

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

Regulatory Decision-making

Statistical Report 2020/21

Regulatory Operations Department
Legal & Enforcement Department

Contents

Introduction	3
Authorisation Team	4
Annual KPIs	4
Applications Received.....	4
Applications Determined	5
Contact and Assessment Team.....	7
Annual KPIs	7
Reports opened.....	7
All incoming information	7
Closures.....	8
Investigation and Enforcement Team	9
Annual KPIs	9
Cases referred to Investigation.....	9
Aspects of new Investigation cases	10
Sources of new Investigation cases.....	12
Final outcomes of reports.....	13
Decision sources for closed reports.....	13
Charges upheld at disciplinary action	14
Sentences imposed in reports upheld at disciplinary action	15
Independent Reviews	16
Requests for Reviews	16
Quality Assurance Audits	16

Introduction

1. This Statistical Report accompanies the Regulatory Decision-Making Annual Report for 2020/21 and presents the statistical data collected between 1 April 2020 and 31 March 2021 concerning the new applications and reports that we received, the caseload that we worked on throughout the year, the outcomes of this work, and the quality assurance work carried out by the Independent Reviewer. This data was extracted from our Case Management System in June/July 2021. Where possible, figures for 2019/20 are also provided for comparison.
2. The Bar Standards Board's Authorisation Team is responsible for dealing with applications for waivers and exemptions from our practising requirements. The team also deals with the authorisation of Approved Education and Training Organisations, Alternative Business Structures and Entities.
3. The Bar Standards Board publishes a Handbook with which barristers comply. Where there is evidence that the Handbook has been breached, the BSB will consider what action may be necessary by way of enforcement or otherwise. The work of enforcing the Handbook is carried out by the Contact and Assessment Team, Investigation and Enforcement Team, and the Independent Decision-making Body of the BSB. We assess reports, investigate allegations and, where appropriate, take action against barristers who have breached their professional obligations as set out in the Handbook.

Authorisation Team

Table 1 Annual KPIs

KPI	2019/20	2020/21
Authorisation, exemptions and waivers		
Applications determined within six weeks of receipt of the complete application	78.6%	26.3%
Applications determined within eight weeks of receipt of the complete application	87.0%	38.2%
Applications determined within twelve weeks of receipt of the complete application	95.6%	59.0%
Entity (including ABS) Authorisation		
Authorisation decisions made within six months of receipt of the application and associated fee	81.0%	94.4%
Authorisation decisions made within nine months of receipt of the application and associated fee	100.0%	100.0%

Table 2 Applications Received

Application type	2019/20	2020/21
Admission to the Bar as a Qualified Foreign Lawyer	163	145
Certificate of Academic Standing (qualifying degree)	138	131
Litigation Authorisation	99	98
Transferring Qualified Lawyer	0	95
Admission to the Bar for Solicitors	92	94
BTT Extension	49	88
Pupillage Reduction	85	77
Pupillage Funding and/or Advertising Waiver	33	48
OISC Licensed Access (Renewal)	61	48
Reactivation of Stale Qualifications	32	46
Pupillage Dispensation	39	38
Waiver of the Qualified Person Requirement	56	34
Licensed Access Amendment/Renewal	33	30
Under Review	19	29
Early Commencement of the Vocational Component of Bar Training (COVID-19)	1	28
Pupillage Reduction (barristers also qualified as solicitors)	35	25
Fee Waiver Request	16	24

Application type	2019/20	2020/21
Public Access Exemption	18	23
Licensed Access Authorisation	15	23
Admission to the Bar as a Qualified European Lawyer	32	18
Non-QLD Provider Exemption	10	13
Admission to the Bar for Registered European Lawyer	5	12
CPD Waiver (NPP)	13	12
General Exemption	8	11
OISC Licensed Access (Registration)	15	10
CPD Extension (NPP)	41	10
Exercise of Discretion	9	10
QLD Provider Exemption	6	6
Admission for Legal Academics	2	4
Review of a Decision of the Inns' Conduct Committee	1	4
Certificate of Academic Standing (without qualifying degree)	8	3
Retrospective Registration of Pupillage	6	3
Registration as a European Lawyer	5	2
Legal Advice Centre Application	1	2
Temporary Admission	1	1
Exemption from the vocational stage of training for those who passed the bar examination for nonintending practitioners	1	1
Bar Exam Transcript/Letter	3	0
Licensed Access Authorisation - Professional Associations or Ombudsman Services	1	0
Rule Q28.1 Waiver	1	0
Permission to undertake External Training	4	0
Rights of Audience By Another Approved Regulator	3	0
Total	1160	1246

Table 3 Applications Determined

Application type	2019/20	2020/21
Admission to the Bar as a Qualified Foreign Lawyer	129	162
Certificate of Academic Standing (qualifying degree)	123	122
Admission to the Bar for Solicitors	79	105
Litigation Authorisation	84	92
BTT Extension	45	83
Pupillage Reduction	65	71
Reactivation of Stale Qualifications	20	51
Pupillage Funding and/or Advertising Waiver	27	46
OISC Licensed Access (Renewal)	57	38

Application type	2019/20	2020/21
Waiver of the Qualified Person Requirement	52	32
Licensed Access Amendment/Renewal	26	31
Pupillage Dispensation	31	31
Under Review	22	28
Pupillage Reduction (barristers also qualified as solicitors)	27	25
Early Commencement of the Vocational Component of Bar Training (COVID-19)	0	24
CPD Extension (NPP)	28	23
Admission to the Bar as a Qualified European Lawyer	35	21
Licensed Access Authorisation	15	20
Fee Waiver Request	14	19
Public Access Exemption	19	16
Non-QLD Provider Exemption	5	16
CPD Waiver (NPP)	9	15
Admission to the Bar for Registered European Lawyer	2	13
General Exemption	5	10
Exercise of Discretion	9	9
OISC Licensed Access (Registration)	14	7
QLD Provider Exemption	6	6
Certificate of Academic Standing (without qualifying degree)	5	5
Admission for Legal Academics	2	4
Review of a Decision of the Inns' Conduct Committee	1	3
Registration as a European Lawyer	4	3
Legal Advice Centre Application	0	2
Permission to undertake External Training	2	2
Retrospective Registration of Pupillage	8	2
Transferring Qualified Lawyer	0	1
Exemption from the vocational stage of training for those who passed the bar examination for nonintending practitioners	1	1
Temporary Admission	1	1
Rule Q28.1 Waiver	2	0
Authorisation as a Pupillage Training Organisation	2	0
Bar Exam Transcript/Letter	2	0
Rights of Audience By Another Approved Regulator	3	0
Total	981	1140

Contact and Assessment Team

Table 4 Annual KPIs

KPI	2019/20	2020/21
General Enquiries		
General enquiries addressed within 5 days	88.2%	80.4%
General enquiries referred within 3 days	77.0%	63.6%
Initial Assessment		
Concluded or referred within 8 weeks	78.4%	60.4%
Quality Indicators		
Percentage of cases where the Independent Reviewer upheld the original decision following a request for review	92.9%	98.0%

Table 5 Reports opened

Year	No.
2016/17	1,098
2017/18	1,242
2018/19	1,340
2019/20	1,460
2020/21	1,887

Table 6 All incoming information

Purpose	2019/20	2020/21
Ask a Question	690	1,416
Report Something	1,298	1,638
Report - Reporting Obligations	104	141
Other	58	108

Table 7**Closures**

Purpose	2019/20	2020/21
Ask a Question	723	1,395
Report Something	1,445	1,411
Report - Reporting Obligations	282	133
Other	53	93

Investigation and Enforcement Team

Table 8 Annual KPIs

KPI	2019/20	2020/21
Referral of cases		
Accepted or referred back within 2 weeks	55.2%	29.9%
Investigation		
Decision on disposal within 25 weeks	63.4%	45.9%
Quality Indicators		
Percentage of cases where the Independent Reviewer upheld the original decision following a request for review	100.0%	100.0%

Table 9 Cases referred to Investigation

Year	No.
2016/17	164
2017/18	240
2018/19	163
2019/20	175
2020/21	129

Table 10

Aspects of new Investigation cases

Aspect	2019/20	2020/21
Other diminishing trust and confidence	39	38
Inappropriate content on social media	6	11
Harassment	4	10
Holding out as a barrister when not authorised to do so	16	10
Failing to report criminal charges or convictions	7	8
Dishonesty in professional or personal life	17	7
Not acting in the client's best interests	8	6
Other misleading the court*	7	6
Conducting litigation when not authorised to do so	5	5
Conflict of interest	5	5
Failing to comply with a court order	6	5
Making misleading/false/unfounded submissions or statements*	19	5
Civil debt (including clerks) or bankruptcy	0	4
Criminal conviction for drink driving	6	4
Failing to co-operate with the Legal Ombudsman	4	4
Failing to renew practising certificate	17	4
Failure to obtain practising certificate	9	4
Performing reserved legal activities when not authorised to do so	8	4
Breach of confidentiality	6	3
Discrimination	4	3
Failing to report a bankruptcy or other associated proceedings	2	3
Fee dispute	3	3
Handling client money	4	3
Making statements designed to insult/annoy/humiliate	2	3
Misleading a person or client*	11	3
Providing an incompetent standard of work/service	8	3
Criminal conviction other than drink driving	9	2
Disciplinary finding by another body	2	2
Failing to act independently	1	2
Failing to comply with legal or other non-regulatory obligations	0	2
Failing to comply with sentence of a tribunal	2	2
Failing to submit documents on time	1	2
Failing to take steps to ensure court has all relevant information	4	2
Inappropriate communications with clients or others	7	2
Making inappropriate media comments	1	2
Other abuse of role as an advocate	8	2
Other failing to comply with authorisation to practise regulations	1	2
Providing legal services when not authorised to do so	1	2
Rudeness/misbehaviour in court	6	2
Rudeness/misbehaviour out of court	8	2
Acting outside role as BSB authorised body	0	1
Encouraging witness to give misleading or untruthful evidence*	0	1

Aspect	2019/20	2020/21
Failing to comply with FTP/Interim Suspension	1	1
Failing to consider need for a professional client	0	1
Failing to follow instructions	1	1
Failing to have risk management procedures in place	0	1
Failing to properly advise client	2	1
Failing to report own serious misconduct	1	1
Failure to comply with the complaints handling regulations	1	1
False declarations on call/in CVs and other official documents	2	1
Illegal fee arrangements	0	1
Inappropriate handling of information or evidence	1	1
Inappropriate use of position as a barrister	7	1
Inappropriately remaining in or withdrawing from instructions	3	1
Other breach of Public Access Rules	3	1
Other breach of regulations on instructions	0	1
Paying or receiving referral fees	1	1
Undue delay in dealing with papers	1	1
Undue pressure to accept settlement/plead guilty	0	1
Wasting the court's time	14	1
Accepting instructions when not authorised to do so	1	0
Conspiracy/collusion	1	0
Drafting statements/documents not properly arguable	1	0
Failing to act appropriately towards a pupil	1	0
Failing to administer chambers/entity competently/efficiently	1	0
Failing to administer practice properly/efficiently	1	0
Failing to comply with DBC	2	0
Failing to comply with the regulations on returning instructions	1	0
Failing to comply with the rules on Licensed Access	1	0
Failing to comply with undertaking when conducting litigation	1	0
Failing to consider if best interests served by other representation	1	0
Failing to define the terms on which instructions are accepted	2	0
Failing to inform client that cannot carry out instructions	1	0
Failing to keep proper records	1	0
Failing to keep records	1	0
Failing to notify client of required information	1	0
Failing to obtain appropriate insurance	1	0
Failing to pay administrative fine	1	0
Failing to preserve client confidentiality	3	0
Failing to provide information promptly to the BSB	2	0
Failing to provide or disclose information	4	0
Failing to report disciplinary action by another regulator	3	0
Failing to report serious misconduct by another	1	0

Aspect	2019/20	2020/21
Inappropriate drafting of documents	5	0
Making serious allegations without proper foundation	4	0
Misleading clients about the nature/scope/terms of work*	3	0
Money laundering	2	0
Non-compliance/inadequate compliance with CPD requirements	1	0
Obtaining information unlawfully	2	0
Other	1	0
Practising without 'qualified person(s)'	3	0
Rehearsing, practising or coaching witnesses	2	0
Unregistered barrister failing to provide information to client	1	0
Victimisation	1	0

Notes

“Aspects” describe the allegations made in a report. A report may have multiple different aspects.

*Misleading aspects grouped under the umbrella term “Some form of misleading” in the 2020/21 Regulatory Decision-Making report.

Table 11 Sources of new Investigation cases

Role of Reporter	2019/20	2020/21
A barrister	17	46
A chambers	2	0
A member of another professional body/regulator	1	3
A member of public	7	37
A pupil	1	2
Another legal profession - other	1	1
BSB staff	0	2
Coroner	1	0
Judge	1	5
Legal Ombudsman	0	2
Other	7	7
Solicitor	7	3
Not specified/unknown	130	22

Table 12 Final outcomes of reports

Outcome	2019/20	2020/21
Closed without Investigation	4	20
Closed after Investigation	96	91
Administrative Warning/Fine	37	32
Dismissed	49	48
Closed/Withdrawn	10	11
Determination by Consent	5	4
Proved/Upheld	4	4
Dismissed	1	-
Disciplinary Tribunal	42	29
Proved/Upheld	35	20
Dismissed	2	8
Withdrawn/Struck Out/No Evidence Offered	5	1
Total	147	144

Notes

The outcomes listed are the final outcomes of reports. Where reports were reopened, only the final outcome is listed, not any interim decisions.

Table 13 Decision sources for closed reports

Decision Source	2019/20	2020/21
LED staff	65	60
Independent Decision-making Panel	9	31
Professional Conduct Committee	13	-
Other	9	-
Total	96	91

Table 14

Charges upheld at disciplinary action

Charge	2019/20	2020/21
Breach of duties	18	16
Undermining honesty, integrity or independence in public eyes	18	8
Failing to comply with a decision or sentence of BSB/BTAS panel	0	3
Being dishonest or otherwise discreditable	3	2
Failure to report regulatory or disciplinary action by another regulator	2	2
Acting in a manner likely to bring prof into disrepute	4	2
Practising without a practising certificate	3	2
Carrying out reserved legal activity without authorisation	2	2
Failing to provide information to BSB promptly	1	2
Failing to report a criminal conviction/caution	1	2
Misleading or attempting to mislead the court	1	1
Holding out	0	1
Acting in a manner prejudicial to admin of justice	0	1
Failing to report serious misconduct	3	1
Misleading or attempting to mislead anyone	1	1
Failing to report (general)	5	1
NULL	1	1
Failing to report a criminal charge	1	1
Unlawful discrimination, victimisation or harassment	0	1
Handling client money	0	1
Failing to report criminal charges or convictions	1	1
Failure to comply with other provision of Code	0	1
Failing to promote best interests of client	3	0
False declarations on Call or subsequently	1	0
Wasting court time	2	0
Failure to ensure proper administration of chambers	2	0
Trust and Confidence	1	0
Failure to ensure proper administration of practice	1	0
Failing to provide reasonable assistance to LeO	3	0
Not abusing your role as an advocate	1	0
Holding out-Failure to comply with practising req	1	0
Failing to report promptly bankruptcy proceedings	1	0

Notes

The figures listed are numbers of charges for cases upheld following a Disciplinary Tribunal or the Determination by Consent procedure. A case may have multiple different charges, and within a case the barrister may have breached the same paragraph of the Code of Conduct multiple times.

Table 15**Sentences imposed in reports upheld at disciplinary action**

Sentence	2019/20	2020/21
Advised as to Future Conduct	0	1
Attend on nominated person for advice	2	0
Attend on nominated person to be reprimanded	1	0
Disbarred	10	4
Fined	6	7
No separate penalty	4	2
Prohibited from Accepting Public Access Instructions	1	0
Reprimanded	9	7
Suspended	15	9

Notes

The figures listed are the numbers of barristers who were subject to these sanctions.

Independent Reviews

2019/20 figures for Requests for Reviews and Quality Assurance Audits are from November 2019 onwards.

Table 16 Requests for Reviews

Outcome	2019/20	2020/21
CAT	28	100
Decision Upheld	26	96
Decision Partially Upheld	0	2
Decision Not Upheld	2	2
I&E	2	13
Decision Upheld	2	10
Decision Partially Upheld	0	3
Decision Not Upheld	0	0

Table 17 Quality Assurance Audits

Outcome	2019/20	2020/21
Authorisations - Waiver Applications	0	18
Decision Appropriately Made	-	18
Decision Not Appropriately Made	-	0
Authorisations - Entity/ABS applications	0	6
Decision Appropriately Made	-	6
Decision Not Appropriately Made	-	0
CAT - Closures	24	28
Decision Appropriately Made	24	28
Decision Not Appropriately Made	0	0
I&E - Dismissals	2	8
Decision Appropriately Made	2	8
Decision Not Appropriately Made	0	0
I&E - Administrative Sanctions	3	2
Decision Appropriately Made	3	2
Decision Not Appropriately Made	0	0
I&E - Disciplinary Action referrals	1	7
Decision Appropriately Made	1	7
Decision Not Appropriately Made	0	0