. This linked with items later on the agenda. It also led to a discussion about further information that would be useful in encouraging Trading Standards to prioritise Hallmarking enforcement: the issue of consumer detriment. The OFT used to produce information on this and these figures can hit home, showing the impact on

businesses as well as consumers. There was a comment that there are six times as many precious metal items for sale on eBay than there are items being hallmarked in the UK.

It was noted that there are now legal prohibitions in place that mean that Amazon and eBay are obliged to ensure that sellers are properly registered for VAT etc. This will also apply to fulfilment houses and a test case on this, involving hallmarking, would be very useful.

It was agreed that education about the importance of hallmarks lies at the heart of all the issues.

It was also noted that, as commented in the Warwickshire Trading Standards paper attached to the Chair's report, some of the powers of Trading Standards exist under EU law and may not continue post-Brexit.

The Chair and Goldsmiths' Company would take the next steps forward with P2P, feeding in this information.

Action: Chair with Goldsmiths' Company

2.2 Italian hallmarks

There had been correspondence regarding recognition of Italian hallmarks and this had been circulated to the Council. The reasoning behind the possible resolution was questioned. Richard Sanders of BEIS advised that this issue needed to be brought to the Council. The UK is currently a full UK member and has to be seen to be abiding by the rules. Accordingly it was agreed to start processing the application.

Action: Scott Walter, Richard Sanders

3 Minutes of meeting 22 March 2018

The draft Minutes of the meeting on 22 March had been circulated previously. Doug Henry made a comment on item 5, Consultation on overseas hallmarking. He believed that the transition period was dependent on clarity regarding the potential for the offshore mark to be viewed as an import mark and hence at variance with the ECJ ruling. Richard Sanders of BEIS stated that as an EU member the UK is required to notify the EU Commission of any proposed changes to its national legislation. The Commission forwards the information to all other member states giving them an opportunity to object on the grounds of technical barriers to trade. Richard Sanders confirmed that this had been done for the Legislative Reform Order for offshore hallmarking and no objections had been received. More generally only a court of law can decide on such issues and a test case would be necessary.

The Minutes were approved for signature.

4 Matters arising from the previous meeting

The Secretary reported that the Business Impact Target return had been completed and submitted: the deadline had in fact been later than assumed and a new set of questions had been issued. Returns had been submitted on behalf of the BHC, and by Robert Organ on behalf of the Assay Offices.

5 Declarations of interests

There were no declarations of interests other than those previously declared.

6 Chair's report

The Chair talked through his report, previously circulated, which also covered items 7, 8, 9, 10 and 13 below. In addition to these items he also mentioned:

6.1 Website

Progress had been made on the website update. Current content had been fully updated and work on a new look and feel had started. A visual of the new front page format had been circulated with the papers. The next stage was to write the content. Carol Brady and the Secretary were thanked for their work on this.

6.2 Forward work plan

Priorities for the coming period were set out in the Chair's report. These were:

- 1 Delivering the business plan
- 2 Completion of the revised Dealers' Notice and communication plan
- 3 Preparation for the National Audit Office visit
- 4 Continued work to upgrade the Council's data storage
- 5 Dealing with Brexit developments
- 6 Preparation for the BEIS Tailored Review
- 7 Dealing with BEIS information requests
- 8 Completing recruitment for new Council members and the induction process.

7 Council members

The Chair thanked Council members who will be leaving at the end of the year.

Robert Grice, Bryn Aldridge and John Pearce would all be retiring at the end of three terms' service on the Council, each totalling nine years. The Chair expressed his and the BHC's gratitude to all for their work and contributions. Particular thanks were due to Robert Grice for his impressive work on the Touchstone Award. Robert had kindly agreed to help out on a continuing basis to ensure the smooth handover of the management of the Touchstone Award.

Mick King would be ending one three year term at the end of this year but due to pressure of work in his role as Chair of the Commission for Local Government and Social Care in England & Wales he was unfortunately not able to continue with the BHC. He was thanked for his work on the Applications process which is vital to the BHC and to hallmarking.

Kate Hartigan was coming to the end of her term as Chair of Birmingham Assay Office and would be standing down from the Council. The Chair thanked Kate for her contributions over her years of service.

7.1 Terms of office extension for those who have served two terms

The Chair reported that Andrew Hinds, David Sanders and Helen Forder, who had all served two terms, were affected by the Cabinet Office changes to rules which prohibited more than two terms being served. All three were important to the BHC and this rule change, coming at the same time as the retirement of four other members as set out above, would have caused serious issues for the BHC. The Chair had made representations about this to BEIS and the result was that one extra year's service had been agreed for each of them.

7.2 Recruitment to replace four Council members who are retiring

The Chair reported that the vacancies had been advertised and that there had been 17 applications. The standard of the applications had been good and a shortlist of six would be interviewed on 18 October. New members would be joining from 1 January 2019, subject to BEIS processes. An induction for new members would be held in the new year.

A question was raised as to the timing for this as on a previous occasion it had taken several months to get the Secretary of State procedures completed but Richard Sanders confirmed that he had received assurances that there would be no problems with timing. He also clarified that that Cabinet Office changes to restrict terms of office had been introduced as part of the government's drive to increase diversity on public boards.

7.3 Confirmation of second term for those who have served one term

Malcolm Craig, Louise Durose and Harriet Kelsall had all agreed to serve a second term which would take effect from 1 January 2019.

8 Enforcement

The Chair introduced this item, referring back to the points raised in the discussion about the market research on the Industry, and other items on today's agenda, all of which point to the importance of enforcement work. The challenges are how to do it without prohibitive costs being incurred by the BHC or the Assay Offices, and also to ensure co-ordination of efforts.

8.1 Warwickshire Trading Standards, possible project

The appendices to the Chair's report included papers from Warwickshire Trading Standards on a possible pilot project to scan parcels being received at Coventry Airport Hub to assess whether their contents have been properly declared and provide a report on the scale of the issue; potentially this would expose cases for enforcement. The cost was £4500. An outline budget had been produced and there was a dialogue ongoing with the NAJ about a possible contribution to the costs of this project.

It was suggested that if this project goes ahead the results of it might be taken to the National Trading Standards Board as a test case for possible wider work on the issue in future.

It was also noted that there is possible government funding available for initiatives using innovative approaches to obtain outcomes in enforcement work. Breaches of the law gave rise to demonstrable detriment to industry and consumers and also safety issues in relation to nickel content etc. Richard Sanders said that the approach would be through the Consumer Directorate of BEIS and that there was a Regulators Pioneers Fund which has funding available.

Action: Chair and Richard Sanders to liaise regarding possible funding

8.2 Internet sweeps

David Sanders reported on this item which was described in Marion Wilson's paper included with the Education & Enforcement Committee papers for item 14.2. One day of research free of charge was on offer and work had been done on setting the precise criteria for the sweep, as described in the paper. Information would be produced from the sweep which would then need analysis. There would be a cost for any further work but no commitment had been given on behalf of the BHC to contract for further work. If it produced useful information a case could be put together for further work in future, co-ordinated with other work on enforcement.

Action: E&E Committee to take forward

8.3 Touchstone Award

The Chair reported that the Memorandum of Understanding with the NAJ had been signed and that from 2019 the NAJ would contribute 20% of the costs, enabling the profile of the Touchstone Award to be enhanced.

9 Consultation on overseas hallmarking

Doug Henry reported that the draft new Dealers' Notice, previously circulated, needed a few final touches from comments received. The Chair suggested that a small group take this forward, to finalise it and then circulate it to the Council.

Action: Doug Henry, Scott Walter, Matthew Sibley

10 Governance

The Chair talked through the context for the review of governance for the BHC. One of the actions he had identified on becoming Chair had been to secure the governance of the Council, mindful of government oversight and also the responsibilities he holds as Accounting Officer. Various papers relating to the new governance arrangements had been circulated, and they had previously been discussed by the JAOC.

10.1 Governance documents

The following points were discussed in relation to the Council's Standing Orders:

(3) Appointment of a proxy: The role and appointment of proxies was a matter for the Council to agree. A proxy could be mandatory (in relation to a specific issue and voting a particular way) or discretionary (the proxy listening to the debate and making a decision on how to vote). It was agreed that a proxy should be open and that the deadline could be any time up to the meeting as long as it is properly recorded and communicated.

(4) Notice of meeting and agenda, 4.4 and 4.5: It was agreed that if a member wishes a particular item to be included on the agenda there should be a set timescale for this (eg 8 working days) and this was agreed.

(7.3) The Chair: The proposal in 7.3 to make the Chair an ex officio member of all committees was discussed and it was agreed that instead the Chair would be invited and have the right to attend.

(8) Co-opting of Council members: it was noted that the HMA gives power to co-opt two members and these are already in place.

(9) Members' conduct, interests, and acting for an improper purpose: there was discussion about whether the wording in paragraph 9.4 was appropriate for Standing Orders or should be included in a Code of Conduct. It was noted that the issue of acting for an improper purpose was a different issue from having a conflict of interests and that the BHC must have the right to remove someone who is seen to be acting in this way. The middle sentence would be changed to refer to "any member" rather than just referring to assay office appointees.

The other draft Standing Orders were approved.

Governance overview document: there was a question whether paragraph 1.1 stated the BHC's purposes too widely. Also it was felt that to future proof the document it would be useful to have a glossary of who's who attached to it, rather than naming individuals in the body of the document.

Thanks were expressed to the Secretary for this comprehensive work.

Action: Secretary to review and finalise by email

10.2 Risk Register

The Secretary introduced this item and asked members to review it carefully and provide any further comments after the meeting.

It was noted that this was a detailed and relatively lengthy document and ways to shorten it were discussed, including the possibilities of removing any items that were low risk / low impact. One suggestion was to shade green those risks where the mitigating actions meet the desired risk, ie fit the Council's risk appetite.

Any further points on the Risk Register were requested to be sent to the Secretary before 31 October prior to posting it on gov.uk.

Action: Council and Secretary

10.3 Schedule of meetings

The draft schedule of meetings for 2019 was noted. Diary commitments meant that it was often difficult to schedule meetings and so the aim was to set up dates for the Council and all committees for the full year, and then remove them if they proved not to be necessary due to an insufficiency of business.

11 BHC finances

11.1&2 2018 Budget revision; payroll; 2019 Budget

The Secretary spoke about the budget update and forecast to the year end and the note on financials which had been circulated with the meeting papers. During 2018 there had been issues that have taken the Council to a projected spend which is approximately £9000 above what had been expected:

- Employers NI on which advice had been taken and it was confirmed that both the Chair and the Secretary were statutory office holders and accordingly Employers NI would apply to both and a payroll would need to be operated;
- Counsel's opinion on apparent bias / acting for an improper purpose;
- Overseas hallmarking, including John Bridgeman's work and extra work by the Secretariat, government requirements on reporting etc.

However it was anticipated that expenditure in 2019 would be lower by approximately the same amount, largely because these items were not expected to recur and currently there were no similar substantial issues anticipated for next year as things stand. Work had been done to keep costs under control as far as possible but these major items had turned out to be bigger than expected hence the projected overspend.

The JAOC had approved the approach and the Council was invited to approve the projected overspend and the draft budget for 2019 as well as the suggested payment schedule to avoid cashflow problems recurring.

The Secretary also reported on the issue of setting up a payroll. The Assay Offices offered their facilities for running the calculation if that would assist.

The Council approved the projected overspend, payment schedule, budget for 2019 and plans for operating the payroll and related administration.

Action: Secretary

11.3 NAO audit

The Chair introduced the NAO's audit planning report and asked the Council to comment on any areas of concern. The NAO asked the Council to consider the listed audit risks, risks of material misstatement and related issues. The Council noted the issues and approach and had no points to raise with the NAO.

Action: Respond to NAO: Secretary

12 Business plan

12.1 2018 business plan

The current year's business plan was in table form so that the Council could review the previous year's aims and update them into actions for 2018. It had been progressively updated during the year and the annotated copy circulated with the papers. This version was approved and the good progress noted.

12.2 2019 draft business plan

The Chair introduced the draft explaining that it covers similar issues as for 2018, but with a change of emphasis for some areas, notably Brexit, Operational Integrity and Technical Consistency.

The draft business plan was approved.

Action: Council

13 BEIS processes

13.1 Corporate Statement

The Chair reported on the Corporate Statement which is a document that is produced annually and signed by the BHC Chair and by BEIS, setting out the BHC's functions and aims, its objectives and progress in the previous year and its aims for the current year. The version previously circulated is in similar form to previous years and is on gov.uk. The Council noted its contents.

13.2 Framework Document

The Chair reported that a new version of the Framework Document with BEIS had been produced over the summer. This document sets out the formal framework within which the BHC works with government through its sponsor department BEIS. The new version is largely similar to the existing Framework Document but the wording is clarified and updated in places, and there is more emphasis on elements such as the Regulators' Code, government oversight of the BHC's work, ensuring compliance with applicable government codes and legal requirements.

This version has been agreed for signature by the Chair and is now going through the government sign-off process. Richard Sanders of BEIS reported that he is currently dealing with points raised by the Treasury.

13.3 Tailored Review

The Tailored Review is the successor to the Triennial Review, which last took place in 2015. It is scheduled for early 2019 but Richard Sanders of BEIS reported that we wait to hear about scheduling because of the volume of other work currently being handled.

14 Reports

14.1 Applications Committee

The report of the Applications Committee, circulated previously, was considered. David Sanders reported that a site visit to BAO had been undertaken to review the application to move the sub-office at Cookson's. LAO had submitted an application to move the Graff sub-office for which the Applications Committee had determined there was no need for a full application and would be conducting a site visit in November.

The updates to the Applications processes, reflected in the paper submitted to the March Council meeting and the revised Standing Orders for the Applications Committee, were mentioned. Mick King and Noel Hunter expressed their thanks to David Sanders and Louise Durose for the work on clarifying ambiguities in the processes, and it was noted that there had been input from Adrian Levett, the previous Chair of the Applications Committee. The Chair expressed thanks to Mick King for his work as the Chair of the Applications Committee.

14.2 Education & Enforcement

Robert Grice as Chair of the E&E Committee reported on its work since it was re-formed. It has managed to achieve most of its objectives. The CTSI Branch Training programme was almost complete, and thanks were expressed to David Sanders for delivering most of that training. The progress made on updating the website was welcome and the new design will make it look more relevant and something people would be more likely to use. He thanked Carol Brady and the Secretary for their work on this.

Robert Grice reported on the Vale of Glamorgan case which has now been sent to the Crown Court, which is an example of the BHC's work having an impact on enforcement. The various initiatives to stimulate enforcement were all promising and need to be co-ordinated.

Arrangements for the 2019 Touchstone Award were in place and the new partnership with the NAJ will give scope for development of the award in future. Noel Hunter will be presenting the award at a full council meeting of Wolverhampton City Council on 7 November and there will be a presentation at Goldsmiths' Hall on 20 November.

Other updates on Education & Enforcement issues were given including: development of text about hallmarking on the Trading Standards Institute Business Companion website; likely upcoming television coverage relating to hallmarks; increasing numbers of questions about hallmarking being raised by Trading Standards departments and an increase in the number of hallmarking-related prosecutions coming through.

Robert Grice, noting that this was his last meeting at the end of this three terms of service on the BHC, thanked those he had worked with over the years, in particular the Education & Enforcement Committee, the Assay Masters and the Chair, and expressed his good wishes to the Council.

14.3 JAOC

Robert Organ, who had chaired the last JAOC meeting, introduced this item and the contents of the minutes of the meeting were noted; the substantive items were all covered in the Council's agenda for today's meeting.

14.4 Technical Committee

There was no report from the Technical Committee, which had not met since the last Council meeting. Scott Walter reported that they were in the process of fixing a meeting date.

14.5 IAAO and Convention

The report from the IAAO and Convention was noted.

14.6 Assay Office reports

The reports from the Assay Offices, previously circulated, were noted.

Doug Henry reported that the current case with Birmingham TSD is in court and likely to finish within a few days: it had involved a significant investment by TSD and BAO and would be a good profile raiser for hallmarking.

Scott Walter raised an issue regarding enforcement of hallmarking law in relation to “middlemen”.

Andrew Hinds commented that it would be useful to develop a procedure for escalation of issues like this, so that Assay Offices finding examples of non-compliance with the law and not getting a satisfactory response could refer the issue to the BHC for the BHC to write a formal letter.

Action: Assay Masters, Chair and Secretary

15 AOB

Richard Sanders of BEIS reported that there had been a notification to the EU Commission to the effect that the Dutch are changing their hallmarking law so that it would be mandatory to hallmark gold, silver and platinum items but that hallmarking of palladium items would be optional. There is a process by which if such a change in an EU country could be detrimental or a barrier to trade, a note to the Commission can be submitted. Richard Sanders would forward the email about the issue, for circulation to the Council.

Action: Richard Sanders and Council

Doug Henry expressed his appreciation of the quality of the papers for the meeting which were clear and well organised for the reader.

16 Dates of next meetings

London, Thursday 4 April 2019

Birmingham, Thursday 3 October 2019

Actions carried forward

Item	Action	Who
Meeting 4 October 2018		
2.1	P2P research: further costings, financial approval and take forward	Chair Robert Organ
2.2	Italian hallmarks, start processing the application	Scott Walter Richard Sanders
8.1	Possible government funding for enforcement initiatives	Chair Richard Sanders
8.2	Internet Sweeps – undertake one day sweep	E&E Committee
9	Overseas hallmarking – Finalise new Dealer's Notice and circulate	Doug Henry Scott Walter Matthew Sibley
10.1	Secretary to review and finalise by email	Secretary
10.2	Risk Register: Further comments from Council by 31 October; Secretary to review format	Council Secretary
11.1,2	Implement revised 2018 budget and new 2019 budget	Secretary
11.3	NAO Audit: respond to NAO	Secretary
12	Implement 2019 Business Plan	Council
14.6	Develop a procedure for Assay Offices to refer issues of non-compliance with hallmarking law to the BHC for formal letters to be sent	Chair Assay Masters Secretary
15	Dutch hallmarking law changes, possible representations regarding potential detriment / barriers to trade	Richard Sanders Secretary Council
From previous meeting (22 .3.18)		
22.3.18 item 3.2	Mutual recognition of marks to be kept under review alongside Brexit issues	Chair and Technical Committee
22.3.18 item 3.3	Database of technical decisions – to be completed during 2019	Technical Committee
22.3.18 item 3.4	XRF testing, agreed process to be completed during 2019	Technical Committee

