



REGULATING BARRISTERS

## Meeting of the Bar Standards Board

Thursday 23 June 2016, 4.30 pm  
Room 1, First Floor, Bar Standards Board Offices,  
289-293 High Holborn, London, WC1V 7HZ

### Agenda - Part 1 – Public

#### NOTE:

The Part 1 session will commence at 4.50 pm. This is to enable earlier discussion from 4.30 pm of a private item of business. The timing of this item has been agreed to enable the attendance of Bar Council invitees and relevant members of the BSB staff. The latter have another event commitment later on the same day.

|     |   |              |                | Page  |
|-----|---|--------------|----------------|-------|
| 1.  | Welcome and introductions                                   |              | Chair          |       |
| 2.  | Apologies   |              | Chair          |       |
| 3.  | Members' interests and hospitality                          |              | Chair          |       |
| 4.  | Approval of Part 1 (public) minutes                         |              |                |       |
|     | • 19 May 2016 (*)   | Annex A      | Chair          | 3-9   |
|     | (4.50 pm)   |              |                |       |
| 5.  | Matters Arising (*)   |              |                |       |
| 6.  | a) Action points and progress                               | Annex B      | Chair          | 11-12 |
|     | b) Forward agenda   | Annex C      | Chair          | 13    |
| 7.  | Chair's Report on Visits and Meetings:<br>May-June 2016 (*) | BSB 044 (16) | Chair          | 15-16 |
| 8.  | Director General's Report<br>(4.55 pm)                      | BSB 045 (16) | Vanessa Davies | 17-26 |
| 9.  | Any other business  |              |                |       |
| 10. | Date of next meetings                                       |              |                |       |
|     | • Thursday 28 July 2016                                     |              |                |       |
| 11. | Private Session   |              |                |       |

John Picken  
Governance Officer  
[JPicken@barstandardsboard.org.uk](mailto:JPicken@barstandardsboard.org.uk)  
16 June 2016

*\*Note – Starred items will not normally be discussed unless a Member gives prior notice that this should occur. If you wish to raise any points on these items, please contact [John Picken](mailto:John.Picken@barstandardsboard.org.uk) before the meeting.*

**BSB 230616**



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| <p><b>BAR<br/>STANDARDS<br/>BOARD</b></p> |
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REGULATING BARRISTERS

**Part 1 - Public****Minutes of the Bar Standards Board meeting**

Thursday 19 May 2016, Room 1.1, First Floor  
289 – 293 High Holborn, London, WC1V 7HZ

- Present:** Sir Andrew Burns KCMG (Chair)  
Aidan Christie QC  
Malcolm Cohen  
Justine Davidge – items 7-16  
Judith Farbey QC  
Andrew Mitchell QC  
Tim Robinson  
Professor Andrew Sanders  
Nicola Sawford  
Adam Solomon  
Anu Thompson – items 6-16  
Dr Anne Wright CBE
- By invitation:** Keith Baldwin (Special Adviser)  
James Wakefield (COIC representative) – items 1-10  
Emily Windsor (Special Adviser, Education)
- Bar Council in attendance:** Stephen Crowne (Chief Executive, Bar Council)  
Chantal-Aimée Doerries QC (Chairman, Bar Council)  
Mark Hatcher (Special Adviser to the Chairman of the Bar Council) – items 1-10
- BSB Executive in attendance:** Vanessa Davies (Director General)  
Viki Calais (Head of Corporate Services)  
Sarah Charlesworth (Senior Policy Officer) – items 8-9  
Julie Demeritt (Policy Manager, Regulatory Policy) – items 1-10  
Eva Hales (Corporate Services Manager)  
Oliver Hanmer (Director of Supervision)  
Sara Jagger (Director of Professional Conduct)  
Faryal Khurram (Senior Supervision and Authorisation Officer) – item 10  
Ewen Macleod (Director of Regulatory Policy)  
John Picken (Governance Officer)  
Amit Popat (Policy Manager – Equality and Access to Justice) – item 9  
Jessica Prandle (Senior Policy Officer – Equality and Access to Justice) – item 9  
Amanda Thompson (Director for Governance Reform)  
Simon Thornton-Wood (Director of Education & Training)  
Wilf White (Director of Communications and Public Engagement)
- Press:** Nick Hilborne (Legal Futures)  
Chloe Smith (Law Society Gazette)

## Part 1 - Public

**Item 1 – Welcome**

1. The Chair welcomed Members to the meeting, in particular the new barrister Board Member, Anupama (Anu) Thompson, who was attending her first meeting. He also introduced two new members of staff:
  - Julie Demeritt – Policy Manager, Regulatory Policy;
  - Eva Hales – Corporate Services Manager.

**Item 2 – Apologies**

2.
  - Rolande Anderson
  - Rob Behrens CBE
  - Naomi Ellenbogen QC (Vice Chair)
  - Andrew Langdon QC (Vice Chairman, Bar Council)
  - Lorinda Long (Treasurer, Bar Council)
  - Andrew Lamberti (Communications Manager)

**Item 3 – Members’ interests and hospitality**

3. The following items were declared:
  - Aidan Christie QC – dinner at the White Swan restaurant (9 March 2016) hosted by the Chancery Bar Association for those who spoke at its Conference in January 2016;
  - Sir Andrew Burns – drinks reception in the House of Lords (18 May 2016) following the State Opening of Parliament.

**Item 4 – Approval of Part 1 (public) minutes (Annex A)**

4. The Board approved the Part 1 (public) minutes of the meeting held on Thursday 17 March 2016.

**Item 5 – Matters Arising**

5. None.

**Item 6a – Action points and progress**

6. The Board noted progress on the action list.

**Item 6b – Forward Agenda (Annex C)**

7. The Board noted the forward agenda list.

**Item 7 – PRP Committee Report for Q4 (Jan 2016 – Mar 2016) and year-end 2015-2016**

BSB 032 (16)

8. Anne Wright highlighted the following:
  - 19 out of 31 business plan activities were completed on time during the 2016/16 business year and within budget. The remaining 12 have been carried over to 2016/17 as a result of re-scheduling, rather than financial reasons. This suggests a continuing need to improve forward planning and ensure timelines are realistic, particularly for complex projects such as the Future Bar Training programme;
  - staff turnover remains high at over 30% and the Part 2 papers give greater analysis and insight on this issue. In overall terms, however, the PRP Committee has been pleased with recent improvements to the HR service;
  - a KPI for entity authorisation decision time has been included following the authorisation of the BSB as a licensing authority;
  - the KPIs for the Professional Conduct Department remain slightly below target for the year, though Quarter 4 results were particularly impressive;

## Part 1 - Public

- income for the year was down 24% against budget. The Board was warned about this earlier on in the year. This was due to low numbers of entity authorisation applications and a significant reduction in the volume of applications to the Qualifications Committee.
9. The Chair commented on the positive feedback from the LSB's evaluation of the BSB's progress towards achieving a "satisfactory" rating against the Regulatory Standards Framework. The LSB's report (issued 10 May 2016) agreed with the BSB's self-assessment ratings and complimented it on the improvements achieved.
10. Members commented as follows:
- the Q4 results for PCD are encouraging and commendable but it is not clear if this level of improvement will be sustained;
  - it would be helpful to know if there are any long-running cases that are still to be settled.
11. In response, the following comments were made:
- the results for individual quarters are affected by the number of cases that can be closed during that time. The Q4 figures are exceptional in this regard, though that should not understate the efforts made within the Department;
  - some long-running cases are still ongoing, though these are at the investigations and hearing stage, rather than at initial assessment. It had been delays within the Assessment Team caused by staff shortage that was the real cause of dips in performance measures earlier in the year;
  - the existing KPI target of 80% should be retained, though it should be borne in mind that this is an annual, not a quarterly, target.
12. **AGREED**
- a) to note the BSB's performance against the 2015-16 business plan.
  - b) to endorse the conclusions about the 2015-16 business year as set out in the executive summary of the report.
  - c) to note the addition of Entity Authorisation decision time to the Key Performance Indicators.

**Item 8 – Immigration Thematic Review Report**

BSB 033 (16)

13. The Board considered a report on the risks in the immigration and services market insofar as these relate to the regulatory functions of the BSB. The following comments were made:
- the compilation of the report prompted considerable liaison with external stakeholders. This has expanded the BSB's knowledge base and we hope to maintain these links for the future;
  - three new controls were proposed in the light of the review ie
    - ❖ illustrative examples of "good" and "poor" practice to supplement existing guidance for both barristers and consumers;
    - ❖ development of a "vulnerability framework" to help barristers assess and manage client vulnerability; and
    - ❖ publishing further guidance jointly prepared with other immigration advice and service regulators.
14. Members commented as follows:
- the workshop at the April Board Away Day on this topic was a useful precursor to the report;

## Part 1 - Public

- the focus on consumer and risk management is welcome and indicative of the BSB's regulatory perspective. The new controls are sensible but, possibly, lack ambition;
  - the report highlights the sometimes detrimental impact of unregulated providers but the recommendations do not really address this issue;
  - the new controls are likely to be supported by those working in the sector. A collaborative approach is welcome – some very useful information is already available from other sources eg Law Society's guidance on judicial review.
15. In response, the following comments were made:
- the recommended new controls are a realistic assessment of what is achievable within available budget;
  - imposition of additional regulatory burdens should be avoided – the sector is already under pressure and more regulation may just result in fewer advisers;
  - the picture on unregulated providers is mixed. Some are known to benefit consumers, so simply seeking to take this resource away would not be in the public interest. It would be better to address information gaps so that reliance on unregulated providers was less necessary.
16. In debating the paper, the Board gratefully acknowledged the input of Kuljeet Chung, who is now on maternity leave.
17. **AGREED**
- a) to publish the immigration thematic review report on the BSB website.
  - b) to agree the recommendations as set out in paragraph 27 of the report as they relate to current BSB activities.
  - c) to approve the new controls as set out in paragraph 28 of the report.

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**Item 9 – BSB 2015-16 Equality Objectives Progress Review and Developing New Objectives for 2017**

BSB 034 (16)

18. The Board considered a 12-month progress update on the BSB's 2015-16 equality objectives. The report suggests a new approach to developing equality objectives for 2017. This involves consultation with all BSB departments so that any new objectives equate to existing projects that have a significant equality and diversity dimension eg women at the Bar research, immigration thematic review.
19. The following comments were made:
- eight of the 2015-16 equality objectives have been completed and the remaining two are in progress;
  - the 2017 objectives will be finalised by the end of this year. Consultation will extend to external, as well as internal, stakeholders.
20. The Chair reminded members that, following the dissolution of the E&D Committee, the Board is now expected to become more directly involved in equality issues.
21. The following comments were made:
- the BSB is already working productively with the Bar Council on matters of mutual concern about equality and diversity eg wellbeing at the Bar;
  - we have made progress on e&d but need to share these success stories and learning points more widely.

22. **AGREED**

- a) to note the 12-month progress review of the 2015-16 equality objectives as set out in Appendix 1 of the report.
- b) to approve the approach to developing the 2017 equality objectives as set out in paragraph 2 of the report and the action plan in Appendix 2.

**AP / JPr  
to note**

**Item 10 – Youth Proceedings Advocacy Review: BSB Response**

BSB 035 (16)

23. The Board considered a report setting out the BSB's response to the final report of the Youth Proceedings Advocacy Review by the Institute for Criminal Policy Research.
24. Oliver Hanmer thanked both Faryal Khurram and those Board Members who had joined the Task Completion Group for developing the response. He invited comments from the latter. In response, Justine Davidge commended the informative discussion on client vulnerability within the Group. Malcolm Cohen referred to paragraph 25 of the report concerning identification of poor performance. He commented as follows:
  - reports on performance (whether good or bad) are rarely passed to the regulator;
  - we should encourage feedback from the judiciary in this regard and make clear the fact that the BSB's first aim is to help barristers improve their performance rather than to take punitive action;
  - ultimately though, if barristers continue to underperform despite remedial action, the BSB must then be prepared to take a stronger line.
25. The following comments were made:
  - there seems to be a trend of pushing more serious cases to the Youth Court so there needs to be a corresponding push to raise the status of this type of work with barristers;
  - the MoJ and Legal Aid Agency need to take the lead in addressing this point by critically evaluating the pay levels available for Youth Court work which may be considered too low in view of the often complex and demanding cases involved;
  - the report suggests undertaking sampled visits to youth courts, though this may be less easy to arrange as these are not open courts. Sampling may only give a superficial understanding – what happens outside the courtroom may be equally, if not more, important. Sporadic visits may leave too much to chance so a more systematic approach would be preferable;
  - we need to be aware of balancing our concerns about this topic with other demands. As it stands, there is the potential for this to consume more in the way of BSB resources than we can reasonably afford;
  - the report identifies a plausible way forward by focusing on the competency requirements for those practising in Youth Courts. However we should approach regulatory intervention with care as the underlying reasons for a course of action taken by a barrister may lie with the instructions that person has received from client. In cases where the advocacy line is obviously inappropriate, it is reasonable to expect direct intervention at the time from the relevant judge.
26. In response, Oliver Hanmer commented as follows:
  - the BSB is just one of several parties involved. The MoJ recently commissioned a similar report that will focus on how the youth justice system can most effectively interact with wider services for children and

## Part 1 - Public

young people (the Charlie Taylor report on youth justice). The SRA is also now engaged on this topic, which it had not been before;

- we should therefore seek to build our working relations with the other stakeholders so that we can build a culture of trust and willingness to share information and so manage demand on our resources.

27. **AGREED**

- a) to note the response paper and the progress made since publication of the Youth Proceedings Advocacy Review.
- b) to endorse the way forward for the BSB as outlined in the response paper.
- c) to seek further discussions with the MoJ and Legal Aid Agency on how to address the financial value placed on the youth justice system.

OH

28. **Item 11 – Fees and Charges - update**

Viki Calais gave an update on fees and changes following the BSB's consultation on the "Full Cost Recovery" principle and "sliding scale" approach to setting fees. Only one full response was received (from the Bar Council), though two others were part completed. She highlighted the following:

- the largest non-PCF revenue streams are already operating under the above principles;
- the fees for authorisations (waivers, entity applications) will come under review this so that the sliding scale approach is appropriately applied.

## 29. Malcom Cohen referred to the low response rates and queried whether any meaningful conclusions could be drawn from this. In response the following comments were made:

- the Bar Council regarded the consultation proposals as a "common sense" way forward. The lack of controversy combined with other, more contentious consultations, may have been contributing factors to the low response rates;
- any further consultation on authorisation fees will be more specifically targeted.

30. **AGREED**

to note the consultation results and that the Executive will:

- continue to work to the Full Cost Recovery principles where appropriate;
- carry out further in-depth analysis on authorisation fees.

**Item 12 – Chair's Report on Visits and Meetings (Mar-May 16)**

BSB 037 (16)

31. **AGREED**

to note the report.

**Item 13 – Director General's Report**

BSB 038 (16)

## 32. Vanessa Davies highlighted the following:

- comments from James Wakefield expressing his appreciation for the BPTC Key Statistics report published on 5 May 2016;
- her thanks to the staff involved in managing the BSB's self-assessment response to the LSB's Regulatory Standards Framework.

33. **AGREED**

to note the report.

**Item 14 – Any Other Business**

## 34. None.



**Item 15 – Date of next meetings**

35. • Thursday 23 June 2016.

**Item 16 – Private Session**

36. The following motion, proposed by the Chair and duly seconded, was agreed:  
That the BSB will go into private session to consider the next items of business:
- (1) Women at the Bar Report;
  - (2) Approval of Part 2 (private) minutes;
  - (3) Matters Arising;
  - (4) Action Points and Progress;
  - (5) Corporate Risk Register;
  - (6) Independent regulatory decision making at the Bar Standards Board;
  - (7) Annual Communications Team Metrics;
  - (8) Any other private business.
37. The Board also agreed to invite the Chairman and the Chief Executive of the Bar Council to remain for item 1 of the Part 2 agenda (Women at the Bar Report). This was because the report covered an issue of equal relevance to the Bar Council.
38. The meeting finished at 5.30 pm.



**BSB – List of Part 1 Actions  
23 June 2016**

*(This includes a summary of all actions from the previous meetings)*

| Min ref  | Action required  | Person(s) responsible | Date of action required | Progress report |  |
|--|--|-----------------------|-------------------------|-----------------|--|
|  |  |                       |                         | Date            | Summary of update  |
| 27c<br>(19 May 16) – Youth Proceedings Advocacy Review     | seek further discussions with the MoJ and Legal Aid Agency on how to address the financial value placed on the youth justice system  | Oliver Hanmer         | by end Sept 16          | 15/06/16        | <b>On track</b> for completion by end of September.  |
| 17a<br>(19 May 16) – immigration review                    | publish the immigration thematic review report on the BSB website  | Sarah Charlesworth    | immediate               | 20/05/16        | <b>Completed</b> – published on website with press release   |
| 20d<br>(26 Nov 15) – Gov review & revised SOs              | establish two new roles to support the changes in education and training ie <ul style="list-style-type: none"> <li>• a “Visitor” to hear challenges against Centralised Examination policy and procedures</li> <li>• an increased role for the Independent Observer to the Centralised Examination Board.</li> </ul> | Simon Thornton-Wood   | before 31 March 16      | 03/06/16        | <b>On track</b> – recruitment processes not yet complete   |
|  |  |                       |                         | 28/04/16        | On track – recruitment in progress   |
|  |  |                       |                         | 09/03/16        | On schedule – role descriptions agreed and recruitment about to start                                  |
|  |  |                       |                         | 16/02/16        | In hand – agreed at GRA and recruitment being built into schedule; assurance framework in development. |
| 21b<br>(23 July 15) – insurance for single person entities | seek a rule change to require single person entities to obtain their primary layer of professional indemnity insurance from the BMIF   | Kuljeet Chung         | by 31 Jul 15            | 13/06/16        | <b>On track</b> – tender issued for economic analysis to support policy development                    |
|  |  |                       |                         | 11/05/16        | On track – internal project initiated  |
|  |  |                       |                         | 09/03/16        | On track – initial neutral response from LSB on our submission   |

**BSB – List of Part 1 Actions**  
**23 June 2016**  
*(This includes a summary of all actions from the previous meetings)*

| Min ref | Action required | Person(s) responsible | Date of action required | Progress report |   |
|---------|-----------------|-----------------------|-------------------------|-----------------|---|
|         |                 |                       |                         | Date            | Summary of update   |
|         |                 |                       |                         | 16/02/16        | In hand – legal advice being used for submission to LSB on competition law aspects being prepared.  |
|         |                 |                       |                         | 19/01/16        | Ongoing – issues being considered by GRA on 19 January 2016 and update to be provided as necessary to Board.  |
|         |                 |                       |                         | 16/11/15        | Ongoing – update in private session   |
|         |                 |                       |                         | 04/09/15        | Ongoing. A first draft of the application has been produced and preliminary discussions have been had with the LSB (the application will be updated in the light of these discussions). We also need to get some further advice on competition law before progressing the application. Assuming that can be done in time, the application will be submitted in September. |

**Forward Agendas****Thursday 28 Jul 2016**

- Enforcement Annual Report
- FBT: Threshold standards – final confirmation post consultation
- FBT: Draft consultation on future model for training
- BSB Annual Report 2015-16 (Part 1)
- Public and licensed access review (Part 1)
- Amending the definition of in-house employed practice (Part 2)
- Entity Authorisation – 12 month review and forward plan (Part 1)
- Assurance framework update (Part 2)
- Consumer engagement communications plan – discussion
- Statutory Interventions policy

**Thursday 29 Sept 2016**

- GRA Annual Report – includes the Report from the Independent Observer
- Approval of consultation on future model for training regulation, for publication
- PRP Report: includes the BSB Q1 Performance Report (includes Business Plan update, KPIs, Management Accounts, SLAs)
- Corporate Risk Register
- Budget bid for 2017/18
- Approval of BSB position on professional indemnity insurance and compliance with competition law. Approval of rule change in relation to SPEs (if necessary)
- Assurance framework (Part 2)
- APEX progress report
- Equality rules: shared parental leave

**Thursday 27 Oct 2016**

- Protocol on International working
- Consumer engagement communications plan – sign off
- Prioritisation of regulatory risks – an approach to the next phase of work

**Thursday 24 Nov 2016**

- Independent Decision Making – final proposals
- PRP Report: includes the BSB Q2 Performance Report (includes Business Plan update, KPIs, Management Accounts, SLAs)
- Corporate Risk Register
- Centralised Assessment Team Project (Part 2)
- Independent regulatory decision making at the Bar Standards Board (Part 2)
- New equality objectives 2017-18

**Thursday 26 Jan 2017**

- Response to FBT Consultation
- APEX update
- Publication of diversity data

**Thursday 23 Feb 2017**

- PRP Report: includes the BSB Q3 Performance Report (includes Business Plan update, KPIs, Management Accounts, SLAs)
- Draft BSB Business Plan for 2017-18
- Corporate Risk Register
- Regulatory risk prioritisation

**Thursday 23 Mar 2017**

- Revised Standing Orders



**Chair's Report on Visits and External Meetings, May – June 2016****Status:**

1. For noting

**Executive Summary:**

2. In the interests of good governance, openness and transparency, this paper sets out the Chair's visits and meetings since the last Board meeting.

**List of Visits and Meetings:****Sir Andrew Burns**

|         |   |
|---------|---|
| 19 May  | Attended a meeting with the Chair of the Bar Council, following the recruitment of two independent members of the Finance Committee |
| 19 May  | Attended a lunch hosted by the Bar Council to mark the retirement of Sir Roger Jackling from the Finance Committee.                 |
| 19 May  | Gave an interview to Counsel Magazine about BSB work  |
| 21 May  | Briefed the Bar Council on BSB work   |
| 1 June  | Attended lunch with the Chief Executive and the former Chair of the Intellectual Property Regulation Board (IPReg)                  |
| 2 June  | Met with the new Chair and Chief Executive of IPReg   |
| 7 June  | Met and had lunch with the Chair of the Legal Services Board  |
| 7 June  | Chaired an induction session of newly recruited members of the BSB Independent Appointments Panel                                   |
| 8 June  | Attended a meeting with Lord Faulks, the Minister of State for Civil Justice  |
| 8 June  | Attended a meeting with the Chair and Chief Executive of the Solicitors Regulation Authority  |
| 9 June  | Attended the annual dinner of the Institute of Barristers' Clerks   |
| 13 June | Attended a reception at Lincoln's Inn to mark the launch of the Inns of Court College of Advocacy                                   |
| 14 June | Attended a garden party hosted by Middle Temple and BACFI Employed Bar  |

|         |  |
|---------|--|
| 21 June | To attend the Modernising Justice Conference                 |
| 21 June | To chair a meeting of the BSB Independent Appointments Panel |
| 22 June | To attend the Chairmen's Committee                           |
| 22 June | To attend the Inns Strategic Advisory Group meeting          |

**Equality Impact Assessment**

3. No Impact

**Risk implications**

4. These reports address the risk of poor governance by improving openness and transparency.

**Consultation**

5. None

**Regulatory objectives**

6. None

**Publicity**

7. None

**Lead responsibility:**

Sir Andrew Burns KCMG



**Director General's report - BSB meeting 23 June 2016**

For consideration and noting.

**Director General**

1. The last month has seen several meetings in our routine collaboration with other front line regulators. As well as the SRA and CILEx Regulation, we have met with the new Chair of IPReg. It is likely that a meeting of all front line Chairs and CEOs will proceed in the autumn. We have also undertaken some bilateral work prior to an evidence session before the Justice Select Committee scheduled for 28 June to which the BSB, SRA, Bar Council and Law Society have been invited.
2. The Chair and I also had an introductory meeting with Lord Faulks QC, who has taken over the ministerial portfolio on legal services from Shailesh Vara MP.
3. Work internally has focussed on completing end of year appraisals and settling the first round of performance related pay awards based on them. The Learning and Development Plan through to spring/summer 2017 can now be completed and will be published to staff by the end of June. A key element of that will be a leadership and management skills development programme; there will also be targeted investment in some specific technical areas – for example policy drafting, communications and PR, handling vulnerable or challenging service users. Much of the developmental requirement arising from appraisals will be met in house through coaching and mentoring, peer to peer and on the job learning. We have also received the results of the Staff Survey undertaken earlier in the year, and communicated them to staff. The BSB has had a good result overall, showing improvements in key areas over last year. The senior management team is now working to finalise action plans arising.
4. We have taken steps to progress further the concept of end-to-end regulatory operations, as set out in our business plan and will be launching a formally managed programme of work at the end of the month. The Information Management Programme on which our regulatory operations concept relies is making progress according to plan.
5. I was on annual leave from 13 – 21 June inclusive.

**Regulatory Policy**

**Equality and Access to Justice**

6. The E&AJ team are delivering an event 'Race Equality in the legal profession' in partnership with the Law Society, Bar Council and Solicitors Regulation Authority. The event will be Chaired by the vice president of the Law Society, Robert Bourns and include other high profile speakers. The aim of the event will be to undertake a gap analysis of information relating to the experience of BME lawyers and begin to explore challenges and opportunities to improve race equality outcomes within the legal profession. The invitation only event has 35 confirmed delegates. An independent report will be produced and published in July.
7. Chaired by the BSB Director General on the 10th May, the E&AJ team delivered a Knowledge Sharing Session (KSS) in partnership with the 'First 100 Years' organisation. The ground-breaking history project, founded by Dana Denis-Smith, is designed to record and celebrate the journey of women in law since 1919. 40 people from the BSB and Bar Council participated in the session and overall it received positive evaluations.

8. On 7 June the E&AJ team delivered another KSS with the theme of facial disfigurements in partnership with the charity Changing Faces. Hosted by BSB Board member Nicola Sawford and including presentations from Henrietta Spalding, Head of Advocacy at Changing Faces, over 30 participants explored the impact disfigurement can have on vulnerable clients and access to justice.
9. In June the E&AJ team attended two trainer-training sessions to qualify to deliver Unconscious Bias training. The team is in the process of designing tailored courses to be delivered across the BSB.
10. The E&AJ policy manager facilitated a round table event with consumer organisations for the Education and Training department to gather views about the professional statement and FBT options. Six organisations were in attendance and recommendations were made that will influence changes to the statement and approaches to future training.
11. The BSB Equality Champions group held its second quarterly meeting of 2016 in May. The group helped to design a mini E&D induction course for new starters at the organisation. The E&AJ team provided guidance on how to deliver the local E&D inductions and the members of the group will be taking responsibility for implementing the sessions in their respective departments.
12. The Women at the Bar research project has now concluded. A paper setting out the next steps and an action plan is being presented to the Board at its June meeting. The findings of the research will be considered by the E&AJ team when developing the BSB's new equality objectives for 2017.
13. The E&AJ team has continued with its programme of supporting all departments in the completion of equality impact assessments (EIAs). EIAs completed in the May-June period include the Information Management Programme and the statutory interventions policy.

### **Regulatory Risk**

14. The BSB has recently taken over the chair of the Regulators' Forum (a regular meeting of legal regulators overseen by the LSB), this quarter also attended by representatives from the Legal Ombudsman and Legal Services Consumer Panel. We presented a paper on approaches to risk based regulation and invited discussion of different regulators' experiences in order to establish appetite for knowledge sharing and potential avenues for collaboration. We have committed to looking at ways in which we might usefully work together to share more information and insight into market-wide developments and risks which are relevant across regulators, and to sharing priority areas of risk as a starting point.
15. Following the publication of our Risk Outlook, development of ongoing reporting on regulatory risk is now a focus, linking into the Assurance Framework. The role of our Tactical Risk Forum group is starting to develop to enable it to better feed into this reporting and focus on priority areas of risk, as well as market trends and external developments. The Senior Management team has approved a proposal around the approach being taken to develop such reports over coming months, looking ahead in future to alignment with corporate risk reporting and performance monitoring.

16. Work continues on the risk assessment strategy, and the SMT has reviewed a set of principles which will govern the way in which assessment is to take place, together with a blueprint outlining the regulatory functions where this will take place. Following this fruitful discussion, the risk team supported design and delivery of a workshop to start to scope a programme of work which will draw together activity related to the design and implementation of the envisaged “Regulatory Operations” directorate.
17. This work to develop reporting, our approach to assessment and a third strand around risk prioritisation to inform decision making comprise our key priorities in terms of development work for the year ahead.
18. The Risk Champion network, part of the ASPIRE programme, has been refreshed. We now have seven staff members positioned around the organisation to help to embed the risk based approach in day to day work amongst colleagues. The group will work as a team to share insights into good practice from across the organisation and members are starting tailored training sessions to support them in their role this month.
19. Lastly, a note of formal thanks to Nicholas Bungard, our Regulatory Risk Analyst, who leaves us this month for an analytical role in financial services. Nicholas has played a central role in several important projects, including the BSBs’ first Risk Outlook, establishing the tactical Risk Forum, the centralised assessment of incoming information and the development of the BSB strategy for risk assessment. The recruitment process is underway with a review of the role against requirements for the next phase of the BSB’s work to embed the risk based approach, together with re-planning to confirm priorities during the period whilst the team will be carrying a vacancy.

## **Professional Standards**

### ***Immigration Thematic Review***

20. Following the approval of the Immigration Thematic Review Report at last month’s Board meeting, the report was published. The project has progressed onto the implementation stage and a PID and project plan is currently being prepared based on each of the report recommendations.

### ***Public and Licensed Access Review***

21. Law for Life completed the Public Access Guidance for Lay Clients. Pye Tait Consulting has delivered research on demand side public access. Evidence continues to be gathered through the conduct of interviews with consumer groups. The team is looking to obtain approval for the August consultation at the July Board meeting. The Licensed Access survey has closed and the research team is compiling reports for both the barrister and consumer sides of the survey.

### ***Professional Indemnity Insurance (PII)***

22. The PII project is on track and due to be completed in line with the business plan deadlines. A paper on improving BSB regulatory oversight of BMIF is before the board and work on conducting an analysis of the PII market has started. An Invitation to Tender for the provision of an economic analysis (including a competition impact assessment) was issued on 6 June. The deadline for tenders is 1 July. Anne Wright and Nicola Sawford sit on the task completion group that will oversee work on the analysis – and a paper will go before the Board in September.

***Consultation on McKenzie Friends***

23. The Lord Chief Justice consulted on reforming the courts' approach to McKenzie Friends. The Professional Standards team responded to the consultation arguing that McKenzie Friends should not be remunerated for providing reserved legal activities (even if given permission by the court to undertake those activities) as they are unregulated and uninsured. However, McKenzie Friends may be remunerated for unreserved legal services, like providing court support and advice.

**Professional Conduct*****Enforcement Report***

24. The first draft of our annual Enforcement Report is currently with PCD managers and the PCC Chairman for comment. We are analysing trends in our performance data from 2015-16 and including further detail about performance against KPIs. The final report will be presented to the Board at the July meeting.

***Subject Access Requests (SARs)***

25. We have recently been processing two SARs received in quick succession, one of which was particularly voluminous. Such requests have a 40 calendar-day response time and therefore can place a strain on departmental resources: in one case it was necessary to employ temporary staff to ensure that the statutory deadline was met. It is anticipated that with the roll-out of the Information Management programme, information management will be more streamlined, thereby reducing the resources that need to be expended on meeting Subject Access Requests.

***Recruitment***

26. The PCD is currently carrying two vacancies at administrative level (equating to 1.5 posts). A recruitment exercise is underway and it is hoped that appointments will be made and the successful candidates in post by the end of July 2016.

***PCD/BSB projects***

27. The large majority of staff time within PCD is spent on ensuring business as usual is maintained, with a focus on meeting departmental KPIs. However all staff within PCD are involved in collaborative internal and wider cross-cutting BSB working projects which includes: the development of the proposals for the creation of an Independent Decision-Making Body; creating the plans for a Centralised Assessment Team; ABS implementation; the Disciplinary Tribunal Regulations Review submission to the Legal Services Board; phase 3 of the Public Information Project; and internal training.

***Litigation***

28. There has been significant activity in relation to three outstanding judicial review cases over the last month. The longstanding case in relation costs has concluded with the Court of Appeal sending the case back to a Tribunal to determine the appropriate level of costs that should be awarded to a barrister who acted in person in a case where the charges were dismissed.

29. In relation to the two outstanding applications for permission, these were submitted by one barrister and were refused as being totally without merit by the High Court: at the same time, the High Court also dismissed two appeals from the barrister against Disciplinary Tribunal findings. The court has invited the relevant defendants to make submissions as to whether a Civil Restrain Order should be imposed on the claimant to prevent further unmeritorious applications being made.
30. The BSB is still the subject of two outstanding discrimination claims: one in the Court of Appeal and one in the Employment Tribunal. The former is still listed for hearing in July 2016 and the latter will probably go to a preliminary hearing in October 2016.

## **Supervision**

### ***Entity Authorisation***

31. As of 9 June 2016 51 entities have been fully authorised and have paid the authorisation fee and obtained appropriate insurance. There are a further two entities about to complete the authorisation process.

### ***CPD***

32. Development of the new CPD scheme is continuing. The rules and regulations for the new scheme have now been drafted. They were drafted by Bevan Brittan and were internally reviewed by the Supervision, Professional Conduct and Regulatory Policy departments. The rules and regulations consultation has now been published along with updated CPD guidance. In addition pilot participants have been specifically asked to comment on an updated CPD record card.

### ***CPD Accreditation***

- The first monitoring cycle for 2016 commences in June with some 400 accredited CPD Providers are expected to engage
- Contract negotiations with BPP concerning the online Forensic Accounting Course (FAC) have concluded and a revised contract has been drafted
- An email directly targeting New Practitioners has been sent to approximately 1400 members of the Bar promoting the new online FAC and signposting them to the course
- We are continuing to accept late accreditation renewals for calendar year 2016 from authorised CPD Providers and have recently processed six more renewal requests (\*the annual renewal fee is not prorated)

### ***Licensed Body (“ABS”) Implementation***

33. Implementation is on track for the regime to launch later in 2016 subject to the relevant approvals. We have recently revised the Entity section of the BSB website to include information about authorised bodies (entities) and licensed bodies (ABS). As with entities, we are planning to run an internal and a small external pilot to ensure the application portal and all associated communications are as clear and user-friendly as possible. There has been an encouraging amount of interest in both the licensed body scheme and involvement in the pilot. As the pilot will be relatively limited in size, our intention is to contact all interested parties to determine the size of their proposed licensed body so that we can work with as broad a range of application types as possible.

***Statutory Interventions***

34. The project is progressing well with delivery planned to coincide with the launch of the licensed body regime. A Project Board comprising senior members of the Supervision, Regulatory Policy and the Professional Conduct departments is meeting weekly. A policy framework, operational guidance and supporting document are being drafted for review by the SMT. We had a very helpful meeting with the CLC on 13 June and gained some valuable insight, particularly from the perspective of a smaller regulating body, which we will use to inform our policies and procedures.

***Delivery of Barrister Services – Research Project***

35. We have commissioned research into the emergence of non-traditional models for the delivery of barrister services. The first part of the research was a roundtable discussion held on 12 May with a broad range of individuals who engage in different ways with the legal market. The discussion challenged our approach to the research and we have since constructively reviewed how we will move forward. We intend having another workshop to further broaden our understanding.

***HM Treasury Call for information – Anti Money Laundering Supervisory Regime***

36. We responded to this consultation, the purpose of which is to enable the government to examine options to improve the Anti-Money Laundering (AML) and Counter Financing of Terrorism (CFT) supervisory regime and address inconsistencies, ensuring that it is effective, proportionate and meets the standards set down by the Financial Action Task Force (FATF).
37. The FATF conducts a cycle of peer reviews (“Mutual Evaluations”) of each member to assess levels of implementation of the FATF Recommendations. A review of the UK will be carried out in 2017-18.
38. The consultation follows the publication of the National Risk Assessment (NRA) in October 2015. This found that, while the UK’s response to money laundering and terrorist financing risks is well developed, more could be done to strengthen the AML and CFT regime.
39. The NRA and the Call for Information are part of the preparation process for the peer review.
40. The Call for Information focussed on:
- The system of appointing supervisors.
  - Powers of supervisors to incentivise compliance.
  - Adoption of the risk-based approach.
41. It included a number of questions about the number of supervisors and differences in approach. We responded by saying that we are not aware of any evidence that supports the suggestion that the number of supervisors in the legal sector is itself a barrier to effective supervision. Reducing the number of supervisors potentially reduces access to sector-specific expertise. However, we support joint working through the Legal Sector Affinity group to develop consistent legal sector guidance, where appropriate.
42. The full response can be found here: <https://www.barstandardsboard.org.uk/about-bar-standards-board/consultations/bsb-responses-to-external-consultations/>.

***Supervision activity***

43. Supervision have been following up actions set with chambers during the course of Supervision visits and reviewing Supervision returns. An ongoing programme of visits is in place for chambers assessed as high risk through this process.
44. Two Supervision officers (equating to one Full Time Equivalent) are continuing to support the transition of the qualifications team to the department by assessing applications.

***Central Assessment Team***

45. The Project Team is currently finalising the methodology for assessing incoming information and is working with the Information Management project team to develop process maps.

***Qualification Authorisations***

46. The Qualifications Committee met on 17 May 2016. It considered four applications for review, three for review of decisions of its Panels and one of a decision of an Inn of Court on approval of a pupil supervisor. It upheld the original decision in three cases and amended it in one case.
47. Each Panel of the Committee is working hard with the Executive to revise its Criteria and Guidelines documents in preparation for full delegation of decision-making.

**Education and Training**

48. First Sit Examination Board meetings have progressed smoothly, with the Final Board meeting taking place on 14 June.
49. Following the Governance Review and review of the Centralised Examinations, a revised system for handling challenges to the BPTC and BTT examinations has been introduced. An Independent Reviewer will be appointed; the role will be undertaken on an interim basis by Prof Phil Cardew, Academic Deputy Vice Chancellor, Leeds Beckett University (for the BPTC First Sit Examinations in 2016 and the Spring 2016 sitting of the Bar Transfer Test).
50. The BPTC Handbook is currently undergoing significant revision, with the intention of adopting a clearer articulation of requirements, clarifying the language and structure of the document. These changes prepare the ground for more substantial policy changes arising from Future Bar Training. We are also reviewing a number of key policies, which will be considered by the Education & Training Committee at its July meeting. A similar project is being undertaken for the Pupillage Handbook.
51. Planning for the BPTC Conference on 15 July is now well advanced, and is proving popular having already passed the target number of delegates. The conference will have a major emphasis on exploring the Future Bar Training options under consideration for routes to qualification.
52. With the full-time appointment of Ben Margerison as Data Analyst, work is proceeding to integrate Education & Training data in the Information Management programme.
53. Good progress is being made to prepare for changes to the Bar Course Aptitude Test, with a submission to the Legal Services Board planned at the end of July.

### ***Future Bar Training***

54. The consultation on the Threshold Standard and Competences to support the Professional Statement closed on 5 June, and 18 responses were received. In light of the responses, a proposal will be brought to the July meeting of the Board.
55. A statement was published on 7 June on routes to qualification, setting out three options that the Board is considering. We plan to host a debate on the options on 7 July, with an invited audience to reflect the diversity of interests in future training.
56. A workshop was held to explore the implications of different routes to qualification with consumer organisations, on 2 June. The event attracted six organisations representing a range of consumer interests. The output of the workshop will contribute to the planned formal consultation in the autumn.

### **Governance Review**

57. During the last month we have discussed the proposed approach to the assurance framework with the Planning, Resources and Performance and Governance, Risk and Audit Committees. Part of this was to agree a working assumption as to the ongoing roles of both committees in the revised governance structure. The Board will receive an update paper at its July meeting in anticipation of a decision paper coming to the Board in September. As part of this work, we have been working with the regulatory risk team to ensure our data collection and reporting fit well within the overall framework.
58. Work has also continued on the details of the first recruitment for APEX. An update paper is provided to the Board as part of the private agenda.

### **Communications and Stakeholder Engagement**

#### ***Communications***

59. Since this report was prepared for the May Board meeting, the following press releases and announcements have been issued:
  - 10 May: Statement on the LSB's Regulatory Standards Report showing that the BSB has made "significant improvements"
  - 12 May: Press release about a barrister disbarred for dishonesty and misleading the court about her status as an unregistered barrister
  - 17 May: Press release publishing the report of our Strategic Plan and Risk Outlook launch event
  - 19 May: Statement welcoming the LSB's recommendation to the Lord Chancellor to enable us to regulate ABSs
  - 20 May: Press release about the thematic review on immigration services
  - 20 May: Press release announcing that the BSB seeks to improve advocacy standards within the Youth Court
  - 26 May: Press release about a barrister disbarred for reckless and improper stewardship of client money
  - 8 June: Press release to promote our debate event on the Future Bar Training options.
60. The Board will have seen the fortnightly media coverage that the above announcements generated.



***Work in Progress***

61. In addition to business-as-usual activities, at the time of writing, the following pro-active communications are scheduled over the next few weeks and months:
- Publication of the 2015-16 BSB annual report
  - Publication of the “Women at the Bar” research findings
62. Wilf and the team continue to work on the new communications and public engagement strategy which will be presented to the Board at our next meeting in July. He has met with many Board members to seek input into this.

***Online and social media***

63. During May, 24,933 users visited the BSB website. At the time of writing, we have 14,370 followers on Twitter.

**Research**

64. Since the meeting in May, work has progressed as follows:
- Revising the full report on the “Women at the Bar” online survey following feedback from the May Board meeting, as well as working with the Communications and Regulatory Policy teams to develop a communications strategy for the release of the report
  - Completing a report on the findings of the survey of barristers undertaking Licensed Access work as part of the Public and Licensed Access Review. Further efforts have also been made to boost the response rate to the corresponding survey for Licensed Access clients.
  - Preparing the detailed findings of the review of the BCAT for the submission to the LSB, and working with the Education and Training team to prepare the submission
  - Completing the first Research Quarterly, a new regular resource for the organisation providing a summary of recent legal research from the BSB, other legal regulators, academics and other organisations
  - First scoping meeting for a new research project to look into variations in success rates on the BPTC across different protected characteristics
  - Organising internal workshops and two external roundtable consultations to refine information gathered by desk research and first roundtable for research on the governance models for barrister services.
  - Coordinating cross-regulator research on the client care letters and managing tender procurement process.
  - Presenting research recommendations to SMT for scoping decision on consumer research project with new project sponsor, the Communication and Public Engagement Department.
  - Supporting Regulatory Policy Department on the economic research for Professional Indemnity Insurance project.

**Corporate Services**

***Business Planning***

65. We continue to finish off our year-end processes for 2015-16 and are drafting the Annual Report – due to be published at the end of July.

66. The team continues to work on the systems that we will use to monitor progress and performance against the 2016-17 Business Plan and budget. Team members will be crafting a new dashboard and structure of accounts to align with our objectives.

**Resources Group**

67. Resources Group will be reporting on a quarterly basis and the first report is due to be presented in July 2016.

**Vanessa Davies**  
**Director General BSB**  
**June 2016**