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

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

Thursday 22 June 2017, Room 1.1, First Floor  
289 – 293 High Holborn, London, WC1V 7HZ

- Present:** Sir Andrew Burns KCMG (Chair)  
Naomi Ellenbogen QC (Vice Chair)  
Alison Alden OBE  
Rolande Anderson  
Aidan Christie QC  
Judith Farbey QC  
Steven Haines  
Zoe McLeod  
Andrew Mitchell QC  
Nicola Sawford  
Adam Solomon  
Anu Thompson  
Anne Wright CBE (items 7-13) – by phone
- Bar Council in attendance:** Stephen Crowne (Chief Executive, Bar Council) – by phone  
Mark Hatcher (Special Adviser to the Chair of the Bar Council)  
Andrew Walker QC (Vice Chair, Bar Council)
- By invitation** James Wakefield (Director, COIC)
- BSB Executive in attendance:** Joseph Bailey (Policy & Projects Officer)  
Corrine Charles (Head of Research)  
Vanessa Davies (Director General)  
Oliver Hanmer (Director of Regulatory Assurance)  
Sara Jagger (Director of Professional Conduct)  
Andrew Lamberti (Communications Manager)  
Ewen Macleod (Director of Strategy and Policy)  
John Picken (Governance Officer)  
Wilf White (Director of Communications and Public Engagement)
- Press:** Max Walters, Law Society Gazette

**Item 1 – Welcome**

- The Chair welcomed those present to the meeting. He drew Members' attention to the following events:
  - BPTC Conference (Board Members invited to attend) – Friday 14 July 2017, 9 am – 5pm, Hallam Conference Centre, 44 Hallam Street, London W1W 6JJ;
  - FBT Seminar for Board Members – Wednesday 19 July 2017, 5 – 7pm, BSB offices.
- He also remarked on the success of the FBT Seminar held on 19 June 2017 at the Grange Holborn Hotel, 50 - 60 Southampton Row, London. This attracted around 100 delegates and was very well received.

3. In addition, he reminded Members about the survey on Board meeting dates for 2018-19. Replies are required by 30 June 2017.

**BSB  
Mbrs to  
note**

**Item 2 – Apologies**

4. • Justine Davidge  
• Andrew Langdon QC (Chair, Bar Council)  
• Lorinda Long (Treasurer, Bar Council)  
• Rebecca Forbes (Governance Manager)

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

5. Rolande Anderson made the following declarations:
- lunch with Nicholas Davidson QC (7 June 2017);
  - she was appointed as an independent member for a joint Business, Energy & Industry Strategy (BEIS) / Competition & Markets Authority (CMA) selection process, to interview new Panel Members for the CMA. Final interviews took place over June 2017.

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

6. The Board approved the Part 1 (public) minutes of the meeting held on Thursday 25 May 2017.

**Item 5 – Matters Arising**

7. None.

**Item 6a – Action points and progress (Annex B)**

8. The Board noted the updates to the action list.

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

9. The Board noted the forward agenda list. The July agenda will now also include an item on the Board’s “risk appetite”.

**Item 7 – Public Access Consultation – Application of cab-rank rule to public access cases**

BSB 041 (17)

10. Joseph Bailey highlighted the following:
- a review of the Public and Licensed Access scheme took place last year and the results were presented to the Board in November 2016. A final report was published in March 2017;
  - since then, a consultation paper has been drafted (now due for publication). It recommends that we should *not* apply the cab rank rule to Public and Licenced Access cases. This is the view of the relevant Task Completion Group and the member of our Advisory Pool of Experts (APEX).
  - other recommendations in the paper are aimed at improving access to justice and include improvements for training barristers and information for consumers.
11. Members commented as follows:
- the analysis at Annex 1 states that applying the cab rank rules to Public and Licensed Access cases could have “a disproportionate impact on some sections of the Bar”. It would help to explain why this is the case;
  - question 6 asks about possible changes to the Scope of Practice Rules. However what is proposed could have unintended consequences. If, as suggested, these are amended to allow any client unable to complain to LeO to instruct *any* barrister directly, then the

barristers concerned *could* be subject to the cab rank rule. This is because they would be practising outside the scope of the established Public and Licensed Access schemes. This needs clarification;

- we need to continue to monitor the number of public access cases that are declined by barristers. Current rejection rates seem high;
- the requirement that barristers continue to supply information on how to complain is welcome as is the proposal to improve feedback routes from clients to barristers;
- it would be useful to seek responses to the consultation from a range of organisations including consumer representatives.

12. Regarding the latter point, Ewen Macleod suggested we distil down the questions to consumers bodies to just those where it would be particularly helpful to have their feedback and then target relevant organisations accordingly.

13. **AGREED**

- a) to note the consultation at Annex 1 of the report and the associated analysis comparing the status quo with applying the cab rank rule to Public and Licensed Access cases.
- b) to clarify the point made in respect of Scope of Practice rules (cf. min 11 above). EM
- c) subject to (b) above, to approve the recommendation not to apply the cab rank rule to Public and Licensed Access cases.
- d) to publish the draft consultation on the BSB website. EM

**Item 8 – Draft Research Strategy 2017-19**

BSB 042 (17)

14. Corrine Charles highlighted the following:

- the strategy sets out six research objectives to be undertaken over a two-year period. This is supported by a detailed work plan which identifies the tasks necessary for this to be achieved.
- it will build the evidence base on which the BSB depends for making its regulatory decisions. It should also increase awareness and visibility of the BSB's research work, improve standards and staff capability within the Research Team.

15. Members commented as follows:

- the strategy is a welcome step forward. It aids transparency by publicly stating our vision for research together with the associated action plan. The proposal to publish anonymised primary research data is helpful;
- it places us in a much stronger position to work with other stakeholders through partnering arrangements on research. In addition to working with other legal regulators, we could consider other organisations, if the subject matter makes this appropriate eg Citizens' Advice;
- the action plan states we shall introduce "external peer review as a final stage of quality assurance prior to publication of *externally commissioned* research findings". We might also consider taking the same approach for internally produced work. Moreover, we should seek views from challenging perspectives and not just rely on those from familiar sources.
- it would help to know more about our general policy for research dissemination – there may be scope for a general policy of publishing findings including that at an interim stage of a project;

- the prioritisation of research work for larger projects is understandable but other, smaller scale issues still warrant attention particularly if these affect vulnerable groups;
  - the report quotes a range of activities undertaken by research specialists in the BSB (para 2.2. of the report). However, there is no reference to how we commission either external research or collaborative work with other organisations.
  - the report mentions plans to establish a “Research Panel”. It would help to know more about this.
  - the skills audit of the Research Team at Annex B of the report does not include “behavioural insight”, so this may be a gap;
  - it is not clear if the Bar Council has its own Research capability.
16. In response, the following comments were made:
- the points raised on peer review are accepted;
  - we already have extensive liaison with other legal regulators on research matters. This is done either through regular meetings with them or through the Research Forum. The latter body pools the plans for future research projects from which it is then possible to identify opportunities for collaboration;
  - our goal is to publish as much research data as we can, including that at an interim stage. Final research reports are already published as a matter of course with a supporting press release;
  - the Research Panel will be an in-house body of relevant BSB staff ie members of the Research Team and key contacts from other departments. It will discuss operational matters and generate ideas for future project areas;
  - currently we do not have in-house expertise in behavioural insight.
  - the Bar Council does not have sufficient budget to undertake large projects though there is a small reserve to fund key research. Where possible, it tries to work in partnership with others.
17. **AGREED**
- a) to approve the Research Strategy objectives and action plan as set out in Annex A of the paper.
  - b) to publish the Research Strategy on the BSB website.

CC

**Item 9 – Chair’s Report on Visits and Meetings: May - June 2017**  
BSB 043 (17)

18. **AGREED**  
to note the report.

**Item 10 – Director General’s Report**  
BSB 044 (17)

19. Vanessa Davies thanked Justine Davidge for her presentation at the Future Bar Training event on 19 June 2017 as well as those staff who organised and contributed.
20. Judith Farbey QC referred to paragraph 24 concerning pupillage reform. She asked for further information about this, in particular the requirements that we set for the length and structure of pupillage.
21. Vanessa Davies referred to feedback from an earlier consultation. This had suggested there may be benefit for some pupils in having more than one supervisor. The review will consider this idea further.

22. **AGREED**  
to note the report.
23. **Item 11 – Any Other Business**  
None.
24. **Item 12 – Date of next meetings**  
Thursday 27 July 2017.
25. **Item 13 – Private Session**  
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) Approval of Part 2 (private) minutes – 25 May 2017 (Annex A).
  - (2) Matters arising.
  - (3) Part 2 Action points and progress (Annex B).
  - (4) CMA report: approval of action plan.
  - (5) Remuneration of barristers.
  - (6) Regulatory risk update.
  - (7) Any other private business.
  - (8) Accommodation Options.
  - (9) Review of the Board meeting in terms of conduct and outcomes.
26. The meeting finished at 5.10 pm.