

<p>BAR STANDARDS BOARD</p>

REGULATING BARRISTERS

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

Thursday 23 January 2014, Video Conferencing Room
289 – 293 High Holborn, London, WC1V 7HZ

Present	Ruth Deech QC (Hon) (Chair) Patricia Robertson QC Rolande Anderson Rob Behrens Sarah Clarke – items 7-13 Malcolm Cohen Justine Davidge Tim Robinson Andrew Sanders Anne Wright
In attendance	Nicholas Lavender QC (Chairman, Bar Council) James Wakefield (COIC representative)
BSB Executive in attendance	Jessica Bradford (Senior Policy Officer, E&D) – items 1-7 Viki Calais (Business Manager) Vanessa Davies (Director) Joanne Dixon (Qualification Regulations Manager) Sara Down (Head of Professional Conduct) Eugene Grant (Communications & Press Officer) Roger Hammond (Change Programme Manager) Oliver Hanmer (Head of Supervision) Sarah Loutfi (E&D Adviser) – items 1-7 Ewen Macleod (Head of Regulatory Policy) John Picken (Board & Committees Officer) Laura Simons (Communications Consultant) Amanda Thompson (Head of Strategy & Communications)
Bar Council Executive in attendance	Stephen Crowne (Chief Executive, Bar Council)

ACTION**Item 1 – Welcome and introductions**

1. The Chair welcomed members and guests to the meeting.

Item 2 – Apologies

2.
 - Simon Lofthouse QC
 - Sam Stein QC
 - Richard Thompson
 - Sarah Brown (special adviser)
 - Matthew Nicklin QC (special adviser)

Note: Emily Windsor (special adviser) attended for Part 2 of the meeting

Item 3 – Members' interests and hospitality

3. Vanessa Davies made a declaration in respect of her attendance at a dinner hosted by the SRA on 21 January 2014.

Item 4 – Approval of Part 1 (public) minutes – 21 November 2013

(Annex A)

4. The Board approved Part 1 of the minutes of the meeting held on Thursday 21 November 2013.

Item 5 – Matters arising

5. a) Standing Orders Review (mins 8-12 – 21 November 2013)
Matthew Nicklin QC stood down as a member the Board at the end December 2013. There is now no practising barrister available to be Vice Chair of the Planning, Resources & Performance (PRP) Committee. Amanda Thompson asked that this rule be relaxed on a temporary basis pending appointment of a new Board Member, as provided for within the terms of reference for the PRP Committee. For this interim period only, she asked that the Board approve the appointment of Tim Robinson (lay Member) to this role.

AGREED

to appoint Tim Robinson as temporary Vice Chair of the Planning, Resources & Performance Committee pending appointment of a barrister Board member who could take up the role .

**AT / JP to
note**

- b) Appointment of a lay member to the BTAS Strategic Advisory Board (min 17 – 21 November 2013)

Vanessa Davies referred to the vacancy for a lay Board Member of the Strategic Advisory Board of the Bar Tribunal and Adjudication Service (BTAS).

AGREED

to nominate Malcolm Cohen as the BSB's lay representative on the BTAS Strategic Advisory Board.

**JP to
note**

Item 6 – Action Points & Forward Agendas

6. Action points and progress (Annex B)
The Board noted the updates to the action list as set out in Annex B.
7. Forward agendas (Annex C)
The Board noted the forward agenda list and agreed to include a further item in the February agenda to cover a review of guidance given to barristers who, as part of industrial action against government cuts, deliberately fail to attend court.

**JP to
note**

Item 7 – Aggregated Diversity Data on the Barrister Profession

BSB 001 (14)

8. The Board considered a paper concerning aggregated diversity data on the barrister profession. The BSB is obliged to publish this information in January each year so as to meet the requirements of the Equality Act Specific Duties Regulations 2011.
9. Rolande Anderson and Sarah Loutfi commented as follows:
- there has been a slight improvement in the numbers of barristers disclosing E&D related information compared to 2012. Notwithstanding this, the overall response rate remains low for certain categories ie those relating to disability, religion or belief, sexual orientation, socio-economic background and caring responsibilities;

- whilst it is not possible to draw reliable statistical conclusions for the above categories, much better quality data is available for gender, race and age;
- efforts to improve data collection are being made by making changes to the Authorisation to Practise process and the design of the web page.

10. Members commented as follows:

- the report makes a number of references to “under representation” but the benchmark against which this assertion is made is not clear;
- there is a danger that the progress made by the Bar to increase its diversity is not fully identified if we are benchmarking to the general population.

11. In response, the following comments were made:

- the report’s Executive Summary makes clear the limitations of the report and gives a number of caveats to the figures quoted;
- publication is a statutory requirement;
- experienced Members of the E&D Committee have advised that data sets of this type take time to mature and that response rates are likely to rise in future. When this happens it will be possible to track trends in changes year on year which will provide more reliable evidence about diversity in the profession.

12. **AGREED**

to authorise publication of the report and to note and encourage efforts to improve response rates on diversity data from barristers.

**SL to
note**

Item 8 – Report from the Qualifications Committee

BSB 002 (14)

13. Rob Behrens referred to the report from the Qualifications Committee and highlighted the following:

- a total of 1,320 applications were considered by the Committee in 2013. Of these 120 (c.10%) were rejected. Those approved were, in most cases, conditional upon other requirements being met;
- in eight cases, the applicants concerned appealed against the decision of the Qualifications Committee to the Visitors to the Inns of Court. In all instances, the Visitors endorsed the original findings of the Committee.

14. **AGREED**

to note the report.

Item 9 – Chair’s Report on Visits and Meetings: Dec 13 – Jan 14

BSB 003 (14)

15. **AGREED**

to note the report.

Item 10 – Director’s Report

BSB 004 (14)

16. The Director’s Report now includes a fuller summary of activity undertaken by the Central Services teams.

17. The Chair referred to the Judicial Review (para 2) and thanked Vanessa Davies for her thorough work in preparing the witness statement for the hearing. She was ably assisted by the legal teams from Fountain Court and Bevan Brittan as well as Oliver Hanmer.

18. The Chair also referred to the ongoing SPACE project (paras 67-70). She expressed her sincere appreciation for the work undertaken to date and the success it has achieved in delivering effective working environments on time and within budget.

19. **AGREED**
to note the report.

Item 11 – Any Other Business

20. a) Consultation on Litigation Fees
Ewen Macleod reported on the response to the BSB's consultation on litigation fees. He highlighted the following:
- in total, three responses were received, all from individual barristers;
 - there was agreement that an application fee should be charged but differences of opinion as to the level of the fee and whether this should be graduated;
 - a question was also raised as to whether the fee should be refundable if the application was refused;
 - on balance, the view of the Executive is that a £90 fee is reasonable; and will only recover the administrative costs involved in processing the application. In addition, the view is that a graduated fee is not proportionate, nor should refunds be made given the same costs will have been incurred regardless of the application's outcome;
 - barristers previously authorised in an employed capacity will not be affected and so can continue without seeking further authorisation, unless they wish to conduct litigation in a self-employed capacity (although these individuals will have to go through the application process, the fee will be waived).

AGREED

to publish the outcome of the consultation and to set the application fee to practise litigation at £90.

EM

- b) Official launch of the new Handbook
The Chair referred to the event held on 22 January 2014 to officially launch the new Handbook. The speaker was the Attorney General, Dominic Grieve QC MP. She thanked all those involved in organising this successful and well received event. The Attorney General's speech has been added to the BSB website and a press release issued.

Item 12 – Dates of next meeting

21. Thursday 20 February 2014.

Item 13 – Private Session

22. 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) Biennial Survey;
- (2) Approval of Part 2 (private) minutes – 21 November 2013;
- (3) Matters Arising;
- (4) Action points and progress – Part 2;
- (5) Development of the Qualifications Committee;
- (6) Legal Services Board – Business Plan 2014-15;
- (7) QASA – discussion of judgement;
- (8) Any other private business.

23. Both the Chairman and Chief Executive of the Bar Council and were invited to attend for the first part of the discussion on the Biennial Survey. This was in response to a request by the Bar Council to make representations about the current content of the report, in particular about the way in which the drafting compares data sets that are not, in the view of the Bar Council, properly comparable.

The meeting finished at 5.00 pm.