



Heads Above the Parapet: How can we improve Race Equality at the Bar?

Report from an event hosted by the Bar Standards Board

March 2018

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1 Introduction and context

- 1.1. The Equality Act 2010 protects people from discrimination in the workplace and in wider society¹. Under the Act it is against the law to discriminate against anyone because of race including colour, nationality, ethnic or national origin. Race is one of the nine 'protected characteristics' covered by the Act.
- 1.2. The existence of this legislation can be attributed to the persistence, bravery and struggle of protest groups, movements, activists and campaigners who have fought for equality in all its varied forms – championing causes such as anti-racism, women's suffrage, LGBTQ and disability rights.
- 1.3. Much has improved over the years but Britain still has a very long way to go before it can truly be regarded as a wholly fair and equal society. Improving access to justice and promoting a diverse legal profession are two of the Bar Standards Board's (BSB's) statutory objectives.
- 1.4. Equality and diversity informs every area of the work of the BSB, from the education and training of students and throughout the career progression of barristers.
- 1.5. We identified a lack of diversity and discriminatory working culture and practices in the legal profession as key risks in our 2016 Risk Outlook². In response to this, we have made improving diversity and enhancing equality in practice and culture at the Bar one of our three key strategic priorities³.
- 1.6. Our latest annual report on Diversity at the Bar⁴ revealed that:
 - the percentage of Black and Minority Ethnic (BAME) practising barristers has increased by 0.5 percentage points (pp) since December 2016. 12.7 per cent of the practising Bar is now BAME;
 - the percentage of BAME QCs has increased by 0.8 pp year on year with 7.2% being BAME and 89.2% being white; and
 - the gender and ethnic diversity of pupil barristers is roughly in line with the population of England and Wales, with 51.7 per cent of pupils being female and 16.1 per cent being BAME.

1. <https://www.gov.uk/guidance/equality-act-2010-guidance>

2. https://www.barstandardsboard.org.uk/media/1751659/bsb_risk_outlook.pdf

3. https://www.barstandardsboard.org.uk/media/1746768/bsb_strategic_plan_2016-19.pdf

4. https://www.barstandardsboard.org.uk/media/1916579/diversity_report_2017.pdf

- 1.7. The report clearly shows that while diversity of barristers is improving, there is still some way to go before the Bar is fully representative of the public it serves. We need to ensure that there are no barriers to access or progress, all the way up to QC level and beyond, and that BAME barristers have equal access to all parts of the Bar, including those which tend to generate higher levels of income.
- 1.8. We are committed to working with the profession and other key stakeholders to pursue this vital agenda and bring about real and meaningful change.
- 1.9. On 7 February 2018, we held an event which brought together over 50 participants to explore the issue of race equality at the Bar. Contributors included practising barristers, other legal practitioners, educators, race equality organisations, diversity experts and senior leaders from the BSB. The event was hosted by the Rt Hon Baroness Blackstone, Chair of the Bar Standards Board and speakers included Sara Ibrahim from 3 Hare Court and Dr Leslie Thomas QC from Garden Court Chambers who are both prominent advocates for race equality at the Bar (see Appendix One for details of speaker biographies and BSB staff profiles).
- 1.10. This report is a summary of the discussion that took place at the event. In the interests of candour, the event was held under the “Chatham House” rule, so in this report, with the exception of our invited speakers, who gave their consent to be quoted directly, quotes and comments from participants are anonymised unless express consent was obtained. The purpose of the event was to stimulate discussion and generate ideas for a future BSB action plan. This report is not, therefore, a statement of BSB policy. Views expressed were those of the individuals who attended.
- 1.11. The question posed at the event was “How can we improve race equality at the Bar?” Discussions on the night were lively, thought-provoking and wide-ranging. Participants explored many complex and interconnected issues and considered their effects on personal, cultural and structural levels. They identified barriers to entry and progression, and suggested a range of potential solutions. Some solutions focused on ways to promote anti-racism and improve culture, others were centred around the notion of clearer regulation to bring about positive change, and others focused on a desire for increased collaborative working within the profession and in wider society.

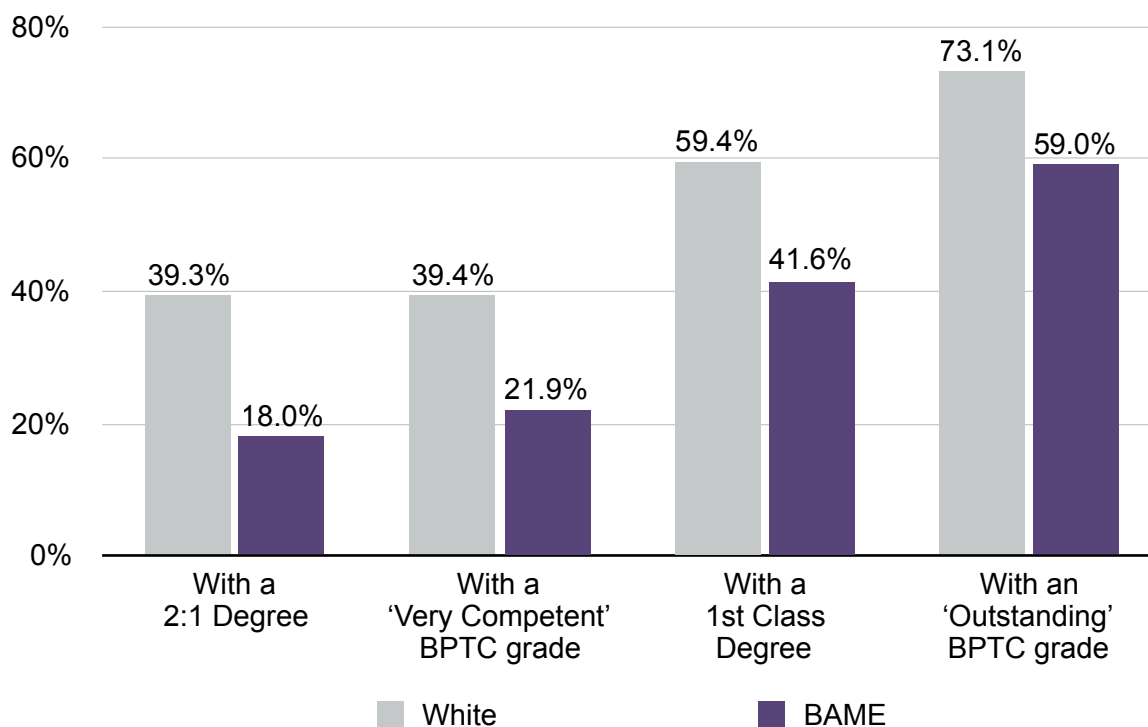
2 Race Equality at the Bar: Where are we now and how far have we come?

2.1. The following statistics were provided to participants on the night to help them contextualise various issues and themes:

Barriers to entering the profession

2.2. Research undertaken by the BSB⁵ suggests that aspiring BAME barristers may face additional barriers in entering the profession compared to their white counterparts. Analysis suggests that home-domiciled Bar Professional Training Course (BPTC) BAME graduates were around half as likely to obtain pupillage as white graduates with similar attainment at both the BPTC and undergraduate level. Similarly, BAME students were likely to score lower than white students on the BPTC even when previous educational attainment was taken into account.

Figure 1: Home BPTC Graduates - % Obtaining pupillage



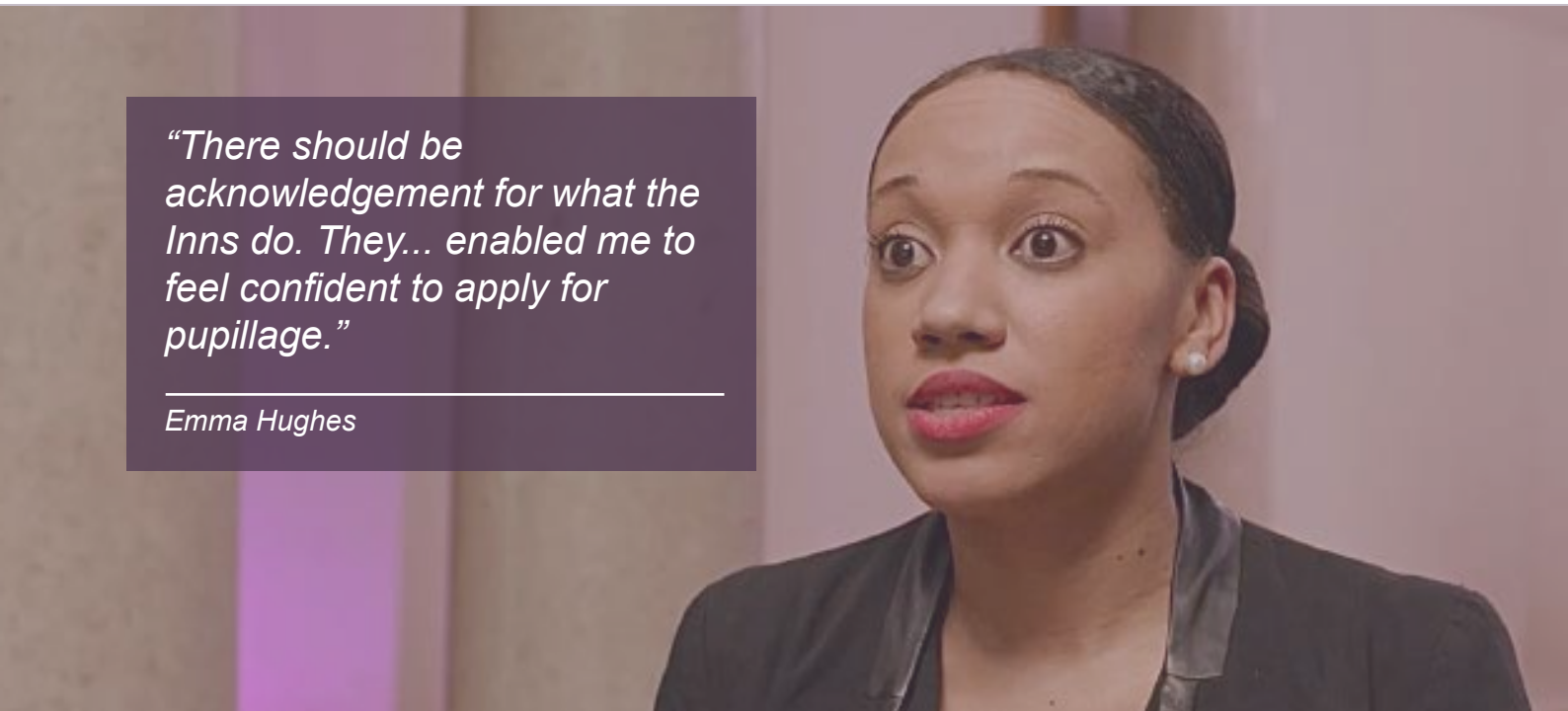
Source: Bar Standards Board CRM data

5. *Differential Attainment at BPTC and Pupillage* (BSB 2017)

“Put very simply, if you’ve got an Oxbridge first and you are white you are much more likely to get a pupillage than if you have the same qualifications and are BAME. We need to understand much better the detail of that in order to understand why that might be the case and to work out what action we should be taking.”

Dr Vanessa Davies, Director General of the Bar Standards Board

- 2.3. Qualitative research undertaken to explore these issues⁶ suggested BAME students are more likely to lack access to accurate information about the BPTC course and pupillage applications, as well as lacking social connections or networks within the legal sector which leaves them at a disadvantage. On the BPTC course, perceived preferential treatment from some tutors toward some students based on their ethnicity or social class was also identified as an issue by some research participants.



“There should be acknowledgement for what the Inns do. They... enabled me to feel confident to apply for pupillage.”

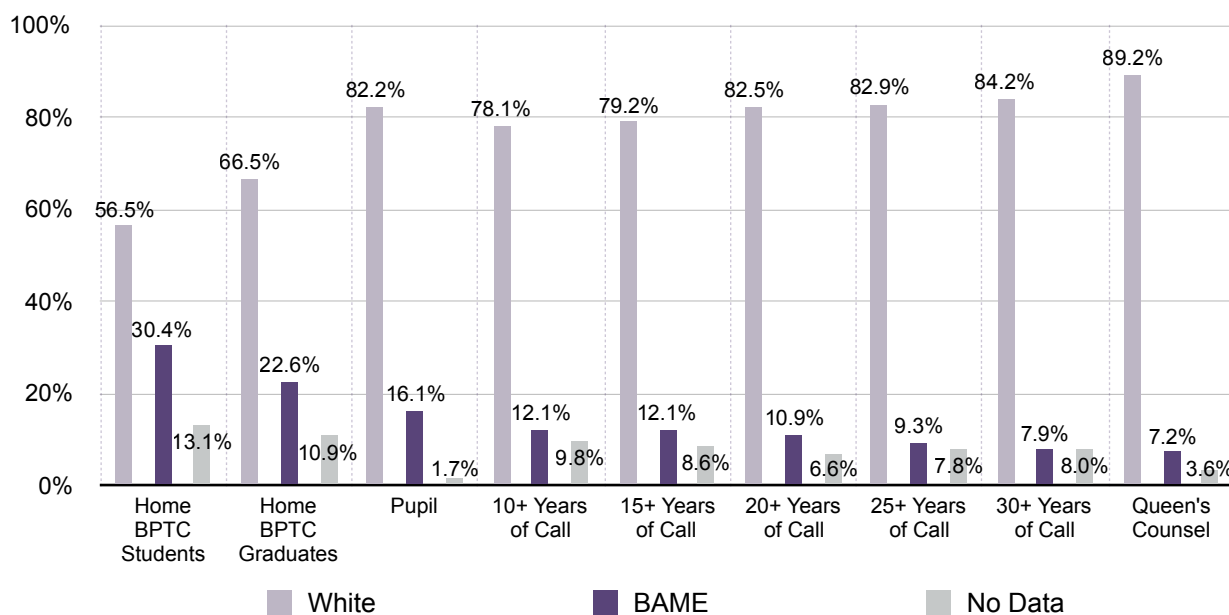
Emma Hughes

6. *Barriers to Training for the Bar – A Qualitative Study* (BSB 2017)

Seniority

2.4. While BAME barristers make up over 12% of the Bar as a whole⁷, the proportion of BAME barristers generally declines at higher levels of seniority, either when measured by Years of Call (the length of time since a barrister has been called to the Bar) or when measured by QC status.

Figure 2: Ethnicity at the Bar



Source: Bar Standards Board CRM data

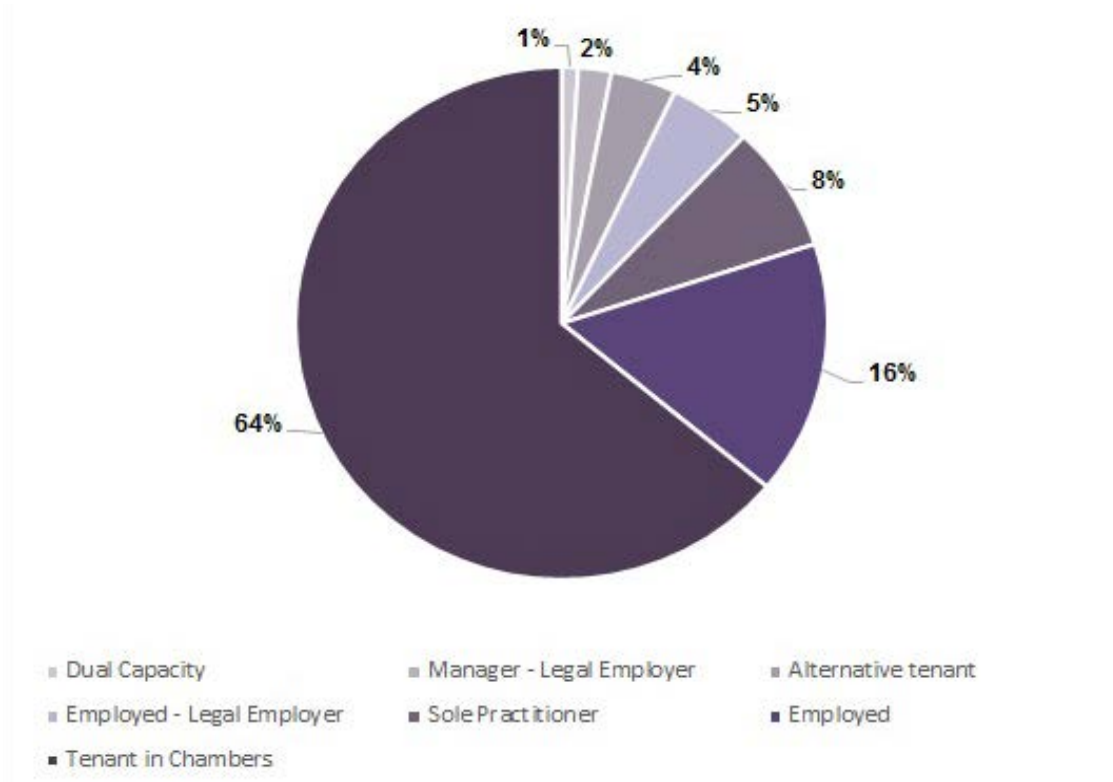
Practising status

2.5. BAME barristers are over-represented in certain areas of practice compared to white barristers. The traditional practising status of the Bar is as a self-employed barrister in chambers, known as a tenant (although alternative chambers tenancy arrangements also exist). Alternatively, barristers can be employed (either by a general employer or one dedicated to legal services), dual capacity (a combination of self-employed and employed status), or a Sole Practitioner (self-employed barristers who are not part of chambers).

2.6. BAME barristers are more likely to be employed than white barristers, and more likely to be Sole Practitioners. They are less likely to be tenants in chambers.

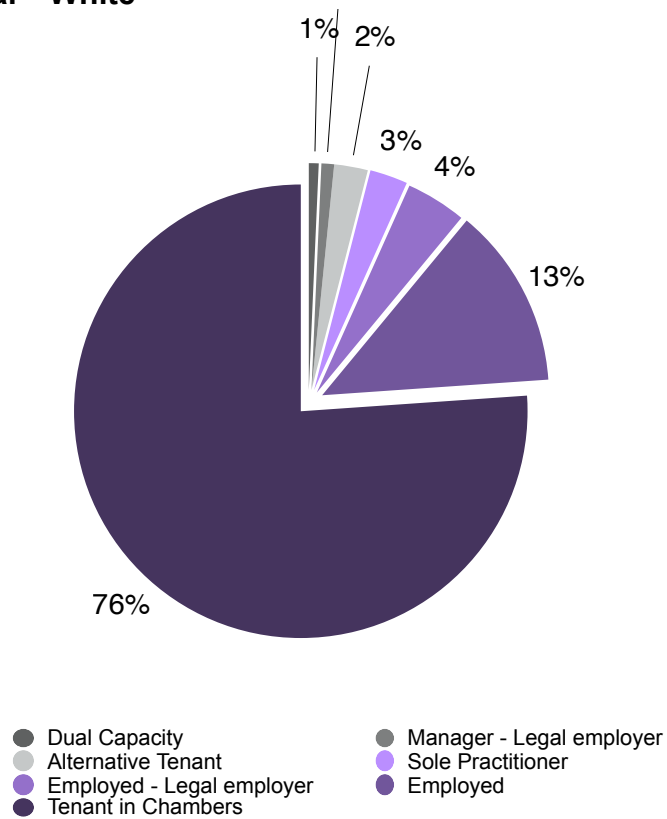
7. As of December 2017

Figure 3: Practising Bar - BAME



Source: Bar Standards Board CRM data


Figure 4: Practising Bar - White



Source: Bar Standards Board CRM data

Discrimination and harassment

2.7. Available evidence suggests that BAME barristers are more likely to experience bullying, discrimination and harassment than white barristers. In a 2013 survey,⁸ 25% of BAME barristers said they had personally experienced bullying, discrimination or harassment in the last two years, in contrast to 12% of white barristers. Similarly, in the 2016 Women at the Bar survey,⁹ 54.2% of female BAME barristers reported experiencing discrimination at the Bar, and 48% reported experiencing harassment, in contrast to 42.5% and 38.4% of white barristers respectively.



“Data is empowering. A lot of the experiences at the Bar are made worse by the fact that people feel isolated.”

Sara Ibrahim

8. *Barrister's Working Lives* (BSB 2014)
9. *Women at the Bar* (BSB 2016)

Speakers' perspectives

- 2.8. Welcoming participants to the event, Amit Popat, Head of Equality and Access to Justice, at the Bar Standards Board, commented on the 'phenomenal wealth' of intellectual capital in the room. He urged those assembled to take inspiration from past and present equality campaigners and come together to think about ways collectively to make progress on the agenda to bring about critical changes for race equality within the profession.

"Leaders are – by definition – change makers. When you are called to lead, you are called to advance, move forward and improve the situation."

Amit Popat, Head of Equality and Access to Justice, (BSB)

- 2.9. Dr Vanessa Davies, Director General of the Bar Standards Board reiterated our commitment to the issue and our determination to convert ideas and suggestions into a concrete action plan. She also acknowledged some of the important work already being undertaken by the Bar Council and the Inns of Court to help address issues of access to the profession, for example the outreach work done by both and the scholarships offered by the Inns to help attract BAME candidates.

"We are very committed at the BSB to working with the profession in these quite difficult and sometimes sensitive areas, and having the courage to say difficult things when they need to be said is what the public and the profession have a right to expect from the regulator."

Dr Vanessa Davies, Director General of the Bar Standards Board

- 2.10. The event speakers shared personal experiences and highlighted themes and issues which were echoed by participants during the group discussions. These can be divided into the following headings:

Recognising potential

- 2.11. Baroness Tessa Blackstone expressed her delight that one of her first public roles as the new Chair of the BSB was to attend an event with an agenda that she was personally passionate about. Twenty years after co-editing *Race Relations in Britain. A developing Agenda*¹⁰ she conceded that there was still an awful lot to do.

10. <https://www.routledge.com/Race-Relations-in-Britain-A-Developing-Agenda/Blackstone-Parekh-Sanders/p/book/9780415150101>

- 2.12. Raising the issue of fairer access to the Bar she said the profession should always look for potential and not just judge people on their prior attainment. She commented, “We have to remember that some people have further to go because they didn’t get to the starting line as easily as others and it will take them time. So give young black and Asian people who want to become members of the Bar a bit more time. Think about what potential they have, rather than what their grades have been in various different kinds of examinations. That’s been done now by a number of top American universities who are taking young people from disadvantaged backgrounds, many of whom are from the black community in the US, with lower grade point averages than a lot of other young people, and they have found from the monitoring and evaluation of this decision that these young people in the end do as well, if not, better than their more privileged peers who may have started further up the ladder.”
- 2.13. Dr Leslie Thomas QC said his chambers recognised that change starts from juniors and youngsters coming up, and outlined a practical initiative that had recently been introduced at Garden Court Chambers. The Long-term Mentoring Scheme, Access to the Bar for All is open to 16-year-old students from BAME and disadvantaged groups, features paid internships over a five-year period and gives students the opportunity to be awarded scholarships to assist with living expenses at university and if they go on to study a law degree. The scheme is funded by a percentage of each barrister’s payments to chambers.

“We decided that we would take positive action to try to increase the diversity at the Bar and be a leader in that.”

Dr Leslie Thomas QC

- 2.14. He argued that university is too late in the academic process to be targeting students and suggested that the profession should be thinking about future pupils much earlier on in the process: empowering and targeting children just as they enter secondary schools.

Prejudice, discrimination and issues of talking about race

- 2.15. Sara Ibrahim shared several personal examples of prejudice, including being asked for her opinion on the Burka at the end of an unrelated County Court application. Explaining the effect that such incidents can have on her, she told participants, “You may think that you are part of the Bar, you’re part of a community, but you get various experiences along the way when you are reminded that people are thinking of you differently and that can be incredibly disconcerting.”
- 2.16. She felt that it was often quite exhausting to talk about race, especially when the timing of the conversation was not of the BAME person’s choosing, and acknowledged that it was often very difficult for BAME individuals to bring up the issue of race.

“Sometimes if you have any discussion about race and how uncomfortable it is you end up being subject to a barrage of basically being accused of being soft or having imagined it and that there’s no racism.”

Sara Ibrahim

- 2.17. She called for the creation of more safe spaces for the profession and encouraged the production of more diversity data to help BAME pupils and members of the Bar feel less isolated.

“A lot of the experiences at the Bar, I think, are made worse by the fact that people feel isolated.”

Sara Ibrahim

- 2.18. Dr Thomas told participants that things had changed since he had been called to the Bar in 1988. Even so, he still experienced discrimination in some form or other. He gave an example of the number of occasions that he had turned up at court in a suit and was seen as everything but the lawyer. “You’re the lawyer’s brother or you’re the clerk or you’re the friend but you’re never the lawyer,” he said.

“I challenge any black person here to say, practicing as a lawyer; you haven’t experienced discrimination in some form or other. We all do.”

Dr Leslie Thomas QC

- 2.19. Sharing a video clip of his appearance at the Grenfell Inquiry, where he warned that the lack of diversity in the Inquiry could “affect confidence and affect justice”¹¹, he urged participants to “call out” discrimination and bad practices.

11. <https://www.facebook.com/Channel4News/videos/10155492971836939/>

Challenging complacency and leading by example

- 2.20. Dr Thomas invited participants to look at the hard facts around diversity at the Bar. He estimated that, at the current rate of change it would take over 50 years for women to comprise half of all QCs and 100 years for the percentage of BAME silks to mirror the general population. This, he said, was unacceptable.
- 2.21. He believed that chambers should be doing more than just paying lip service to promote and improve diversity at the Bar and called for the development of a kite mark that would demonstrate best practice, fairness and transparency. He also urged the BSB to do more by holding chambers to account, introducing clear sanctions where there is non-compliance and enforcing them.
- 2.22. He felt that even a set like his, which had been founded on a commitment to promote social justice and equality, could not afford to be complacent. He outlined a second initiative, a chambers Women's Task Force, which had been developed by his chambers to try to address inequalities. The task force had looked into the distribution of work (including how clerks allocate work and how solicitors choose barristers) which had forced the chambers to "take a long hard look at itself in the mirror".
- 2.23. Sara Ibrahim voiced her belief in action groups and task forces and encouraged the BSB to look at setting one up on race equality.



"Today we have a number of barristers who have become QCs and judges but there are still a lot of barriers to achieve that goal."

Anis Rahman OBE

Greater unity and collective working

2.24. Describing herself as an activist, in addition to being a barrister, Sara Ibrahim urged participants to work together to tackle prejudice and discrimination. Although acknowledging the importance of cultural identity, she urged participants to resist solely sub-dividing into separate racial or cultural groups and also come together as a united anti-racist movement.

2.25. She believed that remaining segregated into different groups could lead to people falling through the cracks because they did not necessarily fit into any of the boxes, and felt that the terminology of ethnicity and race had not really caught up with what is an increasing mixed race population. She also highlighted the importance of intersectionality (the interconnected nature of issues such as class, race, gender and economic status) when considering solutions for greater diversity at the Bar.

“When you leave this room, I hope you very much feel that you are part of a movement and not by yourself.”

Sara Ibrahim

Group discussions

2.26. Participants were asked to define three barriers for BAME people to access and progress at the Bar and then explore why these barriers exist. Finally, they were asked to identify potential solutions and think about how these could be facilitated by the BSB.

2.27. The ensuing discussion brought up the following themes from participants:

Barriers

- Prejudice and racial discrimination – which could be present on a personal, cultural and structural level
- Inequality of opportunity – which could be present on a personal, cultural and structural level
- Over-reliance on academic attainment – which was regarded as a structural barrier
- Self-doubt and confidence issues – which affected individuals on a personal and cultural level


Potential solutions

- Greater transparency around recruitment
 - Compulsory use of the Pupillage Gateway
 - Visible diversity on pupillage panels
 - Greater consideration of factors other than academic achievement
- Greater enforcement, direction and support from the BSB
 - A BSB with more bite – holding chambers and individuals to account
 - Better use of data – drilling down to get a better understanding of issues
 - Compulsory and meaningful Equality and Diversity training
 - Roll-out of unconscious bias training
 - Better promotion of helplines and the creation of safe spaces
 - Expanding the role of Equality and Diversity officers
- Greater visibility of BAME role models
 - More mentoring, and supporting more BAME members of the Bar to become role models
 - Promoting case studies
- Development of an Equality and Diversity kite mark
 - To raise the profile of Equality and Diversity and embed best practice
 - Embrace the profession's spirit of competition
 - Provide focus for the agenda
- Greater collaboration within and beyond the profession
 - More race equality events
 - BSB to consider commissioning an independent report on racial equality at the Bar
 - a call for the adoption of more collaborative integrated approaches to tackle institutional issues

2.28. The BSB is determined to convert some of these ideas and suggestions into a concrete action plan that the BSB and the Bar together can work on over the months and years ahead. Our event and this accompanying report forms part of this ongoing work towards ensuring that the Bar truly reflects the diversity in our society. The BSB looks forward to continuing its work in partnership with colleagues, members of the profession, educators, diversity experts and other stakeholders, and we will be committed to fulfilling our responsibilities.

“The BSB won’t shy away from saying what the evidence tells us on this topic, no matter how difficult the message might be to say or indeed to hear. We are not by ourselves. We are in this together.”

Dr Vanessa Davies, Director General of the Bar Standards Board



“All too often we are too afraid to call out discrimination and bad practices, and that is a mindset.”

Dr Leslie Thomas QC

3 Barriers for people who are BAME to access and progress at the Bar

- 3.1. Participants identified a range of critical factors and tensions, often cumulative and inter-related, which can impede access to, and progress at, the Bar. Many of these factors are deeply rooted and affect wider society as well as the legal profession.
- 3.2. These can be broadly divided into the following headings:

Racial prejudice & discrimination

- 3.3. Participants were clear that prejudice still exists at the Bar. This could manifest as overt bullying and harassment, offensive, inappropriate and ill-informed comments and questions and prejudicial assumptions about capabilities. Although acknowledging Dr Thomas' appeal to 'call out' discrimination, many felt unable to complain about their experiences due to the hierarchical nature of the profession. As one participant commented, "Nobody puts their head above the parapet. You can't because it's almost career suicide, especially if you are self-employed. You end up putting up with things that you would never tolerate in your 'real' life."

"Someone said something discriminatory towards me but I didn't feel I could call him out on it."

"You are so dependent and there is such a hierarchical nature to this profession that I don't know how you are able to call people out."

Event attendees

- 3.4. Concerns were also raised about the effects of unconscious bias during training and recruitment and in the way work was allocated to BAME barristers, which led to fewer opportunities to become involved with cases that would help with career progression. This, some participants suggested, was largely due to the majority group within the profession selecting and progressing in its own image. Some also felt that this perceived culture was sustained by the behaviour of some clerks and solicitors when referring work.

- 3.5. Many felt these issues were compounded by a lack of transparency within many chambers, particularly around recruitment and the allocation of work. This could arise because of a lack of awareness, particularly if chambers were not diverse. It was also felt that there was a lack of accountability, both in chambers and in the BSB, and no consequences for the profession if equality and diversity issues were not properly applied or addressed.
- 3.6. Others felt meaningful change would inevitably only come in time as the younger, more diverse Bar eventually became the older, more senior Bar.

Inequality of opportunity

- 3.7. Participants felt that financial barriers and a shortage of scholarships prevented many BAME students from undertaking training for the Bar and completing all aspects of the training, especially the BPTC and work experience. As one participant explained, “More privileged students have easier access to money so they can afford to do work experience. If you have to work while you study you only have a small amount of holiday time per year when you can do the work experience.”
- 3.8. There was also an acknowledgement that those from less advantaged backgrounds were less likely to have the contacts in the profession that those from more privileged backgrounds may have. The idea of the Bar as an ‘old boys’ network’ was raised. However, it was noted that it would be wrong to assume that all BAME students and practitioners were economically disadvantaged and some felt it would be unfair to restrict help to this group alone. As one participant commented, “I went to a private school but it was still difficult for me to get here.”
- 3.9. Other factors were also cited, including a lack of awareness raising at an earlier stage (in terms of learning about the Bar and how to train for it), together with difficulties in obtaining accurate information about chambers’ approaches to recruitment and criteria for awarding scholarships. A lack of BAME barristers, QCs and judges to provide role models for students, pupils and barristers alike was also seen as a major problem. This lack of visibility, some felt, could make pursuing a career at the Bar seem unachievable, even when BAME individuals had the ability.
- 3.10. Many participants shared the speakers’ views concerning the need to target potential Bar students long before they reach university. They also expressed their support for innovative initiatives such as Garden Court Chambers’ long term mentoring scheme.

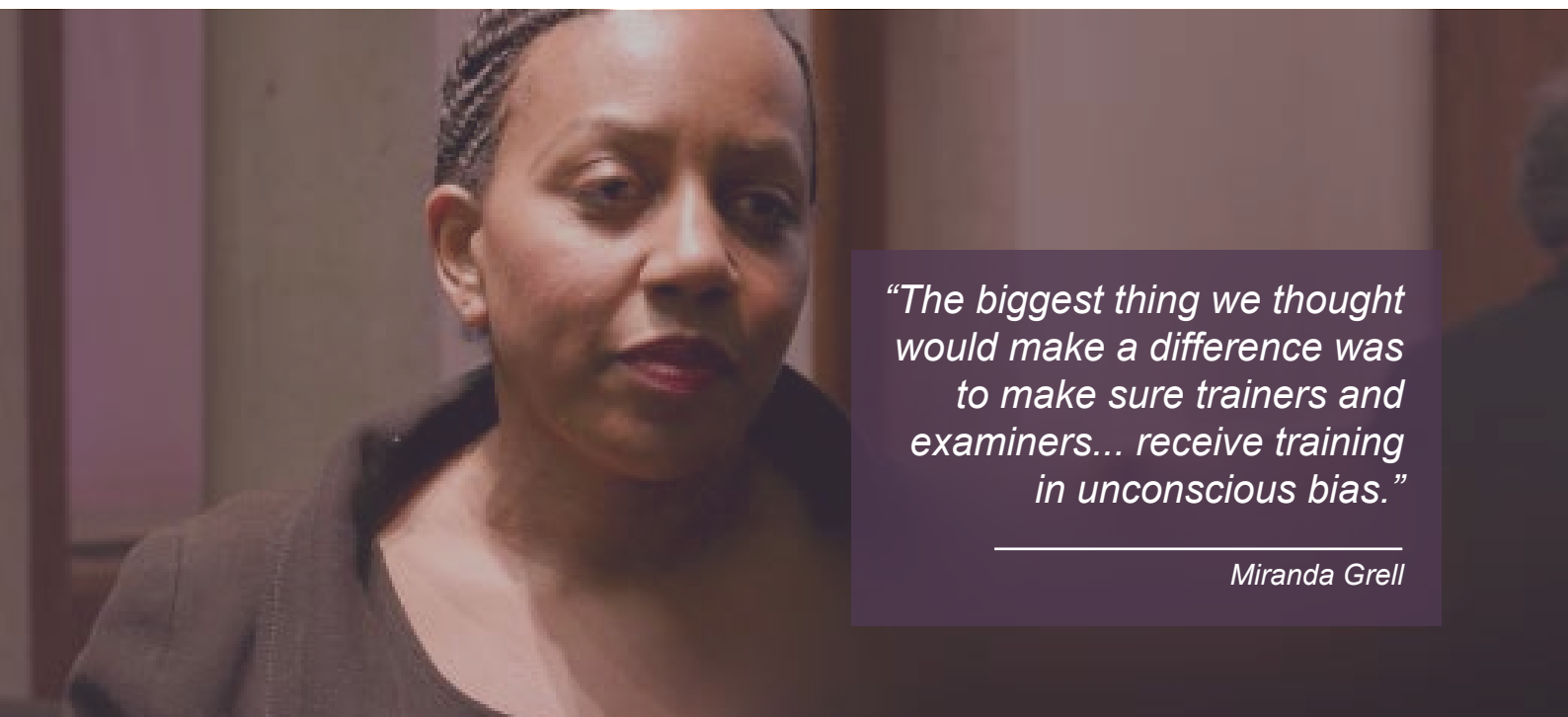
Over-reliance on academic attainment

- 3.11. Although acknowledging the efforts of some chambers to focus on potential, many participants felt that the majority of chambers, training institutions and pupillage interviewers were still only interested in high grades and academic achievements.

- 3.12. There was concern that there was a predisposition to select students with an Oxbridge degree which invariably resulted in fewer BAME people being chosen for admission to the Bar.
- 3.13. Participants accepted that it was difficult to identify potential without focusing on grades, especially when places were heavily oversubscribed, but some suggested that selectors could look for good track records on the basis of the institutions that candidates had attended. It was noted that it was important to ensure that any action was not misconstrued as a lowering of standards. As one participant commented, “We need to put less emphasis on academic achievements and backgrounds without creating the perception of a lowering of standards. We need to educate people that we are simply trying to redress the balance.”
- 3.14. Comment was also made about the conflict between offering more opportunities or concentrating resources. One suggestion was to set the bar higher on entry to the BPTC to better distribute the small number of pupillage places, whilst ensuring that the opportunities available were fairly distributed.

“The BSB needs to do more to tell younger people that it’s okay to go to a non-Oxbridge university.”

Event attendee



“The biggest thing we thought would make a difference was to make sure trainers and examiners... receive training in unconscious bias.”

Miranda Grell

Self-doubt and confidence issues

- 3.15. There was recognition that people from BAME backgrounds have deep set social inequalities to overcome which can affect an individual's belief that they can succeed. These barriers, many felt, should be acknowledged more by chambers.
- 3.16. Some participants said that in certain communities it is felt that the Bar 'just isn't for them' because it is perceived as the domain of privately educated white males. Therefore, BAME students tend to be more likely to consider a career as a solicitor as a result of such perceptions. Others cited problems of not 'fitting in'; with some BAME people feeling uncomfortable making 'small talk' with senior white male barristers. The situation, many believed, is compounded by a lack of visible BAME role models, or as one participant put it, "If you don't see it you don't believe you can be it."
- 3.17. It was noted that many BAME students lose confidence at university, especially those who enter with good grades. Others felt this trend continued into the BPTC. Some may start the course with equal grades to their white counterparts but end up doing less well on the course. This was attributed to the waning confidence of BAME students, due to a lack of support, and was seen as symptomatic of a wider issue around a lack of encouragement and support throughout school, higher education and the BPTC.
- 3.18. However, others raised the point that some potential barristers could be inadvertently self-selecting themselves out. An example was given where chambers may sometimes probe applicants' backgrounds to see how they have overcome difficulties but can then fail to communicate why they are taking that line of enquiry. Chambers may be doing it with the very best of intentions but applicants may only see negative connotations.

"Self-doubt can sometimes lead to people self-selecting themselves out."

Event attendee

4 Addressing the barriers – potential solutions and areas for further exploration

- 4.1. Participants identified a range of suggested solutions: some practical and potentially easier to implement and others more complex, which would require action and change from within the profession and in wider society. Some suggested actions were seen as the responsibility of the regulator, chambers and other specific groups while others were seen as collective responsibilities which could open up opportunities for increased collaboration.
- 4.2. The suggested solutions can be broadly divided into the following headings:

Greater transparency around recruitment

- 4.3. There was a strong consensus among participants that chambers should provide greater transparency in their recruitment processes, subsequent decisions and in the breakdown of diversity data at each stage of pupillage. Participants felt that this would provide transparent information to pupillage and tenant applicants. In addition, it would enable the BSB to highlight good practice and innovative schemes, and identify those chambers that needed support to improve their diversity or help to tackle bias.

“If you have really good recruitment policies that really take into account unconscious bias, ultimately the figures should right themselves.”

Event attendee

Compulsory use of the Pupillage Gateway

- 4.4. Some participants suggested that all pupillage recruitment should be done through the Pupillage Gateway, an online application system for pupillage operated by the Bar Council. It was felt that chambers which operate outside the Gateway snap up what they consider to be the best candidates before the Gateway process starts, thus depriving other chambers of more choice of candidates.

“We have to create an equal playing field at entry level.”

Event attendee

Visible diversity on pupillage panels

- 4.5. It was also felt that visible diversity was needed on pupillage panels, together with an independent assessor. It was suggested that this person, possibly a representative from the Inns of Court, could ensure that fair and objective criteria were being used and also challenge decisions, if necessary.

“We need more data and transparency on why people are not offered pupillage to certify if it is due to experience or direct discrimination.”

Event attendee

Greater consideration of factors other than academic achievement

- 4.6. Participants recognised the importance of academic excellence, but strongly felt that other factors, which are of equal if not more value, need to be taken into consideration. One noted that a first class degree from Oxbridge does not qualify or prepare a person, for example, to become an excellent advocate or deliver persuasive submissions.

“Look for potential as opposed to mini-pupillage applications and first-class degrees because that’s how talented people get lost.”

“BAME people have had to struggle harder than everybody else to achieve what they have; that struggle should be respected.”

Event attendees

- 4.7. One proposal was to include a question on application forms for pupillage whereby applicants would be able to note any adverse circumstances such as a parent’s death or having been in care etc. This, it was felt, would allow an analysis of what a person had achieved and ‘how they had got there’ and identify ‘flags’ that could operate as mitigating or favourable factors. It was also suggested that the BSB could issue guidance to pupillage committees on this matter. The challenges in asking sometimes sensitive or personal questions on a form were noted. In response to this, it was suggested that equality monitoring forms could be anonymised (as they are in Higher Education providers’ forms).
- 4.8. Some participants expressed a desire to see the establishment of an apprenticeship pathway for training which, they felt, could bring benefits to those from BAME backgrounds, particularly as individuals would be able to earn a salary while they studied.

Greater enforcement, direction and support from the BSB

A BSB with more bite

- 4.9. There was a strong consensus among participants that the BSB should be seen to act on the equality and diversity data they collect and hold chambers to account if they are not enforcing diversity policies. Some felt that many within the Bar were sympathetic to the race equality agenda, but were unclear about what lawful positive action was and what unlawful positive discrimination was. Other participants felt that some chambers were deliberately paying lip service to the requirements. There was a call for clear guidance on this issue. This guidance could include regulatory expectations on how chambers should apply policies and demonstrate good practice, and what may happen if there is deviation from the guidance.
- 4.10. Opinion was divided over whether we should focus on the business benefits of greater diversity in order to incentivise change and encourage good practice, or name and shame individuals or chambers for unacceptable behaviour. As one participant put it, “Chambers are full of people that if you tell them they have to do it this way it’s not going to work. You have to sell it to them – show them that effective recruitment will bring the best barristers to chambers. There has to be a financial incentive for chambers to do it: a carrot.”
- 4.11. However, another participant commented, “Forget about the carrot, we need a stick – and a big stick at that! We need sanctions. There needs to be consequences for inaction. If a set is not fulfilling its obligation to address diversity – making real efforts to invest in BAME students – then we should say, ‘you can’t have any more pupils then’. And it’s not enough to claim you are addressing diversity by simply increasing the number of women either.”

“If we become more diverse as a profession we will invariably widen our client base and we’ll make more money – diversity makes business sense!”

“We need to say that people have done something and it is unacceptable. This is a reputation-based profession and that could be powerful.”

Event attendees

Better use of data

- 4.12. Participants reported a need for proper analysis of pupillage data and conversion rates, for example who is applying, what pupillages are they applying for, who is getting in and who is not. It was felt that this information would enable clearer understanding of the issues, including the types of pupillages attracting BAME and white students.
- 4.13. It was also suggested that after the pupillage process is complete, statistics should be provided to chambers on the proportion of BAME and female applicants. This would enable chambers to review their recruitment decisions and communications, and to consider the types of applicants that they are currently attracting and how they may want to attract new applicants. It was not felt appropriate for such statistics to be provided to those responsible for pupil recruitment during the application/interview process, as this could open the door to potential bias.

Compulsory Equality and Diversity training

- 4.14. Many participants felt that all the profession should be required to undertake equality and diversity training. Some suggested that our regulations should be clearer around what topics should be covered and felt that equality and diversity should feature more prominently within the Professional Ethics module at BPTC stage. Generally it was thought that we should be mandating more and being more specific in relation to equality and diversity expectations. It was felt existing guidance, for training providers, for example, was too vague to be of any real value. Others felt that chambers should be required to report back on training, both internally and to the BSB, to demonstrate what the training had taught them and how this had affected practices and culture.

Roll-out of unconscious bias training

- 4.15. There were some calls to make unconscious bias training a regulatory requirement for BPTC tutors and examiners. This, it was felt, should be delivered face-to-face in chambers, rather than in the form of an online course.

“The biggest thing we thought would make a difference was to make sure that trainers and examiners and people that sit on committees receive training in unconscious bias so that they don’t make an instant assumption when somebody comes in front of them and they give that person a fair chance because they have addressed their own prejudices, which we all have.”

Event attendee

Better promotion of helplines and creation of safe spaces

- 4.16. Participants were encouraging of helplines that barristers could call for advice on what to do if they were facing racism. This, they felt, was important in offering direct support to barristers.
- 4.17. The BSB was also encouraged to help chambers work with external diversity organisations in order to create safe spaces and support those BAME practitioners already within chambers to make a difference.

Greater visibility of BAME role models

- 4.18. There was widespread agreement amongst participants that there should be greater visibility of BAME role models at all levels of the Bar and more dialogue about the benefits of diversity. Mentoring was seen as an extremely positive solution which could increase confidence and encourage more BAME people to access the profession.

“Let’s be leaders, show them it’s possible. This will make a difference.”

Event attendee



“Pupillage Committees choose people on merit which I believe is a good thing but I think... disadvantaged people should have what they have had to overcome taken into account.”

Pauline Lewis

- 4.19. Many participants wholeheartedly supported the mentoring and sponsorship scheme offered by Garden Court Chambers and some of the Inns of Courts and thought that highlighting these as examples of good practice would be beneficial. One participant commented that the existence of such schemes had given her the confidence to apply for pupillage
- 4.20. Another suggestion was to enhance the role of Equality and Diversity Officer within chambers, with a brief to look at and highlight practical ways to make real change, rather than simply ensuring basic compliance.
- 4.21. Some participants felt that there should be some public acknowledgement from the specialist Bar associations of the issues that can be faced by BAME people trying to access or progress through the Bar in order to help people deal with situations, should they arise. However there was a feeling that the burden to take action against racism and discrimination should not always fall on BAME people in chambers. Many felt that there needed to be a commitment from the whole legal profession to become involved in the conversation – and that the conversation should also address the issue of privilege and power of the dominant group.

Development of an equality and diversity kite mark

- 4.22. Many participants supported the development of an equality and diversity kite mark as a new measurement of success and a way to generate competition between chambers. However opinions were varied over its use. Some suggested that it could be a voluntary initiative while others felt that it needed to have ‘teeth’ and be backed up by accountability. One participant felt that the kite mark should not be based on equality data alone but should be awarded to chambers that were able to prove that they operated fair recruiting systems, therefore enabling people to apply with confidence.

“We need action, not words. You shouldn’t be able to call yourself an equal opportunities recruiter unless you can show it.”

“We do operate a fair recruiting system but we’re just not seeing enough people coming through. If more BAME people are encouraged to apply then this will create an upward spiral.”

Event attendees

Greater collaboration within and beyond the profession

- 4.23. Participants saw the event as an important start to the discussion of race equality at the Bar and called for greater collaboration between all areas of the profession (including the BSB, the Bar Council, the Inns of Court, training providers and the Solicitors Regulation Authority) in order to ensure progression. Most people felt that there was a need to examine the issue within the wider context of the intersectional relationship between race, class and gender. As one participant commented, “This whole issue is a minefield – there are so many threads to consider as part of, and in addition to, race. We all have different experiences and we must be sensitive to these but we really need to continue this dialogue and ensure that many different viewpoints are considered when deciding on what action to take.”
- 4.24. There were some calls for the BSB to commission an independent report from an organisation such as the Runnymede Trust. This report, they hoped, would contain a number of race equality recommendations that would be difficult for the profession to ignore. Other participants favoured an entire systems approach to the issue which could look at institutional processes in schools, sixth forms and universities that may be acting as barriers to the profession.
- 4.25. Many participants expressed a desire to take part in future events and work with the BSB to help address race equality.

“I feel that it was an important first step to open the discussion in an area that, to me, appears to be generally brushed under the carpet.”


“I found this event extremely encouraging, especially for someone from an ethnic minority. I felt as though I finally belonged somewhere.”

“I would like to thank the BSB for putting on a really positive, constructive event tonight on improving race equality at the Bar. It was really wonderful to be in a room of people who are committed to really making a practical difference to what we could do to ensure that nobody is left behind with regards to the Bar, and that we celebrate talent and the diversity of people studying to become barristers, people who are at the beginning of their careers and more senior and to make sure that everybody is celebrated and can contribute.”

Event attendees

Next steps

- 4.26. This event has been an important first step in opening dialogue with barristers, students, educators, diversity experts and other stakeholders on how to improve race equality at the Bar.
- 4.27. In developing an action plan, we intend to consider all the proposals set out on page 15.
- 4.28. We are extremely grateful to participants for their valuable input and desire to work in partnership with us to progress this important issue. The BSB warmly invite colleagues, service users and other organisations in the field to get in touch with us via ContactUs@BarStandardsBoard.org.uk if you would also like to be involved.

A photograph of Baroness Blackstone speaking at a podium. She is wearing a purple blazer and glasses. Behind her is a banner for the Bar Standards Board. A quote is overlaid on the left side of the image.

“We firmly believe that barristers need to reflect the diversity of the people whom they serve and they don’t yet.”

Baroness Blackstone

Appendix One: Speaker biographies and BSB staff teams

Event Speakers

The Rt Hon the Baroness Blackstone (event Chair)

- 5.1. Baroness Tessa Blackstone became the Chair of the Bar Standards Board on 1 January 2018.
- 5.2. Baroness Blackstone has enjoyed a distinguished career in education, politics and public life having been a lecturer at the London School of Economics, a member of the Central Policy Review Staff at the Cabinet Office, a Professor at the Institute of Education, Deputy Education Officer of the Inner London Education Authority, Master of Birkbeck College, University of London and Vice Chancellor of the University of Greenwich. She was Minister of State for Education and Employment from 1997 until 2001 and Minister for the Arts from 2001 until 2003. She has been the Chair of the General Advisory Council of the BBC, the Institute for Public Policy Research, the Royal Institute of British Architects Trust, and of the Board of Great Ormond Street Hospital and is currently Chair of the British Library Board, the Franco-British Council, the Orbit Group of housing associations and the Trustees of the British Lung Foundation.

Dr Vanessa Davies

- 5.3. Dr Vanessa Davies is the Director General of the Bar Standards Board. She took office in January 2011.
- 5.4. Prior to joining the BSB, Vanessa was the deputy Chief Executive and Director of Operations at Refugee and Migrant Justice (RMJ), which was one of the largest legal aid charities in the UK, supporting over 7,000 vulnerable people on an annual basis across 11 locations in the UK. She was responsible for professional training, standards and compliance of solicitors, barristers, accredited caseworkers and paralegals. She oversaw the closure of the charity in 2010 when it went into administration after changes to legal aid contracting.
- 5.5. Vanessa started her working life as a linguist. She was a British Academy post-doctoral fellow in French at King's College London and then the Director of the Language Centre there, establishing it as one of the leading centres in the UK for applied language studies. She then spent nearly a decade at the Foreign and Commonwealth Office, first as Director of the Diplomatic Service Language Centre and subsequently as a Group Director overseeing a range of services in support of UK foreign policy.

- 5.6. Vanessa trained for the Bar in 2005. She is an unregistered barrister, and a Bencher of Inner Temple.

Sara Ibrahim

- 5.7. Sara is a self-employed barrister practising employment and commercial law at 3 Hare Court and listed in the Legal 500. Sara is an equalities campaigner including on the issues of race and is currently serving on the C Panel of Counsel for the Commission for Equality and Human Rights and is a former Vice-Chair of the Fabian Society.

Dr Leslie Thomas QC

- 5.8. Leslie is joint head of chambers at Garden Court Chambers specialising in civil liberties, human rights, police and inquest law. Leslie was named Legal Aid Lawyer of the Year in 2012 and in 2014 received The Lawyer Hot 100 Award in the field of campaigners. In 2013 Kingston University awarded him an Honorary Doctorate for services for civil rights. In 2017 Leslie was awarded The UK Diversity Legal Awards BSN Lifetime Achievement Award.

BSB Staff Profiles

- 5.9. The event was organised and hosted by the BSB's Equality and Access to Justice and Communications and Public Engagement teams.

Equality and Access to Justice Team

- 5.10. The Equality and Access to Justice Team is responsible for the BSB's Equality Strategy and associated objectives and supports the Board in fulfilling its public equality duties. The team helps to embed equality and diversity into everything that the BSB does through equality impact assessments, engagement with external stakeholders and the collection of diversity monitoring data. The Equality and Access to Justice team comprises a Head of Equality and Access to Justice, Strategy & Policy (Amit Popat) and a Senior Policy Officer (Jessica Prandle).

Appendix Two: Definition of terms

- 6.1. **Training for the Bar:** Training for the Bar is split into three distinct parts: the academic stage; the vocational stage; and the work-based learning stage. Students at undergraduate level have a number of options available to them when pursuing this career pathway. They can study for either a qualifying law degree, such as Bachelor of Laws (LLB) or Master of Laws (LLM), or for any other undergraduate degree and then complete a Graduate Diploma in Law (GDL), before proceeding to the vocational stage. To gain a better understanding of a future career at the Bar and boost their professional profile, students can take part in a range of work experience opportunities, one of which is a mini-pupillage.
- 6.2. Vocational requirements are currently satisfied through completion of the Bar Professional Training Course (BPTC), which can only be taken after achieving the required academic qualifications. A pre-requisite for undertaking the BPTC is successful completion of the Bar Course Aptitude Test (BCAT). The BPTC is designed to give students the skills, knowledge of procedure, and competence to undertake the final, work-based learning stage, known as pupillage. This usually comprises two six-month placements referred to as the first six and second six. To be called to the Bar, students must also become a member of one of four Inns of Court. It is following completion of a pupillage that candidates can be fully authorised to practise as a barrister¹². The BSB's [Future Bar Training programme](#) is currently reviewing the ways in which prospective barristers train and qualify for the Bar. The aims of the programme are to make the qualification process for becoming a barrister more flexible, accessible and affordable whilst at the same time maintaining standards of entry.
- 6.3. **Protected characteristics:** Nine characteristics protected under the Equality Act 2010: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, sex, race, religion or belief, sexual orientation.
- 6.4. **Anti-racism:** Anti-racism is the **active process** of identifying and eliminating racism by changing systems, organisational structures, policies and practices and attitudes, so that power is redistributed and shared equitably.¹³ (NAC International Perspectives: Women and Global Solidarity).
- 6.5. Anti-racism is the practice of identifying, challenging, and changing the values, structures and behaviours that perpetuate systemic racism. (Ontario Anti-Racism Secretariat)

12. http://www.barstandardsboard.org.uk/media/1910425/barriers_to_training_for_the_bar_research.pdf

13. <http://www.ucalgary.ca/cared/antiracism2>

- 6.6. **Unconscious bias:** A person's background, personal experiences, societal stereotypes and cultural context can have an impact on decisions and actions without the decision-maker realising.
- 6.7. **Intersectionality:** the interconnected nature of social categorisations such as race, class, and gender as they apply to a given individual or group, regarded as creating overlapping and interdependent systems of discrimination or disadvantage.
- 6.8. **Positive Action:** is when an employer takes steps to help or encourage certain groups of people with different needs, or who are disadvantaged in some way, access work or training.
- 6.9. Positive action is lawful under the Equality Act. For example, an employer could organise an open day for people from a particular ethnic background if they're under-represented in the employer's workforce. This wouldn't be unlawful discrimination under the Act.

Appendix Three: Additional resources and suggested further reading

Heads Above the Parapet: How can we improve Race Equality at the Bar

Watch video footage of our event speakers (in order of appearance):

- Amit Papat, Bar Standards Board, Head of Equality and Access to Justice: <https://www.youtube.com/watch?v=UMEnJjeJKFY>
- Baroness Blackstone, Bar Standards Board, Chair: <https://www.youtube.com/watch?v=vPxLtbF2Fu0>
- Dr Vanessa Davies, Bar Standards Board, Director General: <https://www.youtube.com/watch?v=jAinjN0tCq8&t>
- Sara Ibrahim, 3 Hare Court: <https://www.youtube.com/watch?v=uCbEGneZdoA&t>
- Dr Leslie Thomas QC, Garden Court Chambers: <https://www.youtube.com/watch?v=hiIgdimoWrw&t>

Hear from participants' who took part in our special event "vox pop":

- Miranda Grell: <https://www.youtube.com/watch?v=Nvm8J2ohAxo>
- Emma Hughes: https://www.youtube.com/watch?v=VkfUAazRlC_Y
- Pauline Lewis: https://www.youtube.com/watch?v=BSmPCn_z6_Y
- Anis Rahman OBE: <https://www.youtube.com/watch?v=vw8VWh5rykE>

The 1993 Kapila Lecture by Sir Henry Brooke

- Referenced by one of the participants, the 1993 Kapila Lecture by Sir Henry Brooke explores important issues about Race Equality that are still very relevant today: <https://sirhenrybrooke.me/2015/10/14/the-1993-kapila-lecture/>

Why I'm no longer talking to white people about race, a book by award-winning journalist Reni Eddo-Lodge

- Highlighted during the seminar, this book was recommended by Sara Ibrahim and several other participants: <https://www.bloomsbury.com/uk/why-im-no-longer-talking-to-white-people-about-race-9781408870570/>

Race Relations in Britain: A Developing Agenda, edited by Tessa Blackstone

- This book was mentioned by BSB Chair Baroness Blackstone when introducing the event. (Routledge, 1 edition (19 Feb. 1998) ISBN-10: **0415150108**)

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