

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Meeting of the Bar Standards Board
Thursday 26 November 2015, 4.30 pm
Room 1, First Floor, Bar Standards Board Offices,
289-293 High Holborn, London, WC1V 7HZ

Agenda - Part 1 – Public

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1. Welcome and introductions (4.30 pm)	Chair	
2. Apologies	Chair	
3. Members' interests and hospitality	Chair	
4. Approval of Part 1 (public) minutes		
• 22 October 2015 (*)	Annex A Chair	3-7
5. Matters Arising (*)		
6. a) Action points and progress	Annex B Chair	9
b) Forward agenda	Annex C Chair	11-12
7. PRP Committee Report for Q2 (July 2015 – September 2015) (4.35 pm)	BSB 091 (15) Anne Wright	13-27
8. Fees and Charges - consultation (4.50 pm)	BSB 092 (15) Viki Calais	29-50
9. Governance Review Update and Revised Standing Orders (5.00 pm)	BSB 093 (15) Amanda Thompson	51-73
10. Bar Council Standing Orders – proposed amendments (5.15 pm)	BSB 094 (15) Amanda Thompson	75-92
11. Chair's Report on Visits and Meetings: Oct-Nov 2015 (*)	BSB 095 (15) Chair	93-94
12. Director General's Report (5.20 pm)	BSB 096 (15) Vanessa Davies	95-106
13. Any other business		
14. Date of next meetings		
• Thursday 17 December 2015 (Board Away Day)		
• Thursday 28 January 2016 (Board meeting)		
15. Private Session		
John Picken, Governance Officer JPicken@barstandardsboard.org.uk 19 November 2015		

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

BSB 261115

<p>BAR STANDARDS BOARD</p>

REGULATING BARRISTERS

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

Thursday 22 October 2015, Room 1.1, First Floor
289 – 293 High Holborn, London, WC1V 7HZ

Present: Sir Andrew Burns KCMG (Chair)
Rolande Anderson
Rob Behrens
Aidan Christie QC
Malcolm Cohen
Justine Davidge – items 8 - 16
Naomi Ellenbogen QC
Andrew Mitchell QC
Tim Robinson
Andrew Sanders
Nicola Sawford
Adam Solomon
Anne Wright

Note: Patricia Robertson QC was not present for Part 1 of the meeting but did attend by phone for some of Part 2. Rob Behrens did attend for Part 1 of the meeting but was unable to stay for Part 2 due to a prior work commitment.

By invitation: Keith Baldwin (Special Adviser)
Alan Kershaw (former Chair, CILEx)
Neil Marshall (Consultant, Capsticks Consulting)
Matthew Nicklin QC (Special Adviser)
James Wakefield (COIC representative)

Bar Council in attendance: Stephen Crowne (Chief Executive, Bar Council)
Mark Hatcher (Special Adviser to the Chairman of the Bar Council)
James Wakefield (Director, COIC)

BSB Executive in attendance: Andrew Cohen (Senior Projects & Information Officer)
Vanessa Davies (Director General)
Joanne Dixon (Manager, Qualification Regulations)
Oliver Hanmer (Director of Supervision)
Sara Jagger (Director of Professional Conduct)
Faryal Khurram (Senior Supervision and Authorisation Officer)
Andrew Lamberti (Communications Manager)
Ewen Macleod (Director of Regulatory Policy)
John Picken (Governance Officer)
Pippa Prangley (Head of Regulatory Risk)
Amanda Thompson (Director of Strategy & Communications)
Simon Thornton-Wood (Director of Education & Training)
Julia Witting (Supervision Manager)

Press: Nick Hilborne (Legal Futures)

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Item 1 – Welcome

1. The Chair welcomed members to the meeting, in particular the following guests and staff attending their first Board meeting ie:
 - Alan Kershaw (former Chair, CILEx and scrutineer for the BSB’s submission on the Regulatory Standards Framework);
 - Neil Marshall (Consultant, Capsticks Consulting);
 - Faryal Khurram (Senior Supervision and Authorisation Officer).

Item 2 – Apologies

2.
 - Sam Stein QC;
 - Emily Windsor (Special Adviser);
 - Chantal-Aimée Doerries QC (Bar Council Vice Chairman);
 - Lorinda Long (Treasurer, Bar Council);
 - Alistair MacDonald QC (Chairman, Bar Council);
 - Viki Calais (Business Manager).

Item 3 – Members’ interests and hospitality

3. None.

Items 4a & b – Approval of Part 1 (public) minutes (Annexes A & B)

4. The Board approved the Part 1 (public) minutes of the meetings held on Thursday 10 September 2015 and Thursday 24 September 2015.

Item 5 – Matters Arising

5. None.

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

6. The Board noted progress on the action list. The Chair also reminded members of the Board Away Day taking place on Thursday 17 December 2015 at The Hatton, etc Venues, Hatton Garden, London EC1N 8HN.

Item 6b – Forward Agenda (Annex D)

7. The Board noted the forward agenda list.

Item 7 – Report on High Impact Supervision Returns

BSB 080 (15)

8. The following points were highlighted:
 - the report is based on Supervision Returns submitted by 170 chambers which were identified as “highest impact” following an assessment exercise in 2014;

Note: “Impact” concerns the potential size and consequences on Regulatory Objectives should serious problems occur at a set of chambers. “Risk” considers how likely that is to happen. The point of supervision returns is to assess how well a chambers manages those risks to prevent them materialising, or how well it would deal with them if they did occur.
 - of these 64% were assessed as low risk, 27% as medium risk and 9% (16 chambers) as high risk;
 - chambers assessed as high risk were visited by Supervision and actions agreed to reduce the level of risk assessed. For chambers assessed as medium risk, actions were agreed through a follow up call and letter;

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- the chambers involved invested significant time on this exercise which is both acknowledged and commended. Feedback has been generally positive and the Supervision Department has adapted its questions for subsequent exercises in the light of the constructive comments received;
 - the data from the Returns has provided significant insight and proved very useful information which will further assist the BSB in its regulatory decision making;
 - the report on high impact chambers will be published so that good practice examples can be shared with others;
 - a similar analysis is currently underway for medium impact chambers and will be concluded shortly.
9. Members commented as follows:
- the positive feedback from chambers is welcome. It is encouraging that the exercise added value;
 - the report suggests a significant level of non-compliance and says that “few chambers actively seek feedback from lay clients”. This latter point is disappointing as it goes to the heart of consumer engagement. It would be helpful to know about the action in hand to help chambers address the areas of concern identified;
 - there seems to be a lack of focus concerning aged debt issues;
 - more guidance may be required for chambers to make progress in the area of equality and fair allocation of work;
 - it may help to review the accuracy of the original impact ratings in the light of experience. Moreover impact ratings may change as chambers diversify eg if they take on public access work.
10. In response the following comments were made:
- the Supervision Department will monitor the progress of chambers in addressing the areas of concern to reduce risk. The Board will be kept informed;
 - the Department is reviewing customer feedback mechanisms in chambers as part of the consumer engagement strand of the ASPIRE programme;
 - the questions about aged debt have since been amended in the Return for Medium Impact chambers. These are now more specific;
 - the risk level of a chambers of a chambers may be changed in the light of further relevant information or, possibly, as a result of a merger;
 - the Supervision Department will review the basis of the Impact Assessment now that the Medium Impact chambers have completed their Supervision Returns.
11. Oliver Hanmer confirmed that the report would be published on 23 October 2015 together with a press release.
12. **AGREED**
to note the report as well as the themes identified and the progress made by the Supervision Department to embed risk-based regulation.
- Item 8 – Supervision Committee Annual Report 2014-15**
BSB 081 (15)
13. The Board received the 2014-15 Annual Report of the Supervision Committee.
14. **AGREED**
to note the report.

Item 9 – Standards Committee Annual Report 2014-15

BSB 082 (15)

15. The Board received the 2014-15 Annual Report of the Standards Committee.

16. **AGREED**

to note the report.

Item 10 – The Enforcement Strategy (second version)

BSB 083 (15)

17. Sara Jagger confirmed the paper was an update to the existing enforcement strategy but that a fuller review is scheduled for the future at which time more substantial amendments may be proposed.

18. **AGREED**

to approve the revised Enforcement Strategy for publication.

**SJ to
note**

Item 11 – Complaints about barristers working for or on behalf of the BSB

BSB 084 (15)

19. Sara Jagger confirmed that the paper codified a recommendation from the Independent Observer with which the Board had previously approved.

20. **AGREED**

to note the policy and guidance document at Annex 1 of the paper.

Item 12 – Chair’s Report on Visits and Meetings (Sept-Oct 15)

BSB 085 (15)

21. The Board received the Chair’s Report on visits and meetings (Sept-Oct 15).

22. **AGREED**

to note the report.

Item 13 – Director General’s Report

BSB 086 (15)

23. Vanessa Davies highlighted the following:

- Smita Shah (Records Manager) is leaving the organisation after 23 years. She thanked Smita for her exceptional service and wished her well for the future.
- The current Vice Chair, Patricia Robertson QC, concludes her term of office with the BSB on 31 December 2015. An advertisement for a replacement has therefore been published (the closing date is 9 November 2015).

24. **AGREED**

to note the report.

Item 14 – Any Other Business

25. None.

Item 15 – Date of next meeting

26. Thursday 26 November 2015.

Item 16 – Private Session

27. 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) A Review of the Bar Standards Board’s Enforcement Decision Making – Report;
 - (2) Regulatory Standards Framework – BSB self-assessment;
 - (3) Youth Proceedings Advocacy Review;
 - (4) BSB response to MoJ Consultation: *Preserving and Enhancing the Quality of Criminal Advocacy*;
 - (5) Approval of Part 2 (private) minutes:
 - 10 September 2015;
 - 24 September 2015;
 - (6) Matters Arising;
 - (7) Action points and progress – Part 2;
 - (8) Any other private business:
 - Insurance and competition law.

The meeting finished at 5.15 pm.

**BSB – List of Part 1 Actions
26 November 2015**

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

Min ref	Action required	Person(s) responsible	Date of action required	Progress report	
				Date	Summary of update
13 (24 Sept 15) – FBT (Prof Statement)	publish the final version of the Professional Statement.	Tim Keeling	before 31 Oct 15	16/11/15	Completed – see website
				13/10/15	In hand - Publication expected 21 October
15a (23 July 15) – fees and charges	finalise and circulate a consultation on BSB fees and charges	Viki Calais / Amanda Thompson	by late Oct 15	16/11/15	Completed – to be considered as part of the Part 2 agenda (Nov 15)
				13/10/15	In hand - on November Board agenda
21b (23 July 15) – insurance for single person entities	seek a rule change to require single person entities to obtain their primary layer of professional indemnity insurance from the BMIF	Kuljeet Chung	by 31 Jul 15	16/11/15	Ongoing – update in private session
				13/10/15	Ongoing – update in private session
				04/09/15	Ongoing A first draft of the application has been produced and preliminary discussions have been had with the LSB (the application will be updated in the light of these discussions). We also need to get some further advice on competition law before progressing the application. Assuming that can be done in time, the application will be submitted in September.
25 (21 May 15) – feedback on lessons learned for AtP 2015	circulate the key points arising from the Authorisation to Practise exercise to Board Members	Vanessa Davies	immediate	20/10/15	Completed –circulated by email 20 Oct 15
				13/10/15	In hand - Electronic circulation week of 19 October.
				16/09/15	In hand – programme Board met on 16 September to confirm and key points will follow.

Forward Agendas

Thursday 17 December 2015 (Board Away Day & Dinner)

- Presentation by Legal Services Consumer Panel
- Future Governance – Board Members' Role & Composition of Board
- Strategic Plan 2016-19 - sustainability

Thursday 28 January 2016

- Diversity data report (EA2010 compliance)
- PCD / PCC Interim Report
- Future Bar Training: consultation outcome
- Regulatory Outlook approval
- Outcome of consultation on Disciplinary Tribunal Regulations
- Education & Training Committee Annual Report
- Qualifications Committee Annual Report
- A Review of the Bar Standards Board's Enforcement Decision Making – revised proposals
- ABS Fees and Charges

Thursday 25 February 2016

- BSB Business Plan for 2016-17 and new Strategic Plan 2016-19
- BSB Q3 Performance Report (includes Business Plan update, KPIs, Management Accounts, Corporate Risk Register, SLAs)
- Report on recommendations: Immigration Thematic Review
- Future Bar Training: outline proposals for academic, vocational and professional stage reform
- CPD: consultation on regulations / outcome of pilot
- Qualifications Committee Review – Capsticks Report

Thursday 17 March 2016

- Strategic plan 2016-19 – final
- Public and licensed access review consultation
- Outcome of Fees and Charges Consultation
- Women's experience at the Bar
- Employed barristers – rule change application

Thursday 21 Apr 2016 (Board Away Day)

Thursday 19 May 2016

- (If required) Approval of Future Bar Training LSB submission (changes to Qualification Rules, Academic Stage regulatory policy, Vocational Stage regulatory policy, Pupillage Stage regulatory policy)

Thursday 23 Jun 2016

Thursday 28 Jul 2016

- Approval of CPD regime changes (Part 2)

Thursday 15 Sept 2016 (budget)

- BSB Q1 Performance Report (includes Business Plan update, KPIs, Management Accounts, Corporate Risk Register, SLAs)

Thursday 29 Sept 2016

Thursday 27 Oct 2016

Thursday 24 Nov 2016

- BSB Q2 Performance Report (includes Business Plan update, KPIs, Management Accounts, Corporate Risk Register, SLAs)

Thursday 15 Dec 2016 (Board Away Day)

Thursday 26 Jan 2017

Thursday 23 Feb 2017

- BSB Q3 Performance Report (includes Business Plan update, KPIs, Management Accounts, Corporate Risk Register, SLAs)

Thursday 23 Mar 2017

PRP Committee Report for Q2 (July 2015 – September 2015)

Status

1. For discussion and decision.

Executive Summary

2. This paper provides a summary of the discussion that the PRP Committee had at its November 2015 meeting. The majority of the meeting was dedicated to scrutinising the BSB's progress and Q2 performance, against the aims and activities set out in its 2015-16 Business Plan. It covers a wide range of information (see the dashboard in Annex 1) relating to projects, financial position and performance measures.
3. The main "exception" areas highlighted in this report are:
 - a) Although expenditure remains on track, we are forecasting that we will not meet our directly attributable **income projections** by year-end. A variety of factors has contributed towards this; ie lower numbers of Entity Regulation applications. For year-end, we are now forecasting:
 - (i) **Income**: £1,430k against projection of £1,875k (-24%);
 - (ii) **Expenditure**: £5,401k against a budget of £5,437k (1%);
 - b) Eleven **business plan activities** are reported as off target in Q2; most of these have been deemed as "within BSB's control", which indicates that we still have some way to go on improving planning and forecasting.
 - c) PCD performance is now back on track.
4. An update on the Human Resources Operating Plan 2015 (as presented to the Board in March 2015) was scrutinised by the PRP Committee. The main points that were covered included leavers and staff turnover; the latter remains high with a rolling figure for this quarter at 35.4%.
5. We are in the third year of our 2013–16 strategic plan and are currently on track to achieve the majority of the activities within the aims. With six months to go before our next strategic plan commences, we are well on our way to becoming a more modern and efficient regulator.

Recommendations:

6. Members of the Board are invited to:
 - a) **scrutinise** the detail of the report;
 - b) **discuss** the main areas highlighted;
 - c) **note** the matters the PRP Committee members discussed;
 - d) **Review** the HR related matters as part of the Corporate Risk Register; and
 - e) **make recommendations** to the Executive or the PRP Committee as necessary.

Background

7. The 2013-16 Strategic Plan¹ seeks to enable us to become a more modern and efficient regulator operating at a high level of effectiveness. The five strategic aims outlined are to:
 - a) Implement specialist regulatory regimes for advocacy services which operate in the public interest and in support of the regulatory objectives of the LSA2007;
 - b) Promote greater public and professional understanding of and support for our role and mission;
 - c) Set and maintain high standards of entry to and practice in a diverse profession;
 - d) Become more evidence- and risk-based in all we do, taking into account also the globalised legal services market; and
 - e) Strive for “best practice” as an organisation for those who work for us and those whom we serve.
8. The Business Plan for 2015-16 outlines our key activities for the year², and it is the third year of our Strategic Plan. The plan also sets out our budget and staffing requirements. This report describes our performance against our objectives and budget, as well as the overall performance within the BSB.

Reporting process

9. On a quarterly basis, the Business Support Team gathers information, in liaison with the Senior Management Team (SMT), and then reviews the activities in the Business Plan and provides progress updates. It is SMT members’ responsibility to provide explanations for delays or overspends and the associated risks or impacts and how they are being addressed. Resource Group colleagues provide the figures underlying the HR and IT performance data on a quarterly basis.
10. The live document against which business activities are reported was last updated on 18 November 2015, whereas our performance indicators are for Q2 only (as at 30 September 2015).
11. Board members are asked to review the performance report and provide comment.

Areas for further consideration

12. Activity is reported to the Board by exception. This means that only items which are not running to budget, timetable or have other resourcing issues are highlighted below, and have been listed in the order that they appear in the 2015-16 Business Plan.

These include:

- a) Alternative Business Structures (ABS), S69 Order, and single-person entity insurance
 - (i) These three business plan activities have been linked together in one update as they are closely linked.

¹ Strategic Plan - https://www.barstandardsboard.org.uk/media/1513219/bsb_strategic_plan_final_20.6.13.pdf

² Business Plan - https://www.barstandardsboard.org.uk/media/1658569/bsb_business_plan_2015-16.pdf

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- (ii) An alternative business structure (ABS) is a type of entity permitted under the Legal Services Act 2007, which has a mix of lawyer and non-lawyer owners and managers.
- (iii) In April 2015, we submitted an application to the Legal Services Board to license ABSs. The indicative launch date for ABS regulation was originally posited as 1 June 2016. However the Ministry of Justice has extended consultation periods which are needed for s69³ and s80⁴ orders. This means that our timelines have been revised as follows: test pilot to run from mid-June to mid-July; and launch date on 3 October. We are having regular engagement with the LSB and the ABS implementation plan has commenced.
- (iv) A paper on insurance requirements for single-person entities was presented to the Board in July 2015. There have been further developments here and more information is presented in the Corporate Risk Register paper (BSB paper 098).
- (v) The three activities are unlikely to achieve their objectives in time for quarter three. Presently these activities are not totally within the BSB control (C3, external control). The Board members are asked to note that over the next quarter the BSB will continue its engagement with the LSB and the Executive will continue to monitor the activities closely.

b) Enforcement for Entities

- (i) The activity to “embed new systems for the enforcement of the handbook in relation to entities” is an extension of the BSB Handbook project. The project objectives are to:
- Ensure that the enforcement system is prepared for complaints arising from the introduction of entity regulation;
 - Ensure that all changes or issues arising from entity regulation are accurately reflected in PCD/PCC⁵ policy and processes;
 - Provide updated information for the public in light of changes and produce new information leaflets on topic arising from the project (if applicable);
 - Provide training for PCD staff, PCC members, prosecution panel members and linked external bodies in relation to the changes;
 - Prepare operationally for entity related complaints by adapting administrative processes and ensuring the database can accommodate the changes;
 - Review the Enforcement Strategy in light of entity regulation.
- (ii) The PCD team has continued to make headway; operational adaptations and amendments to the major policies are in the main complete. PCD staffing arrangements within the team have been challenging and the recruitment process for two previously vacant posts⁶ are now complete with start dates confirmed for November 2015. An initial training event for prosecutors took place in May 2015. Future events for the Committee, staff and prosecutors are being planned for February 2016. Board members are asked to note that the project, which has been

³ Modification of the functions of approved regulators

<http://www.legislation.gov.uk/ukpga/2007/29/section/69>

⁴ Functions of appellate bodies <http://www.legislation.gov.uk/ukpga/2007/29/section/80>

⁵ PCD: Professional Conduct Department; PCC: Professional Conduct Committee

⁶ Professional Support Lawyer and Projects and Office Support Officer

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labelled as C1, is to some extent off track, but we are confident that the majority of it will be implemented by the end of this business year.

c) Immigration Thematic Review

- (i) The thematic review of the immigration advice and services was initiated in order to assess whether our regulatory arrangements were fit for purpose. The objectives of the project are to:
- Assess the level of risk in immigration and services regulated by the BSB;
 - Identify any specific or elevated risk factors when compared to other areas;
 - Undertake a prioritisation exercise whereby the issues to be addressed are chosen with reference to the BSB's remit, sphere of influence and the relative risk level of the issues identified;
 - Map and understand the immigration advice and services market, and the different client journeys; and
 - Produce a report for the Board, with recommendations as to how this should be progressed.
- (ii) A report was initially due to be presented to the Board in November 2015. The BSB hosted a roundtable event in July 2015 to focus on identifying and understanding the risks to the consumer. The event drew together the key consumer organisations and regulators from across the sector. The information gathered caused us to think further about the above objectives and hence to alter the timeline and stages for the project.
- (iii) A number of organisations have volunteered to take part in a reference group that will help analyse findings and form recommendations. Some consumer organisations also volunteered to put the BSB in touch directly with the consumer immigration clients to assist with evidence gathering.
- (iv) As a result of these additional steps, Board members are asked to note that the immigration review will change in its remit and the activities described in the business plan will need to be redefined (originally labelled as C1). A clearer picture will emerge in the next month and a proposal will be brought to the Board early in February 2016.

d) Review of the three-year rule

- (i) Rule S20 of the Scope of Practice Rules in the BSB Handbook states that a barrister must work for the same chambers or office as a qualified person for their first three years of entitlement to exercise full rights of audience (three-year rule). We are currently reviewing the rule to ensure that it is not too rigid in relation to practice restrictions and to make sure it is suitably outcomes-focused. In addition, we are seeking to broaden the definition of employment for barristers working in-house for organisations that are not authorised law firms; this should give more flexibility for barristers and their employers, allowing them to work through agencies or other corporate vehicles.
- (ii) In relation to the latter objective, a consultation paper, which opened in October and closes on 15 December 2015, asks for respondents to consider the potential risk of any such change. It was launched slightly later than planned in order to align with the BSB's overarching communications strategy; Board members are asked to note that

the control within this business activity is “C1” and we are confident that it will be completed by the end of the business year.

e) Centralised Assessment Report

- (i) Centralised assessments were introduced in 2011-12 for the Bar Professional Training Course⁷ in order to raise standards and to create greater consistency of assessments between the providers of the course. The BSB committed to a review of these centralised assessments after the first three academic cycles, which finished in 2014. The purpose of the review was:
- To assess all aspects of the delivery of centralised assessments to determine their effectiveness in supporting the regulatory objectives for training; and
 - To assess the suitability of the centralised assessments for the future development of the vocational training for the Bar.
- (ii) The review has been conducted and a report was considered by the Education and Training Committee in July 2015, which recognised many good and improving features of the system. A plan will be presented to the November 2015 Education and Training Committee meeting to address the more substantial recommendations.
- (iii) Board members are asked to note that the review outcomes are going to be published in November 2015, when this activity (also labelled C1) will be marked as complete.

f) Research Equality Issues within Complaints

- (i) The PCD produced diversity reports for the periods 2007–2008 and 2009–2010 and reported in each period that:
- Male barristers were the subject to a disproportionate number of complaints compared to gender composition of the Bar; and
 - Black Minority Ethnic (BME) barristers were the subject to a disproportionate number of internal complaints compared to the ethnicity statistics of the Bar.
- (ii) Much more detailed analyses were carried out and the findings were presented to the Equality and Diversity Committee in June 2015, which agreed that further information was needed to truly understand the causes. Because of this additional work, the Board will not see the findings until 2016, meaning that this “C1” activity will be delayed by a quarter.

g) Disciplinary Tribunal Regulations Review

- (i) The disciplinary tribunal regulations are designed to support the BSB in meeting its statutory obligations under the LSA and to promote the Regulatory Objectives by:
- Protecting the public and the consumers from the regulated individuals who have committed professional misconduct; and
 - Promoting adherence to the professional principles, through maintaining proper standards of work and integrity within the profession.
- The aim of the review is to ensure that we continue to meet our obligations under the LSA.

⁷ Previously the Bar Vocational Course

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- (ii) A consultation seeking views on proposals to reform the disciplinary tribunal was launched in July 2015. Due to the summer recess, the consultation period was extended and closed on 12 October 2015 in order to account for this time. Workshops have taken place over the last couple of months to allow interested parties to air their views in an open forum. These went ahead on 21 September and 1 October 2015.
- (iii) The project has been flagged as likely to go off track due to the resignation of the project manager, in August 2015. Another team member has picked up the work and the consultation response summary paper will be presented to the Disciplinary Tribunal working group in late November 2015 before being presented to the Board in January 2016. Board members are asked to note that a new staff member has started recently, so we are confident that this activity, which has also been labelled as a C1, will be completed within the business year.

h) Risk-based Supervision

- (i) The BSB published a Supervision Strategy in January 2014, which explains the framework of risk-based supervision. The BSB supervises chambers and entities to ensure that they are managing risk effectively and are compliant with regulatory requirements. In the BSB's Business Plan we have set out to profile all high- and medium-impact chambers, followed by necessary supervision activities.
- (ii) So far, the BSB has had direct interaction with 170 of the highest impact chambers through the assessment of "supervision returns" (self-assessment or impact audit surveys), and through follow up calls and visits. Analysis of these elements has been compiled into a high-impact report allowing us to enhance our understanding of risks in the legal services landscape.
- (iii) The high-impact report was originally scheduled to be presented to the Board in July 2015, however this was rescheduled to October 2015. We are continuing to make headway with the risk profiling of medium-impact chambers. This activity is within our control, C1 and Board members are asked to note that this activity will be completed within the business year.

HR Dashboard

- 13. PRP Committee reviewed the HR dashboard which details some of the corporate measures we use to monitor staffing arrangements. The rolling turnover calculation has remained above 30% for the last two years. There were 4 leavers in the second quarter, bringing the total number of leavers for 2015-16 to 9.
- 14. The PRP Committee is monitoring the progress of the HR operational plan and has asked for more information on leavers, which will be scrutinised at the next meeting in February 2016.

Resources Group (RG) - Performance against the Service Level Agreement (SLA)

15. Overall, the service level agreement is working well and the aims and objectives are on the whole, being met. There has been very positive feedback on the improvement in collaboration between employees in the BSB and RG.
16. The main issue discussed during the last set of meetings was with the finance team on transaction reporting. The relatively new Financial Controller is looking into these matters and who will, over the coming months, action identified improvements. In turn, this will help the BSB to better manage its financial processes.
17. Also flagged at the Q2 SLA monitoring meetings was the importance of forward planning to ensure that the BSB and RG project timelines are not compounded together and too many aspects rely on the same staff resource at the same time. To assist with this, the BSB and RG must continue to work on improving communication and collaboration.

2015-16 Budget and Forecast

18. Below are the headline figures for Q2, further detail can be found in Annex 2:
 - a) In the six-month period ending 30 September 2015 (Q2 of 2015-16), the BSB received £291k in income against our budgeted projection of £475k (-39%). By year-end, we predict directly attributable income will reach £1,430k against our budgeted projection of £1,875k (-24%).
 - b) For expenditure, we have spent £2,719k against a budget of £2,865k (+5%). By year-end, we forecast that our expenditure will reach £5,401k against our total budget of £5,437k (+1%).
19. The key pressures and challenges have been summarised from these documents and are set out below:
 - a) Staff costs:
 - (i) We do not budget for recruitment or maternity costs as these types of expenditure are expected to be funded through underspends caused by vacancies. Currently we have six members of staff on maternity leave, and each of these roles is being covered by temporary members of staff.
 - (ii) The 2016-17 budget has now been approved by the BC's Finance Committee, hence we will be moving forward with the proposed staff changes noted by the PRP Committee at its 3 September 2015 meeting. This could lead to overspends in the Strategy and Communications staff budget.
 - (iii) Also linked to staff budgets, the Board member and Board Vice Chair recruitment cost more than budgeted and these accounts will show an overspend at year-end.
 - b) Income
 - (i) The Board delayed the decision to increase the Qualifications Committee application fees (see paper BSB 099), which means that there will be a shortfall against budgeted income in 2015-16. Regarding Entity Regulation, we had projected that

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there would be over 400 applications and approvals for these new business structures for the year, however only 36 so far have been authorised, and if this rate of applications received continues, our revenue will have underperformed against our projections by year-end.

c) Non-staff Expenditure

- (i) We are forecasting that our research budget will be underspent at year-end and we have pared back these amounts in the 2016-17 budget.

PRP discussions

20. The PRP Committee discussed these other points at its November 2015 meeting:

a) Business Plan performance

- (i) PRP members were concerned about the number of entries on the dashboard that have been marked amber since quarter one's report. The Committee compared these numbers to the number of ambers noted at the same time during the last reporting year (2014-15). PRP members commented that many of these ambers eventually turned red by year-end. They described this as a "bow wave" effect, where it could be perceived as an accumulation of unfinished business activity items. PRP members cautioned that this could present a risk of unmanageability and asked the Executive to be mindful of the same trend happening this year.

b) PCD performance

- (i) The PRP Committee carried out a deep-dive review into PCD performance and the main reason for last year's underperformance was from staff shortages. The annexed PCD performance indicators documents for future reports (inclusive of this report) are to log the number of complaints received and how this compares to previous quarters, with the report annotated if necessary for any specific explanation.

c) Assurance framework

- (i) The PRP and GRA committees will be looking at a proposal for a revised assurance framework in the new calendar year.

d) Strategic Plan

- (i) PRP members gave a steer on the topics that should be covered in relation to the Strategic Plan at the Board's away day in December.

Equality Impact Analyses

21. The Strategic Plan and Business Plan have already been through an equality impact assessment. The Performance Indicators related to HR also monitor our performance against various E&D measures.

Risk implications

22. Risks that may have an impact on the BSB achieving its objectives have been considered as of compiling the business plan activities. The Corporate Risk Register is discussed in the private section of the Board papers (paper 097 (15)).

Regulatory objectives

23. Delivery of Strategy is aligned to the Regulatory Objectives and relates to them as explained in the Strategic Plan documents.

Publicity

24. This report will form the outline of a paper presented to the Board, which will be presented in the Public part of the agenda.

Annexes

25. Annex 1 – Q1 Dashboard
Annex 2 – Management Accounts summary
Annex 3 – PCD Performance Indicators

Further reading

26. BSB Corporate Risk Register as reported to GRA in October 2015.

Lead responsibility

Dr Anne Wright, Chair, PRP Committee
Dr Vanessa Davies, Director General, BSB
Viki Calais, Business Manager
Natasha Williams, Business Support Officer

Q2 Dashboard																													
Business Plan Activities (2015-16)				Service Standards (Core activity)																									
				Professional Conduct Indicators	Q2	Target																							
				KPI - % of complaints concluded or referred to disciplinary action within service standards	84%	80% ✓																							
				OPI - % of complaints concluded or referred to investigation within 8 weeks	86%	80% ✓																							
				OPI - % external complaints concluded or referred to disciplinary action within 8 months following investigation	69%	80% ⚠																							
				OPI - % of internal complaints concluded or referred to disciplinary action within 5 months following investigation	94%	80% ✓																							
				Qualification Committee Applications	Q2	Target																							
				Time taken to determine applications from receipt of the complete application:																									
				Up to 6 weeks	76%	75% ✓																							
				0 to 12 weeks	99%	98% ✓																							
				Over 12 weeks	1%	2% ✓																							
				Number of Service Complaints closed: Q2	5																								
				2015-16 Q2 YTD actuals against budget	2015-16 YE fcst against budget																								
				Act	Bud	Var																							
				Income	£291k	£475k -£184k ✖																							
				Expenditure	£2,719k	£2,865k £146k ✓																							
				Staffing (Rolling figures) Q2	2014-15 HR																								
				Sickness (days/FTE)	5.6	6.7 ✓																							
				Sickness (long term)	0.0	1.6 ✓																							
				Turnover (%)	35.4	36.2 ⚠																							
				IT Response times	Corporate Risk Register																								
				2015-16 (Q2)	30 Jul 15																								
				Response to high priority	100%	✓																							
				Response to medium priority calls	98%	✓																							
				<table border="1"> <thead> <tr> <th colspan="2"></th> <th colspan="3">30 Jul 15</th> <th colspan="3">22 Oct 15</th> </tr> <tr> <th rowspan="2">Likelihood</th> <th rowspan="2">Impact</th> <th>1</th> <th>5</th> <th>1</th> <th>2</th> <th>5</th> <th>1</th> </tr> </thead> <tbody> <tr> <td>19</td> <td>4</td> <td>7</td> <td>1</td> <td>2</td> <td>8</td> <td></td> </tr> </tbody> </table>					30 Jul 15			22 Oct 15			Likelihood	Impact	1	5	1	2	5	1	19	4	7	1	2	8	
		30 Jul 15			22 Oct 15																								
Likelihood	Impact	1	5	1	2	5	1																						
		19	4	7	1	2	8																						
				Service level agreement with BC (Resources Group)	% of aims and objectives met																								
				Project Management Office	96%	✓																							
				Records Office	89%	⚠																							
				IT	92%	✓																							
				HR		86% ⚠																							
				Facilities Management		99% ✓																							
				Finance		88% ⚠																							
Key Control C1 - BSB Control C2 - RG control C3 - External control																													
		Importance ↑ More important ↓ Less important		Size ↑ 1 Small piece of work ↓ 4 Large piece of work		Weighting Higher weighting Lower weighting																							

BSB EXECUTIVE

BUDGET HOLDER: VANESSA DAVIES

	SEP	SEP	SEP	SEP	2015/16	2015/16	2015/16 Fcast vs	Board paper ref.
	Q2	Q2	Q2	Q2	YE	YE	2015/16 Budget	
	ACTUAL	BUDGET	VAR	VAR %	FCAST	BUDGET	VAR	VAR %
<u>Income</u>	£k	£k	£k		£k	£k	£k	
Professional Conduct	19	0	19		19	0	19	
Assessments	127	125	2	2%	153	163	-10	-6%
Education and Training	23	26	-3	-11%	1,013	977	36	4%
Qualifications	116	198	-82	-42%	238	477	-239	-50%
Entity Regulation	6	126	-120	-95%	7	258	-251	-97%
QASA	0	0	0		0	0	0	
Total	291	475	-184	-39%	1,430	1,875	-445	-24%
								Paragraph 19b)
<u>Expenditure</u>	£k	£k	£k	%	£k	£k	£k	%
Executive	392	305	-87	-29%	692	629	-64	-10%
Staff Costs	333	269	-65	-24%	603	557	-46	-8%
Other Costs	59	37	-22	-61%	89	72	-17	-24%
Strategy and Comms	348	375	27	7%	809	852	43	5%
Staff Costs	291	278	-13	-5%	576	548	-28	-5%
Other Costs	57	98	41	41%	233	304	72	24%
Professional Conduct	630	655	25	4%	1,277	1,269	-8	-1%
Staff Costs	544	553	10	2%	1,072	1,060	-13	-1%
Other Costs	86	101	16	15%	204	209	5	2%
Assessments	105	214	109	51%	349	421	72	17%
Staff Costs	75	78	3	4%	168	156	-12	-8%
Other Costs	30	136	106	78%	181	265	84	32%
Education and Training	306	309	3	1%	467	455	-11	-2%
Staff Costs	160	163	3	2%	311	297	-14	-5%
Other Costs	146	147	1	0%	156	158	2	1%
FBT	103	126	22	18%	167	173	6	3%
Staff Costs	40	45	4	10%	89	76	-13	-17%
Other Costs	63	81	18	22%	78	97	19	19%
Qualifications	146	158	11	7%	301	314	13	4%
Staff Costs	136	140	4	3%	274	278	4	1%
Other Costs	10	17	7	40%	27	36	9	26%
Regulatory Policy	406	426	20	5%	704	703	-1	0%
Staff Costs	256	273	17	6%	547	539	-8	-2%
Other Costs	150	153	3	2%	157	165	7	5%
Entity Regulation	98	96	-2	-2%	171	183	12	7%
Staff Costs	70	64	-5	-8%	123	129	7	5%
Other Costs	29	32	3	10%	49	54	5	10%
Supervision	184	200	16	8%	464	436	-27	-6%
Staff Costs	180	197	17	9%	421	395	-27	-7%
Other Costs	4	3	-1	-21%	43	42	-1	-2%
QASA	0	0	0		0	0	0	
Staff Costs	0	0	0		0	0	0	
Other Costs	0	0	0		0	0	0	
Total	2,719	2,865	146	5%	5,401	5,437	35	1%
Total Staff Costs	2,083	2,059	-25	-1%	4,185	4,035	-150	-4%
Total Other Costs	636	806	170	21%	1,217	1,402	185	13%

PCD Key Performance Indicators

- Performance in Q2 has improved
- 95 complaints have been received in Q2 in comparison to 166 in Q1

PCD Measure		2015-16			2014-15 YE	2014-15 Target
		Q1	Q2	Target		
Overarching KPI	The percentage of complaints concluded or referred to disciplinary action within service standards	64%	84%	80%	69%	80%
OPI (Assessment)	The percentage of complaints concluded or referred to investigation within 8 weeks	56%	86%	80%	65%	80%
OPI (Investigation)	The percentage of external complaints concluded or referred to disciplinary action within 8 months following investigation	72%	69%	80%	84%	80%
OPI (Investigation)	The percentage of internal complaints concluded or referred to disciplinary action within 5 months following investigation	70%	94%	80%	75%	80%

Long Running Cases

Snapshot at the close of Q2 of 2015-16

Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
Assessment (8 weeks)	74	13	18%
External Investigation (8 months)	91	3	3%
Internal Investigation (5 months)	53	4	8%
Total	218	20	9%

Note

OPIs and the overall KPI measure closed cases – In consequences, cases that are delayed (however legitimate the reason) will impact these figures.

The overall KPI reflects the combined effect of the three individual OPIs

Fees and Charges - consultation

Status:

1. For noting.

Executive Summary:

2. This paper presents the draft BSB consultation on Fees and Charges. As agreed in July 2015, it is split into two parts. The first part concentrates on the overarching charging principles. The second part shows how these principles can be applied on the practical example of Qualifications Committee application fees.
3. This consultation will be aligned with the consultation the BSB is also conducting on Alternative Business Structure application and authorisation fees. Both related consultations will be carried out over the winter period.

Recommendations

4. Members of the Board are invited to:
 - a) **Note** the draft consultation;
 - b) **Note** that the Planning, Resources and Performance Committee are considering the consultation document which will then be signed off by the Director General.

Background

5. The BSB set out in the 2013-16 strategic plan its ambition to achieve “best practice” as an organisation for those who work for us and those whom we serve. For the BSB this means establishing a baseline for regulatory costs and also steadying the rate of increase compared to the last three years. In addition, the BSB aims to develop a more strategic, longer-term approach to raising revenue in support of its regulatory activity.
6. The BSB is primarily funded through Practising Certificate Fee (PCF) funds (£5,862k)¹ from the Bar Council (and the Inns’ Subvention (£573k), which in the next couple of years will come to an end). The BSB also raises a small proportion of its revenue from fees it charges to certain services users and contractual partners (£1,875k).
7. The BSB could in fact fund all of its services through the PCF as all our activities relate to regulation, accreditation, education and training of barristers (as detailed in s51 of the Legal Services Act 2007 (LSA 2007)²). The income we receive from non-PCF fees (BSB fees and charges) reduces the call on the Bar Council and hence on the PCF.

Principles

8. The principles set out in the first part of the consultation document have been drawn up to assist with articulation and documentation of the rationale underpinning the decisions on how non-PCF charges have been set.

¹ Numbers quoted in this paragraph are taken from the BSB’s 2015-16 Business Plan https://www.barstandardsboard.org.uk/media/1658569/bsb_business_plan_2015-16.pdf

² http://www.legislation.gov.uk/ukpga/2007/29/pdfs/ukpga_20070029_en.pdf

9. As mentioned in July 2015, it is not anticipated that there will be one “hard and fast rule” to calculate all non-PCF charges. In most cases, the BSB will be required to work its way through each principle, considering the impacts and effects that each would have. An evidence-based judgement would then be made on what percentage of costs should be recouped from direct charges, and what percentage should be propped up by PCF funds. If it is deemed that 100% of an activity’s costs should be recovered from non-PCF fees, then this would be described as “Full Cost Recovery”. In the consultation document we have used a “sliding scale” to demonstrate this approach diagrammatically.
10. We have also taken this opportunity to ask consultees about fee waivers. In some instances, applicants can apply for a fee waiver, which is granted if the BSB agrees that a waiver would avoid an injustice or real hardship. The consultation on this section will help us to determine whether fee waivers should be: a) funded by revenue from other similar fees; b) covered by PCF funds; c) replaced by discounting; or d) removed altogether.

Practical application – Qualification Committee applications

11. The second part of the consultation shows how the proposed principles would be applied in practice. A small number of qualification fees have been detailed in the consultation to demonstrate some examples of our considerations and the associated calculations.

Timetable

12. We intend to carry out the consultation over the winter period, commencing on 7 December 2015, with a view to implementing a new fee structure on 1 April 2016 at the start of the next financial year.
13. As mentioned in the executive summary, this consultation will be disseminated at the same time as the Alternative Business Structures (ABS) fee consultation as they are so closely related. The general fees and charges consultation contains quite broad principles and will be open for a minimum of 10 weeks for wide-ranging groups of stakeholders. The ABS fee consultation is on the very specific fee levels (using the Full Cost Recovery principle) and will be targeted at particular audiences so the consultation period will be shorter.

Equality Analysis

14. All of the BSB’s services undergo Equality Impact Assessments or analyses. This is fundamental to understanding how our fees impact on our regulatory, strategic and equality objectives. The consultation contains some specific questions on how we should mitigate any negative impacts in relation to the practical example given. A review of all the types of Qualifications Committee Applications will be conducted prior to a new fee structure coming into force.

Risk implications

15. This paper is essentially about the risks that we face by following the existing policy and insisting upon full economic cost recovery in all cases: the risk of market changes, demand falling and lowered income are canvassed.

Regulatory objectives

16. By considering these issues, we are supporting the regulatory principles set out in the Legal Services Act: that regulatory activities should be transparent, accountable, proportionate, consistent, and targeted.

Publicity

17. The consultation will be publicly available as per the timetable mentioned above.

Annex

18. Annex 1 – Draft fees and charges consultation

Lead responsibility

Vanessa Davies
Viki Calais

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Fees and Charges Consultation 2015

Contents

Who should respond?

Executive Summary

Questions

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- The Bar Standards Board (BSB)
- How the BSB is funded
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- Should the BSB charge regulatory fees at all?
- Full Cost Recovery
- Exceptional cases
- Transparency
- Consultation
- Fee waivers

Part B – Qualification Committee Application fees

- Qualifications Applications
- Costs and revenue of the Qualifications Team
- General Principles – Equality impact considerations

Next steps

1. Who should respond?

1.1 The Bar Standards Board (BSB) would very much like to hear from the following groups:

- Legal Services Consumer Groups or Representatives
- Barristers
- Prospective Barristers
- People that have applied for a waiver from the BSB Handbook, including the Bar Training Rules
- Entities regulated by the BSB and prospective entities
- Education and training providers specialising in legal services
- The General Council of the Bar
- Peer regulators
- Legal Services Board
- Ministry of Justice
- Other BSB partners
- General Public

2. Executive Summary

2.1.1 This consultation is concerned with how the Bar Standards Board is funded. Currently we raise our revenue through Practising Certificate Fees (PCFs) paid by barristers, and non-PCF fees and charges paid for by services users.

2.1.2 The BSB could, if it chose to do so, fund all of its services through PCFs, because of how the Legal Services Act 2007 (LSA) is set out. We choose to have a non-PCF fee structure and the effect of this is that the PCF is lower for individuals than it would be otherwise.

2.1.3 We want your views on whether we should continue to charge for delivering certain services or whether PCF funds should cover all of the BSB's activities.

2.1.4 If we do continue to charge for services, we would like your views on how to do this. Should we charge at Full Cost recovery, or should the PCF funds cover some aspects of service delivery? Some of the considerations we think we should take into account are the Regulatory Objectives (as set out in the LSA), the main beneficiaries of the service, and our equality duties.

2.1.5 To tell us what you think please click here [insert link] or email [insert link]. The deadline for responses is XX.

2.1.6 We are also currently consulting on a related fees matter. This is in connection with the Alternative Business Structure fee levels that uses the principles set out in this document. To find out more please click here [insert link].

3. Questions

3.1.1 To tell us what you think please click here [insert link] or email [insert link]. The deadline for responses is XX.

Part A General Principles	
Question 1	Do you think the BSB should continue to charge for delivering certain services?
Question 2	In your opinion, should the PCF funds cover all of the BSB's activities?
Question 3	If the BSB is to charge for certain services, do you agree that the Full Cost Recovery principle should normally be applied?
Question 4	Are the Principles set out in table XX the right ones to consider when deciding fee levels?
Question 5	What else do you think should be considered when deciding on fee levels?
Question 6	Should the BSB use a "sliding scale" (see XXX) to make a decision on fee levels?
Question 7	In your opinion, should the BSB publish more detail with regard to fees or funding?
Question 8	Is the BSB's website the right place to make this information available?
Question 9	Would you expect the BSB to consult on fee changes in any other circumstances (not listed in 5.6.1)?
Question 10	Do you think the BSB should continue with its fee waivers policy?
Question 11	What would the reasons be for continuing with the fee waivers policy?
Question 12	In your opinion, should the BSB introduce discounts (instead of fee waivers)?
Question 13	What would the reasons be for introducing discounts?
Question 14	Do you think waivers or discounts should be funded by the users of the same service?
Question 15	Do you think waivers or discounts should be funded by the profession as a whole?
Part B Qualification Committee Application fees	
Question 16	In your opinion, should the BSB apply the Full Cost Recovery method to Qualification Committee Application fees?
Question 17	What reasons would justify the BSB not applying the Full Cost Recovery method for Qualifications Committee Application fees?
Question 18	In your opinion, which protected characteristic groups are likely to be negatively impacted by Qualification Committee Application fee increases?
Question 19	Why do you think particular protected characteristic groups would be negatively impacted by qualification committee application fee increases?
Question 20	Do you think the negative equality impacts are significant?
Question 21	In your opinion, should the BSB take any action to mitigate the negative equality impacts?
Question 22	What do you think the most appropriate mitigating actions might be?

4. Introduction

4.1 The Bar Standards Board (BSB)

4.1.1 We regulate barristers called to the Bar and barrister-led entities in England and Wales in the public interest.

4.1.2 We are responsible for:

- a) setting the education and training requirements for becoming a barrister;
- b) setting continuing training requirements to ensure that barristers' skills are maintained throughout their careers;
- c) setting standards of conduct for barristers;
- d) monitoring the service provided by barristers to assure quality;
- e) handling complaints against barristers and taking disciplinary or other action where appropriate.

4.1.3 The BSB is the independent regulatory arm of the Bar Council, which the Legal Services Act 2007 (LSA)¹ recognises as the Approved Regulator in this sector. The Bar Council is an unincorporated association and a not-for-profit organisation.

4.1.4 The BSB is committed to delivering against the Regulatory Objectives set out in the LSA (s1), which include protecting and promoting the public interest, and it also pays regard to the principles of being transparent, accountable, proportionate, consistent, and targeted (s3). The Regulators' Code² echoes the objectives of being transparent and proportionate.

4.1.5 The BSB has a current strategic aim to achieve “best practice” as an organisation for those who work for us and those whom we serve. For the BSB, this includes establishing a baseline for regulatory costs and also steadying the rate of increase compared to the past three years. The BSB also strives to live up to our Values by being cost-effective and accountable for our use of resources, as well as working efficiently with an entrepreneurial and commercial mind-set as far as appropriate.

4.2 How the BSB is funded

4.2.1 The BSB is primarily funded through Practising Certificate Fee (PCF) funds (£5,862k) which the Bar Council raises on our behalf under s51 of the Legal Services Act. The BSB also raises a small proportion of its revenue from fees it charges to certain services users and contractual partners (£1,875k)³. For the next two years the BSB will also receive a subsidy from the Inns of Court, £573k in the 2015-16 financial year, £250k in 2016-17; but nothing thereafter. The total cost of regulation for the BSB in 2015-16 is projected at £8,274k, which the BSB must raise via either PCFs or other regulatory fees or both.

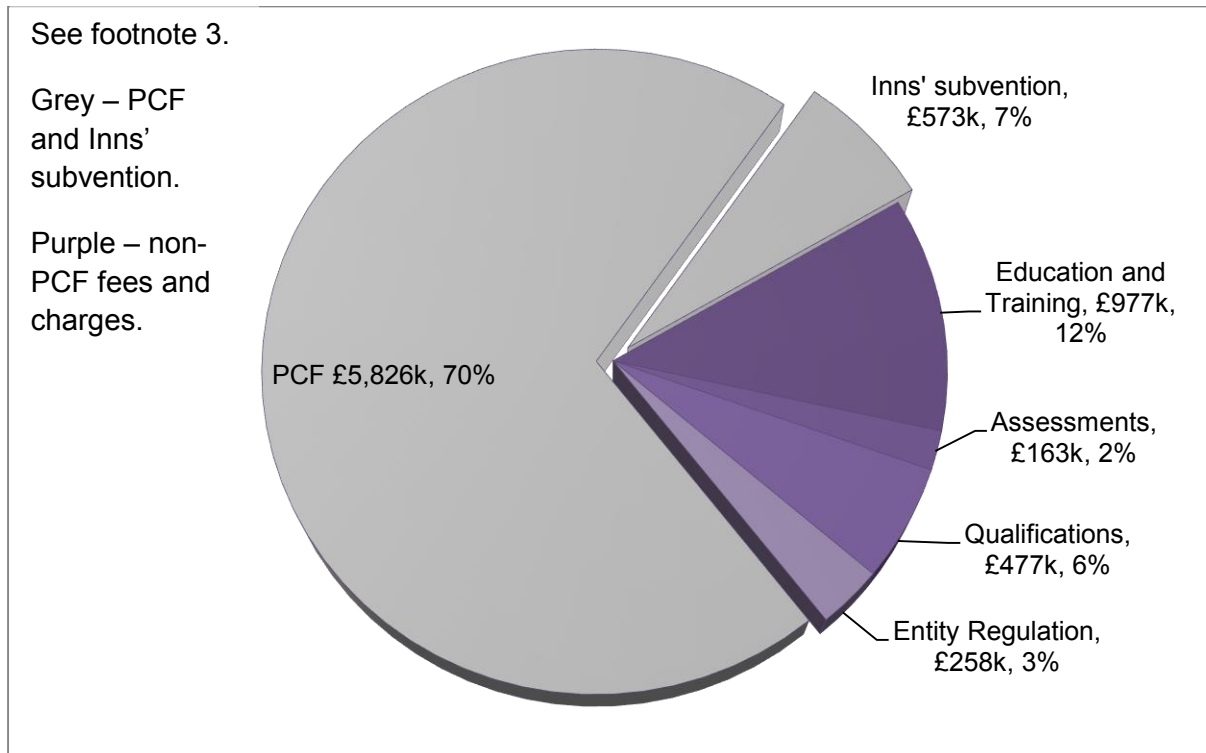
4.2.2 As mentioned above, our 2015-16 business plan shows diagrammatically how much of our funds come from PCFs (70%), how much come from the Inns' (7%), and how much comes from regulatory fees and charges (23%) – (see figure xx).

¹ Legal Services Act [insert link]

² Regulators Code [insert link]

³ Numbers quoted in this paragraph are taken from the BSB's 2015-16 Business Plan https://www.barstandardsboard.org.uk/media/1658569/bsb_business_plan_2015-16.pdf

4.2.3 Figure XX



4.2.4 The BSB could, if it chose to do so, fund all of its services through PCFs. This is because all of our activities relate to regulation, accreditation, education and training of barristers (as detailed in s51 of the LSA). The income we receive from non-PCF fees (BSB fees and charges) reduces the amount of money we have to raise via the PCF. Without the other regulatory fees, the profession would need to fund all of the BSB's activities, including for example the regulation of education and training for those who are not yet members of the profession.

4.3 Current regulatory fees and charges

4.3.1 The BSB has a number of charges already in place and a small number are described here:

- a) BPTC provider fees – a fee that an education provider pays in order to be accredited to deliver the Bar Professional Training Course; this covers the cost of our supervision and quality assurance, as well as centralised examinations;
- b) CPD Accreditation fees – a fee that a training provider pays in order to be accredited by the BSB to deliver Continuing Professional Development courses;
- c) Qualification Application fees:
 - Fees for an application to be admitted to the Bar eg Foreign Lawyer application fees;
 - Fees that are paid when a person would like to apply for a waiver or exemption from the BSB Handbook, including the Bar Training Regulations e.g an application to reduce Pupillage requirements;
 - Fees that are paid for applications for certain types of approval under the BSB Handbook – eg authorisation to conduct litigation, approval as a pupillage training organisation, licensed access;

- Fees for applications for review of certain types of decision.
 - These are explored more in Part B;
- d) Entity Regulation fees:
- Application – a fee a prospective entity pays for the BSB to consider its application;
 - Authorisation – a fee an entity pays having been through the application process in order to be authorised by the BSB.

4.3.2 We are also currently consulting on the Alternative Business Structure (ABS) fee levels. An ABS is a type of entity permitted under The Legal Services Act 2007 which has a mix of lawyer and non-lawyer owners and managers. The fee structure for such entities is likely to follow the same principles we used for Entity Regulation. To find out more please visit our website or click here [insert link].

4.4 Consultation

4.4.1 In line with best practice, the BSB consults its key stakeholders before implementing a policy decision. This consultation is being carried out so that the BSB can make a decision on the principles we use on how we fund ourselves, and from which sources we should collect our revenue.

4.4.2 The consultation has been split into three parts. Part A looks at the general principles we would like to continue to use. In a nutshell, we are asking our consultees whether our regulatory services should be: funded by the profession as a whole via PCFs; or by individual services users via non-PCF fees and charges; or by a blend of the two.

4.4.3 To illustrate our thinking, we have in Parts B set out an example of how these principles might be applied in practice.

4.5 How to respond

4.5.1 Thank you for taking the time to participate; your views are important to us and we look forward to reading them.

4.5.2 Please click here [insert link] or email us [insert link] to submit your responses.

4.5.3 The deadline for responses to this consultation is 15 February 2016.

4.5.4 You do not have to wait until then to respond. You will find in each section a number of questions. We would ask that you treat these as prompts, and to please expand your answers as necessary if you think the information you provide will help us with our decision making. A response does not have to be a comprehensive written document: it can be if you wish, but it can also be short-form answers to the very specific questions we have posed.

4.5.5 You do not have to respond in writing. If you would like someone from the BSB to meet with you or the organisation or group of people you represent, to listen to your views, and record them accurately in writing for you, we will do this as far as possible. Just let us know that is what you wish to do.

4.5.6 We will be contacting lots of people and organisations who may have an interest in this consultation and asking if we can come and talk to them about it. If you would like us to talk to you about the consultation, please get in touch.

Part 1 – Public

4.5.7 If you have a have a requirement to access this consultation in an alternative format, such as larger print or audio, please let us know. Please let us know if there is anything else we can do to facilitate feedback other than via written responses.

4.5.8 Whatever form your response takes, we will normally want to make it public and attribute it to you or your organisation, and publish a list of all respondents - unless you specifically ask that we do not do any of these things. Please make your wishes clear to us in this regard.

4.5.9 Please contact [insert details] if you would like further information about this consultation or if you would like assistance with your responses.

Response details

Contact
Links

5. Part A – General Principles

5.1 What are the general principles for setting fees and charges?

5.1.1 This section outlines some of the general principles the BSB is taking or may take in future when considering what services it should charge for, and how much it should charge.

5.2 Should the BSB charge regulatory fees at all?

5.2.1 The BSB had previously agreed that in many circumstances it is good practice to charge for delivering services to users. It means that we can be more focussed on the expenditure relating to a particular service, and it can mean that the service is used wisely, thus reducing waste. In some contexts this principle is known as “polluter pays”.

5.2.2 If the BSB did not charge for some of its services, the costs would have to be covered by the PCF funds, paid for by all members of the barrister profession. With our current fee structure in place, the PCF is lower for individuals than it would be otherwise (as a guide this could be as much as £100).

- Question 1 – Do you think the BSB should continue to charge for delivering certain services?
- Question 2 – In your opinion, should the PCF funds cover all of the BSB’s activities?

5.3 Full Cost Recovery

5.3.1 We use the term “Full Cost Recovery” to describe the way that the BSB calculates how much revenue is needed to pay for the costs of a particular service. It means adding up the costs of all aspects of service delivery, both direct and indirect costs, which include:

- a) Possible development or investment costs (to be recouped over a number of years, usually three);
- b) Direct staff costs;
- c) Direct non-staff costs;
- d) Governance and management (indirect costs);
- e) IT, HR (indirect costs);
- f) Premises (indirect costs);
- g) Corporate provisions and contingency (indirect costs).

The fee in question is then set in relation to all these costs, typically by dividing the costs by the anticipated number of users.

5.3.2 Generally when the Full Cost Recovery principle is used, it means that a particular service is not generating either a surplus or a deficit.

- Question 3 – If the BSB is to charge for certain services, do you agree that the Full Cost Recovery principle should normally be applied?

5.4 Exceptional cases

5.4.1 If the BSB chose not to charge at a Full Cost Recovery level for a particular service, there could be a number of reasons for this. A selection of these has been laid out in table

Part 1 – Public

XX below. Under the “principles” column, the table sets out a number of issues that the BSB has a duty to pay regard to when deciding on the design of a service.

5.4.2 Table XX

Principles	Steer towards 100% Full Cost Recovery from non-PCF fees	Steer towards fully funded by the PCF (from the profession as a whole)
Regulatory Objectives <ul style="list-style-type: none"> - Protecting and promoting the public interest - Protecting and promoting the interests of consumers 	<ul style="list-style-type: none"> • The service being provided <u>indirectly</u> promotes the public interest • The service being provided <u>indirectly</u> promotes consumer interests 	<ul style="list-style-type: none"> • The service directly protects the public interest • The service directly protects consumer interests
Strategic Objectives and Values <ul style="list-style-type: none"> - Value for Money 	<ul style="list-style-type: none"> • The service is expensive to run, and draws upon significant staff and financial resource 	<ul style="list-style-type: none"> • The service runs at a low cost, and resources used are negligible. Costs associated with fee collection outweigh service delivery
Beneficiaries	The main beneficiaries are: <ul style="list-style-type: none"> • Individuals • Private companies • Niche service users (eg barristers from a particular Specialist Bar Association) 	The main beneficiaries are: <ul style="list-style-type: none"> • The profession as a whole • Large groups of prospective barristers
Market	<ul style="list-style-type: none"> • Fees for a particular service would have a negligible effect on market behaviour 	<ul style="list-style-type: none"> • The BSB wants the service to heavily influence market behaviour
Regulatory Risks	<ul style="list-style-type: none"> • The service relates to <u>low</u> “likelihood” and <u>low</u> “impact” regulatory risks 	<ul style="list-style-type: none"> • The service relates to “<u>highly likely</u>”, “<u>high impact</u>” regulatory risks
Barriers to the profession	<ul style="list-style-type: none"> • The financial or administrative processes relating to the service do <u>not</u> deter good quality people entering the profession 	<ul style="list-style-type: none"> • The financial or administrative barriers <u>would</u> deter good quality from entering the profession
Equality Objectives <ul style="list-style-type: none"> - Encourage an independent, strong, diverse and effective legal profession 	<ul style="list-style-type: none"> • Fees <u>do not</u> adversely impact service users with protected characteristics 	<ul style="list-style-type: none"> • Financial barrier <u>discourages</u> or adversely impacts service users with protected characteristics

5.4.3 A number of these principles relate to the statutory Regulatory Objectives which we have listed here:

- a) protecting and promoting the public interest;

- b) supporting the constitutional principle of the rule of law;
- c) improving access to justice;
- d) protecting and promoting the interests of consumers;
- e) promoting competition in the provision of legal services;
- f) encouraging an independent, strong, diverse and effective legal profession;
- g) increasing public understanding of the citizen’s legal rights and duties;
- h) promoting and maintaining adherence to the professional principles.

5.4.4 One of the functions that the BSB delivers, which it does not set a non-PCF charge for, is its enforcement function (or professional conduct / disciplinary system). This is because it is so important with regard to the Regulatory Objectives labelled above as a), d) and h), that the cost of this function is borne by the profession as a whole through the PCFs.

5.4.5 Looking at another aspect of table XX, we have applied a Full Cost Recovery regime to the authorisation and supervision of Bar Professional Training Course (BPTC) Providers. This is because the main beneficiaries of this service are educational institutes (not the profession as a whole). Typically some 1,400 BPTC students (who benefit indirectly) take the course, but roughly only 450 go on to become PCF payers.

5.4.6 The last row of table XX sets out our duty with regard to the Equality Objectives. When we set fees for a particular service, we may be creating an arguably insurmountable financial barrier, which could mean that people with protected characteristics⁴ are disproportionately deterred from using the service. It also means that we are not helping to advance against the Regulatory Objective f) above. This concept is explored further in Part B.

- Question 4 – Are the Principles set out in table XX the right ones to consider when deciding fee levels?
- Question 5 – What else do you think should be considered when deciding on fee levels?

5.4.7 It is not anticipated that there will be one “hard and fast rule” to calculate all non-PCF charges. In most cases, the BSB will be required to work its way through each principle in table XX, considering the impacts and effects that each would have. An evidence-based judgement would then be made on what percentage of costs should be recouped from direct charges, and what percentage should be underpinned by PCF funds. This could be viewed as a “sliding scale”.

5.4.8 Illustration XX – sliding scale



⁴ Equality Act 2010 - Protected characteristics: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, sexual orientation. The BSB also pays regard to socio-economic background.



- Question 6 – Should the BSB use a “sliding scale” (see XXX) to make a decision on fee levels?

5.5 Transparency

5.5.1 The BSB already operates transparently, in that all fees and charges decisions are made public and each case is justified, with explanations of the basis of the fee, including any cross-subsidies. Most information can be found on the BSB’s website.

- Question 7 – In your opinion, should the BSB publish more detail with regard to fees or funding?
- Question 8 – Is the BSB’s website the right place to make this information available?

5.6 Consultation

5.6.1 The BSB intends to continue to consult the relevant stakeholders before introducing any new charge or substantially modifying an existing charge in line with our consultation policy. We would not expect to consult if we intend to keep a particular fee at the same level, or if it rises or falls with inflation.

- Question 9 – Would you expect the BSB to consult on fee changes in any other circumstances (not listed in 5.6.1)?

5.7 Fee waivers

5.7.1 For some fees, the BSB has a policy in some circumstances to waive the fee (ie the service user does not have to pay) and typically waivers are granted for applicants to avoid an injustice or real hardship or to incentivise particular behaviour. We have not consulted on this principle for some time and are considering whether it is still relevant, or if discounting would be more appropriate. We would also like views on whether fee waivers should be funded by revenue from similar non-PCF fees (other similar service users), or whether they should be covered by PCF funds (from the profession), or whether they should be removed altogether. If waivers or discounts are funded from similar services users, this means that the fees for that particular service could go up. If the waivers were funded by the profession as a whole, there could be a small increase to the PCF, depending on volume of activity. If there were no fee waivers, this could create an arguably insurmountable financial barrier for people wishing to access the BSB’s services.

- Question 10 – Do you think the BSB should continue with its fee waivers policy?
- Question 11 – What would the reasons be for continuing with the fee waivers policy?
- Question 12 – your opinion, should the BSB introduce discounts (instead of fee waivers)?
- Question 13 – What would the reasons be for introducing discounts?
- Question 14 – Do you think waivers or discounts should be funded by the users of the same service?
- Question 15 – Do you think waivers or discounts should be funded by the profession as a whole?

6. Part B – Qualifications Committee Application fees

6.1 Qualifications Applications

6.1.1 As mentioned in the Introduction, the BSB charges fees for applications made to the Qualifications Committee. These are applications made for a variety of approvals under and waivers from the BSB Handbook, including the Bar Training Regulations.

6.1.2 It has been a while since these fees have been reviewed, however our general idea was that revenue from these fees covers the direct costs of the qualification regulations team. We are considering what it would mean to charge fees according to the full cost recovery principle (see section xx) ie revenue from qualifications application fees should cover both direct and indirect costs.

6.2 Costs and revenue of the Qualifications Team

6.2.1 Using the Full Cost Recovery principle, the following table shows the annual expenditure for both direct and indirect costs relating to Qualifications Committee applications. The BSB strives to be as efficient as possible and has aimed to reduce its costs in some areas.

6.2.2 Table XX⁵

	2014-15	2015-16
Type of Expenditure	Cost (£k)	Cost (£k)
Staff costs (direct costs)	278	247
Non-staff costs (direct costs)	42	31
Governance overheads (indirect costs)	165	167
Resources Group overheads (eg IT, HR, premises etc – indirect costs)	365	234
Total annual cost	846	679
Total revenue	252	240
<i>(as a percentage of full costs)</i>	<i>30%</i>	<i>35%</i>
<i>(as a percentage of direct costs)</i>	<i>79%</i>	<i>86%</i>
Total number of applications received	1,480	1,500

6.2.3 Between 2014-15 and 2015-16, we managed to slightly reduce the base direct costs (staff and non-staff costs). The overheads have significantly reduced over this time period mainly because of the reduction in property expenditure.

6.2.4 One of the uncertainties we face when considering fee levels, is the number of applications we might receive. As we have a duty to provide the Qualifications Committee application service, if we receive a very small number of applications in a year, we are still required to have a minimum resource in place to deal with such a scenario; this could have

⁵ 2015-16 costs are based on financial year forecasts; 2015-16 application numbers are based on calendar year forecasts.

the effect of inflating proposed fee levels. There is on the other hand a risk that larger than anticipated numbers of applications are received, meaning that we could achieve a financial surplus.

6.2.5 More information about the levels of qualification committee application fees can be found on our website⁶; these fees range from £50 to £550 depending on the type of application.

6.2.6 In order to recover full costs, there could be a 283% blanket increase; for simplicity, this could increase the fee range to £142 - £1,557. In order to recover direct costs, there would need to be a 116% increase, elevating the fee range to £58 - £638. We would of course analyse the fee levels more sensitively so would not necessarily implement a blanket increase; the figures in this paragraph are shown for illustrative purposes only.

6.2.7 We are predicting that over the coming years, and with the introduction of revised or new regulatory regimes, there will be a reduction in the number of applications. The effect of this will be, when dividing the cost by the number of service users, to increase the proposed non-PCF fee.

- Question 16 – In your opinion, should the BSB apply the Full Cost Recovery method to Qualification Committee Application fees?
- Question 17 – What reasons would justify the BSB not applying the Full Cost Recovery method for Qualifications Committee Application fees?

6.3 General Principles – Equality impact considerations (Equality Objectives)

6.3.1 The BSB is committed to improving diversity in the profession and ensuring that equality considerations are factored into the delivery of BSB functions. We have below set out a snapshot of the high level equality analysis relating to the potential impacts of changing the Qualification Committee Application fees (rather than analysing each one). We will be using the responses from the consultation to carry out a full Equality Impact Assessment on each fee change as we want to consider whether any of the changes we are proposing will have any significant negative impacts.

6.3.2 The qualifications function typically deals with a large numbers of applications from overseas jurisdictions, meaning that different ethnic groups are likely to be impacted by changes. Also for some types of rule waivers, the applicants are predominantly female. For example, in 2014:

- a) 66% of applicants for admission to the Bar by a qualified lawyer were of Black and Minority Ethnicity (BME). This type of waiver relates to a member of a legal profession regulated in a jurisdiction outside England and Wales. In 2012, only 11% of practising barristers were BME;
- b) 72% of applicants for a waiver of requirements of the Established Practitioners Programme were female. This type of waiver relates to the Continuing Professional Development requirements of 12 hours completed each calendar year. In 2012, 35% of practising barristers were female;
- c) 59% of applicants for a Certificate of Academic Standing were BME. This type of applications relates to students with non-standard UK/Republic of Ireland and/or Overseas qualifications, or mature non-graduate students, wishing to complete

⁶ Insert link to qualification committee application fees

Part 1 – Public

the Academic Stage of training for the Bar by undertaking either the CPE or GDL course. In 2011-12, 42% of BPTC students were BME;

- d) 100% of applicants for the “exercise of discretion” were BME. This type of waiver concerns students wishing to undertake the Bar Professional Training Course (BPTC) who have obtained a UK/Republic of Ireland degree below the minimum requirement of lower second class honours. As mentioned above, in 2011-12, 42% of BPTC students were BME.

6.3.3 These figures are only a small sample of the types of information we have analysed, and we will continue to monitor these trends. Our initial analysis of Qualifications Committee applications data shows that there is an over-representation of certain groups making applications. In summary, we consider that there may be potential negative impacts on the following protected characteristic groups:

- a) Age – younger people are likely to be impacted where applications relate to students;
- b) Disability – disabled people are more likely to make applications to the Qualifications Committee in relation to waivers;
- c) Pregnancy and maternity – females are more likely to make applications to the Qualifications Committee in relation to waivers;
- d) Race – people from BME groups are more likely to make applications to the Qualifications Committee in relation to waivers;
- e) Sex – females are more likely to make applications to the Qualifications Committee in relation to waivers.

6.3.4 There could also be an argument that people in these groups are potentially likely to earn less, as females, people from BME groups, and disabled people are over-represented in the publicly funded bar and in sole practice; also most students have limited access to funds. People from such groups may not therefore be able to afford expensive fees, so there could be a higher possibility of financial hardship.

6.3.5 We do not at this time think that there would be significant negative impacts on people from other minority groups (relating to the protected characteristics of gender reassignment, marriage and civil partnership, religion or belief, sexual orientation) would be significant negatively impacted by any changes. We would like your views on these assumptions, and invite you to tell us if we are on the right track with our thinking; or are there any ideas that we should investigate before we make a decision on the level of Qualifications Committee application fees.

- Question 18 – In your opinion, which protected characteristic groups are likely to be negatively impacted by Qualifications Committee application fee increases?
- Question 19 – Why do you think particular protected characteristic groups would be negatively impacted by Qualifications Committee application fee increases?
- Question 20 – Do you think the negative equality impacts are significant?
- Question 21 – In your opinion, should the BSB take any action to mitigate the negative equality impacts?
- Question 22 – What do you think the most appropriate mitigating actions might be?

7. Next steps

7.1.1 Thank you again for taking the time to participate in this consultation on how we fund ourselves; your views are important to us and we look forward to reading them. Please click here [insert link] or email us [insert link] to submit your responses.

7.1.2 The BSB consults its key stakeholders before implementing a policy decision. This consultation was opened on XX and will close on XX.

7.1.3 We will analyse the results over the winter with a view to making a decision before April 2016.

7.1.4 You can find out more about how the BSB is funded by visiting our webpages [insert link].

7.1.5 Please contact [insert details] if you would like further information about this consultation or if you would like assistance with your responses.

Timeline for responses, analysis and decision

Dates...

Response details

Contact

Links

Governance Review Update and Revised Standing Orders

Status

1. For approval regarding the standing orders.
2. For approval regarding a number of other actions required to implement the governance review.
3. For noting of the updates.

Executive Summary:

4. This paper seeks agreement to a revised set of Standing Orders to reflect the decisions made by the Board regarding its future governance arrangements. A number of related or consequential agreements are also sought to aid implementation of the Board's decisions. Short updates on progress in relation to a number of aspects of the review are also provided.

Recommendations

5. It is recommended to the Board that it:
 - a. **Approves** the revised Standing Orders in Annex 1,
 - b. **Agrees** that the revised Standing Orders will come into force on 1 January 2016,
 - c. **Agrees** that the Professional Conduct and Qualification Committees have no responsibility for policy making in those areas. That responsibility lies with the Board or Executive as appropriate. They retain their role in relation to individual case decisions,
 - d. **Agrees** to establish two new roles to support the changes in the education and training area: a "Visitor" to hear Centralised Examinations challenges, and an increased role for the Independent Observer to the Centralised Examination Board for this year,
 - e. **Agrees** to delegate sign off of the details and appointment of the "Visitor" role to the Chair of the Board,
 - f. **Agrees** that Chair of the Board has delegated authority to sign an amended scheme of delegations to underpin the revised standing orders,
 - g. **Agrees** that the Executive should make consequential amendments to the Declaration of Interests and Gifts and Hospitality policies,
 - h. **Notes** the updates on other aspects of the governance review implementation.

Background

6. The Bar Standards Board has been reviewing its governance structure for some time. Quite recently the Board agreed a new governance structure, which will be implemented over the coming months.
7. The changes are focused on enhancing ways of working which command public confidence, improve the Board's oversight as well as motivating and empowering staff. The changes devolve many decisions currently reserved at Committee level into the executive. This has been decided upon to speed up case work and policy development, and to increase adaptability. The new arrangements seek to ensure a robust, independent, dependable and

optimally-resourced organisation with a clear separation of policy making and individual case decision making.

8. The governance structure will look quite different when the changes are completed. This paper outlines the first set of those changes, aimed at having all policy development undertaken by the Executive and overseen by the Board. This includes those elements that historically were undertaken by the committees that also make decisions on individual cases – our operational committees.
9. The Board, the Executive and the two permanent Committees will be supported by a retained pool of independent subject matter experts, including practitioners, which will be appointed via an open procurement or recruitment process. We are calling this an Advisory Pool of Experts (“APEX”).
10. Further work is being undertaken to review the remaining committees and changes may be agreed in due course.
11. It was agreed that the changes will take place in stages. The first changes affect our Standards, Equality and Diversity, and Supervision Committees, which will be disbanded at the end of 2016. The Education and Training Committee is required to remain in existence in order to support the Future Bar Training (FBT) Programme. Its terms of reference and membership are being refreshed in order to complement our programme management arrangements for FBT. The committee will only remain in existence for as long as necessary to complete that programme.
12. The Qualifications and Professional Conduct Committees will continue to operate broadly along the same lines as they currently do, for at least the next 18 months. Opportunities to increase staff decision-making will be explored but major structural changes will require BSB Handbook amendment, a process which necessarily takes more time.
13. The Board has not yet decided upon specific changes to its own composition but is committed to reviewing its size, role and composition as these new governance arrangements take effect.
14. A revised set of standing orders has been developed to reflect these decisions. A number of other approvals are also sought to support the new governance model.

Comment

Revised Standing Orders

15. A revised set of standing orders is proposed to the Board for its approval. The draft standing orders are contained in Annex 1.
16. The changes are not marked up in the Annex and are described below.
17. The Standing Orders now omit a number of committees, reflecting the decision to dissolve them from 1 January. The ones that no longer appear in the Standing Orders are the Equality and Diversity, Standards and Supervision Committees.

18. The terms of reference and membership of the Education and Training Committee has been revised. Correspondingly there is now no provision for the establishment of any sub-committees. All sub-committees will also cease to exist from 1 January 2016 (note paragraphs 28 to 33 below where approval is being sought for some new elements that are intended to help assure aspects of centralised examinations).
19. For the time being, the terms of reference for the remaining committees have not been altered. The Standing Orders are silent on the involvement of the Professional Conduct and Qualifications Committees in policy making. The Board is asked to formally resolve that those committees play no part in the setting of policy for those functions. That responsibility lies with the Board or the executive, depending upon the type of policy being made. The Committees retain their role in relation to individual case decisions, as set out in their Terms of Reference.
20. There are some new definitions in this set of standing orders. We have taken the opportunity to try to clarify when a provision applies to the Board acting as a Board and when it we actually mean the collective of the Board, committees and the executive. Two new definitions of “The Bar Standards Board” / ”BSB” and “Board” are inserted to distinguish between the two.
21. Paragraph 5 has been simplified as a result of the new definitions but the sense remains the same.
22. Paragraph 6 has been reworded to more closely reflect the Legal Services Act 2007 and the Internal Governance Rules.
23. Paragraph 11 reflects the Board’s intention that we may use groups for specific, time-bound tasks. We have been referring to them as task and finish groups using rather informal language. A more formal term of “Task Completion Group” is being introduced, together with the power to form such groups on terms and conditions as we, the BSB, decide.
24. Paragraph 14 contains a similar power to establish an Advisory Pool of Experts, again on terms and conditions that we, the BSB, may decide.
25. Part 7 relating to delegations has been revised to reflect the line of responsibility from the Board to the Director General and then through to staff. It reflects the Board’s stated governance principle of wishing to empower staff.
26. A number of editorial type amendments have also been made, such as altering all gender specific references to “they”.
27. It is envisaged that a further, perhaps more wholesale, revision of the Standing Orders will be required in 2016 once the future shape of the remaining committees is decided upon.

Changes to support Education and Training

28. As we have looked at altering the remit and operation of the Education and Training Committee it has become clear that some additional structures are required to provide assurance to the Board that things are operating effectively.

29. A number of these assurance aspects can be established and dealt with by the Executive team, particularly as we look to enhance the overall assurance framework.
30. We consider that one particular proposal, however, requires Board approval: a new role as “the Visitor” of the Central Examination Board (CEB). This role hears and adjudicates on challenges to decisions made by the Central Examinations Board (CEB) which until now, it has done itself. At present BPTC students may submit a request for a review of CEB decisions regarding confirming cohort marks. The only permissible ground for a request is that, in exercising its discretion to confirm cohort marks, the CEB acted irrationally and/or in breach of natural justice. The “Visitor” would consider those challenges to cohort-level decisions and either confirm the decision or refer the request for review back to the CEB stating the reasons why reconsideration is warranted. To do this, the “Visitor” will have the ability to convene a panel or other support if needed. Recourse to use the “Visitor” will be an infrequent event based on current decision-review requests.
31. The “Visitor” would not act as an independent adjudicator and is not tasked with reviewing the merits of individual decisions but rather the application of policies and procedures. The “Visitor” would have no powers to review individual examination results and cannot respond to individual parties about results or requests for review of examination results.
32. Board is asked to agree that the “Visitor” role be established and delegate to the Chair of the BSB the power to sign off the final details before any recruitment may begin. These details would include consideration of reporting to the Governance, Risk and Audit Committee on the operation of the function before reporting to the Board, in the same way that the Independent Observer does in relation to the enforcement system. This would of course be discussed with the Governance, Risk and Audit Committee. It can be catered for from within existing budget provision.
33. The Board is also asked to note that the Governance, Risk and Audit Committee has also agreed to a one year appointment for an Independent Observer to provide assurance on the processes used by the CEB.

Chair to sign revised Scheme of delegations

34. The new Standing Orders will require that new delegations be in place. Ordinarily the Board has seen the scheme and approved it. This will not be possible given that there is no Board meeting before the revised Standing Orders take effect. The Board is therefore asked to agree that the Chair of BSB be given the delegated authority to sign revised scheme of delegations to support the revised standing orders. The scheme will of course be consistent with the revised Standing Orders.

Consequential amendments to BSB policies

35. The decision to disestablish all sub-committees and use of terminology such as Task Completion Groups rather than Working Groups means that a number of minor consequential amendments to those policies are required. Changes can only be made with the approval of the Board. The Board is asked to agree that those changes can be made and revised policies published by the end of 2015 so that the new standing orders and all policies are properly aligned.

Updates on other governance review aspects**Assurance framework**

36. Work is underway to define the assurance framework that will underpin this new way of working. This will build upon the aspects that we already have in place in terms of reporting and accountability lines. The Governance, Risk and Audit Committee and the Planning, Resources and Performance Committee are meeting together in early February to ensure that the remit of each committee is appropriate within the new governance structure. The Executive will then be working with the Governance, Risk and Audit Committee to enhance our assurance framework over the early part of 2016.

Advisory Pool/Panel of Experts (“APEX”)

37. The Board has agreed that it is important that the Board and Executive have available expertise to assist with its work. The APEX is intended to be a small group of individuals or organisations who supply expertise that we need across a wide range of activities. Work is well underway to fully define the role of the group and all of the supporting administrative systems that will need to be in place to make it operational. This includes considering what kind of expertise we require across all of our activities. It is anticipated that an open procurement process will take place in the early part of 2016. It is likely that the Advisory Pool will be built up incrementally.

Task Completion Groups

38. Work is progressing well on definition Task Completion Groups. This includes instructions for staff as to how to establish a group and have it run effectively. Templates are being produced to help us be very clear with anyone who contributes on a Task Completion Group regarding their remit and expected contribution. The expertise required and number of groups we will need to help complete work that is already underway is also being identified. The aim is to have the first elements of the framework ready within the next month to be used by staff, allowing us to learn and improve it where necessary. Groups will be set-up and disestablished by staff as and when needed.

Qualifications Committee – consultancy report

39. As Board members will recall, it agreed that it would be useful to obtain an external perspective on how the activities presently carried out by the Qualifications Committee might be dealt with differently, particularly in relation to the role of the committee in relation to the staff decision-making team.
40. Work is being undertaken, in conjunction with the Qualifications Committee, to agree the scope of the task that we will ask Capsticks Consultancy to undertake. It is anticipated that by the time of the Board meeting, we will have the scope agreed and the timeline for completion of the review will be fixed with the consultant.

Resource implications

41. The whole organisation is engaged in making the changes required to reflect the governance model agreed by the Board. The Board has previously seen details of how the various changes are being financed. The key point is that the changes are being made within the existing budget envelope. No additional funds have been sought in order to effect these changes.
42. The BSB does not anticipate any consequently resource implications for the Resources Group.

Equality Impact Assessment

43. The decisions were equality assessed as they were being proposed to the Board. All specific appointment processes will be equality assessed as they are developed. The current recruitment process in the Standing Orders has not been altered so no equality assessment has been conducted on that aspect.

Risk implications

44. All existing committee members are aware of the changes being made, minimising any risk of making these changes quite quickly. These changes are being posed to minimise the risk that our governance procedures are not perceived as independent or as out of date with common regulatory practice. The risks involved in making these changes quickly in terms of staff being able to manage the workload without committees in place is being mitigated by a significant amount of work being undertaken in teams to map out existing and upcoming work and how it will be managed in the future.

Impacts on other teams / departments or projects

45. All departments are affected by the governance changes at various points in time. All departments are involved in making the changes required to effect these changes in a timely and manageable way. These changes are being made within the overall ASPIRE programme. As part of that we seek to align our activities so that we are being as effective as possible in making these changes happen.

Consultation

46. There has been significant internal discussion about the governance changes. This is not a matter which the BSB is required to consult upon externally. The Board's governance structure is a matter for it alone to determine.

Regulatory objectives

47. These amendments are not relevant to the regulatory objectives but do reflect taking an approach that is consistent with the regulatory principles of transparency, accountability, proportionality, consistency and being targeted. Enabling a professional staff to take the primary role in development of policy and decision making is also consistent with good regulatory practice. It also assists us to show that the Bar Standards Board is acting independently.

Publicity

48. A public statement will have been made before the Board meeting. There is no publicity planned for the publication of the Standing Orders themselves. The appropriate amendments will be made to the website to ensure that the correct standing orders are available from the beginning of January 2016.

Annexes

49. Annex 1 – Revised Standing Orders

Lead responsibility:

Amanda Thompson



**STANDING ORDERS
FOR THE BAR STANDARDS BOARD**

FOREWORD

The following Standing Orders are issued under the Authority of paragraph 14(1) of the Bar Standards Board Constitution.

This edition of the Standing Orders came into effect on 01 January 2016

PART 1 – INTRODUCTION

Definitions

1. In these Standing Orders, unless the context requires otherwise:

“The Bar Council” means the Council of the General Council of the Bar of England and Wales.

“The Bar Standards Board” and “BSB” means the Board, Committees established under these standing orders and any individual or group exercising the delegated powers of the Board. .

“Board” means the Board of the BSB established under Paragraph 2 of the BSB’s Constitution.

“BSB staff” means the employees of the Bar Council appointed by the BSB in accordance with paragraph 50.

“BTAS” means the Bar Tribunals and Adjudication Service, an independent body set up by the Council of the Inns of Court to appoint and administer Disciplinary Tribunals and other relevant panels on behalf of the BSB

“Committee” means a Committee established by the BSB pursuant to Rule [6] of these Standing Orders.

“CPA” means the Commissioner for Public Appointments

“The Inns’ Council” and “COIC” means the Council of the Inns of Court.

“Internal Governance Rules” means the Internal Governance Rules made by the Legal Services Board.

“Lay person” has the meaning given in paragraph 2(4) of Schedule 1 to the Legal Services Act 2007 and “lay member” has a corresponding meaning.

“Practising barrister” means a barrister holding a current practising certificate issued by the Bar Council.

“Regulatory arrangements” has the meaning given in section 21 of the Legal Services Act 2007.

“Regulatory functions” has the meaning given in section 27(1) of the Legal Services Act 2007.

“Representative functions” has the meaning given in section 27(1) of the Legal Services Act 2007.

“Seven Principles of Public Life” means the principles, also known as the “Nolan Principles”, as laid down in the Committee on Standards in Public Life’s thirteenth report “Standards Matter” and referred to in paragraph B4 of the Constitution and reproduced in Annex 1.

Part 1 – Public

"Task Completion Group" means an ad hoc group established by the BSB to complete a specific task or tasks. At the time of the establishment the BSB shall specify a time limit for completion of the tasks. Such time can only be extended by the BSB.

Any terms used in the Legal Services Act 2007 have the same meaning as in that Act.

PART 2 – THE BAR STANDARDS BOARD

General

2. The BSB is committed to
 - a. providing regulation of advocacy and expert legal advice in the public interest,
 - b. acting in a way that is compatible with the regulatory objectives, having regard to the regulatory principles as required by section 28 of the Legal Services Act 2007,
 - c. conducting its business in harmony with the Seven Principles of Public Life,
 - d. making its regulatory decisions independently of the Bar Council,
 - e. consulting with the Bar Council as required by the Legal Services Act 2007 and the Internal Governance Rules,
 - f. undertaking regulatory functions only and not undertaking any representative functions, and
 - g. working cooperatively with the Inns of Court, the Inns' Council and BTAS.
 - h. Conducting its business in accordance with its Statement of Governance Principles as published by the BSB.

Consultation on exercise of regulatory functions

3. When proposing to make or alter the regulatory arrangements, and in other cases, where it considers it appropriate the BSB will normally consult, in the way it considers appropriate:
 - a. The regulated community (including its representative body and sections of the Bar), and
 - b. Other interested parties (including, for example the public, other approved regulators, the judiciary, barristers' clerks, academic providers and other education providers) as it considers appropriate.
4. In relation to proposals to make or alter the regulatory arrangements, the BSB will normally allow a period of 3 months for consultation before a decision is taken.

Saving for defects etc

5. All acts done in good faith by the BSB shall (so far as is lawful), notwithstanding any defect, be as valid as if there were no such defect or error.

PART 3 – OBLIGATIONS TO THE BAR COUNCIL

6. The BSB will make information and papers available to the Bar Council for the purpose of the Bar Council fulfilling its function as an Approved Regulator including its obligations under the Legal Services Board's Internal Governance Rules 2009

PART 4 – COMMITTEES

Committees of the BSB and Task Completion Groups

7. The Board establishes the following Committees whose terms of reference and membership are set out in Annex 2
 - a. The Education and Training Committee,
 - b. The Governance, Risk and Audit Committee,
 - c. The Planning, Resources and Performance Committee,
 - d. The Professional Conduct Committee, and
 - e. The Qualifications Committee,
8. The Chair and Vice Chair of the Board have the right to receive papers and to attend meetings of all Committees.
9. Without prejudice to the power of the Board to amend Annex 2 on its own initiative, a Committee may at any time propose an amendment to its terms of reference or membership for consideration by the Board.
10. Save where provided for in these Standing Orders each committee may determine its own composition and procedure subject to the provisions of Part 5 and the following general requirements:
 - a. Each Committee is to have minimum of a Chair and a Vice Chair. Wherever possible, at least one of these two office holders should be a member of the BSB;
 - b. At least a third of the Committee's membership must be lay persons;
 - c. At least a third of the Committee's membership must be practising barristers,
 - d. Each Committee must adopt and maintain rules of procedure on an annual basis addressing meeting arrangements (including frequency of meetings and arrangements for urgent business outside regular meetings); and
 - e. The Chair of each Committee or, in that person's absence, a Vice Chair, shall take the chair at every meeting of the Committee. In the absence of the Chair and any Vice Chair, or where an interest has been declared by them for a specific item only, the members present may proceed to elect a chair from among their number for the purposes of that meeting or that item.
 - f. Members of a Committee shall be appointed and reappointed in accordance with the Procedures set out in Annex 3.

11. The BSB may appoint a Task Completion Group on such terms and as it considers appropriate.
12. A member of the Bar Council or any of its representative committees may not hold office as Chair, Vice Chair or a member of
 - a. the Board,
 - b. any of the BSB's committees,
 - c. or act as a BSB Independent Observer
13. A person shall cease to be a BSB Committee member if:
 - a. the period for which they were appointed expires (and their appointment is not renewed);
 - b. they resign their membership by notice in writing;
 - c. they were appointed as a lay person and cease to be a lay person;
 - d. they were appointed as a practising barrister and ceased to be a practising barrister or became a member of the Bar Council or one of its representative committees;
 - e. they failed to attend four or more meetings in any rolling 12 month period and the Committee or Board resolves that they should cease to be a member;
 - f. the Board resolves that they are unfit to remain a member (whether by reason of misconduct or otherwise); or
 - g. the Board resolves to disestablish or substantively restructure a Committee of which a person is a member so as to be inconsistent with continued office by that person, upon three months' notice.
14. Committees and Task Completion Groups may act only in matters within their terms of reference, within the agreed budget and in accordance with the Statement of Governance Principles.
15. A Committee must report to the Board at least annually but as often as required by the Board.

Advisory Pool of Experts

16. The BSB may establish an Advisory Pool of Experts on such terms and conditions as it considers appropriate, which may include terms relating to performance, appointment and removal as a member.

Payments to members

17. The BSB may decide to pay fees and expenses to members of the Board or to members of Committees or to the Advisory Pool of Experts or to Task Completion Groups on terms it may set.

Obligations of members

18. All Board and Committee members are subject to continuing satisfactory performance and compliance with the Standing Orders and Governance Manual. Such persons may be removed from office for failing to meet these obligations, based on the reviews outlined in paragraph [25] or any other ad hoc reviews of individual members that the Board or the Chair of the Committee determines are required.
19. All Committee and Task Completion Group members are subject to a minimum of a review of performance within one year of appointment and a review of performance preceding any reappointment decision.

PART 5 – PROCEEDINGS OF THE BSB AND ITS COMMITTEES

Meetings

20. The Board must meet at least six times in a 12 month period; usually monthly except for August, unless it decides otherwise.
21. If the need arises, the Chair or Vice Chair may convene additional meetings, which may take place by telephone or email if necessary.
22. Each Board meeting may be separated into public and private sessions.
23. Committee meetings are held in private and the frequency of such meetings is to be determined by the relevant Chair or convener.

Attendance at meetings

24. The Chairman of the Bar Council and a person nominated by the President of the Inns' Council are entitled to attend and speak (but not vote) at any public session of a meeting of the Board. The Chair of the BSB may also agree that any other person or persons nominated by the Chairman of the Bar Council may attend and speak (but not vote) at any public session of a meeting of the Board.
25. The BSB may invite the Chairman of the Bar Council and any person or persons nominated by the Chairman of the Bar Council, and a person nominated by the President of the Inns' Council, to attend all or part of the Board's private sessions.
26. If a Committee Chair is not a Board member, the Committee Chair has ex-officio rights to attend and speak (but not vote) at any public session of a meeting of the Board and, at the invitation of the Chair, at all or part of any private session.
27. The Board or a Committee, may at any time invite any person to attend their meetings in an advisory or consultative capacity.

Quorum

28. The quorum for a Board meeting is five members of whom at least two must be lay members and at least two must be barrister members.
29. No business may be transacted at any meeting of a BSB Committee unless one third of its appointed members are present, in person or by telephone or videoconference (subject to paragraph 32)

30. If a vote is required, decisions must be made by simple majority. The Chair will have a casting vote in the event of a tie.
31. Either the Chair or the Vice Chair must be present at each meeting of the Board unless the Board resolves to dispense with that requirement for a particular meeting.
32. In the case of the Professional Conduct Committee, no business may be transacted at any meeting unless one sixth of the members are present of whom at least 2 must be practising barristers and at least 2 must be lay members.

Minutes

33. Decisions made by the Board and Committees must be recorded in writing.
34. Minutes of the decisions taken and where appropriate the proceedings of each meeting of the Board, its Committees shall be drawn up and, when agreed, shall be approved either electronically or in writing at the appropriate meeting or as soon as practicable if the former is not appropriate, by the person chairing that meeting.

Agenda papers

35. The agenda and papers for any meeting of the Board or a Committee shall be sent to its members at least 4 working days before a meeting. With the consent of the Chair or Vice Chair shorter notice may be given.

Publication of agendas, papers and minutes by the BSB

36. The Board may decide which of the papers considered at its meetings should be made public after each Board meeting.
37. The Board may also publish its agenda and minutes of its meetings.
38. There is a presumption in favour of publication of Board papers unless the Board considers there is good reason not to do so.

PART 6 – MEMBERS' INTERESTS

39. The Board must establish and maintain policies on declarations of interest and on offers and receipt of gifts or hospitality by members of the Board and Committees.
40. With regard to conflicts of interest, a member of the Board or a Committee must:
 - a. Where they have an interest in an item of business to be transacted at a meeting of the Board or a Committee, declare that interest;
 - b. Where the Policy so requires, absent themselves from the meeting while that item is under consideration.
41. A member of the Board or a Committee must, in accordance with the Gifts and Hospitality Policy, declare any reportable hospitality offered or received in that capacity.

PART 7 – DELEGATION

42. Pursuant to paragraph 14(4) of the Constitution, the following arrangements are made for delegation of the functions of the Board.
43. The functions of the Board in relation to the matters within the terms of reference of a Committee stand delegated to the relevant Committee as set out under paragraph 7 and Annex 2 and in accordance with paragraph 10 and Part 5.
44. The Board may, to the extent it considers appropriate, delegate in writing any function subject to paragraph 51 to the Chair of the BSB, a Committee, the Chair of a Committee, or one or more members of BSB staff either by name or by a position so specified in the delegation, and shall establish and maintain a scheme of delegation identifying each function so delegated including details of the body or person (designated by office or name) to whom it is delegated, and the conditions (if any) on which it is delegated. Notwithstanding such scheme of delegation the Board may delegate such matters as it considers appropriate to the Director General who in turn can delegate such matters to such BSB staff as they consider appropriate.
45. The following functions must be exercised by the Board itself and may not be delegated:
- a. adoption and amendment of the Standing Orders of the BSB,
 - b. adoption of the Declaration of Interests Policy and the Gifts and Hospitality Policy required by paragraph 45,
 - c. appointment of members of the Recruitment Panel,
 - d. approval of the budget bid,
 - e. making of rules forming part of the regulatory arrangements, or
 - f. decisions about payment of fees or expenses under paragraph 23.
46. A Committee may delegate any function within its terms of reference to a member of BSB staff either by name or by the position specified in the delegation.. Any such delegation must be recorded in writing, notified to the Board, and recorded in the scheme of delegations.
47. Nothing in paragraphs 48-54 prevents the BSB or a Committee whose function has been delegated from exercising that function itself.

PART 8 – RESOURCES

General

48. The Bar Council's financial management controls are set out in the Finance Manual produced by its Finance and Audit Committee. The BSB will abide by the Finance Manual.

The Annual Budget

49. The BSB will prepare an annual budget in accordance with the procedures set out in the Finance Manual. The Planning, Resources and Performance Committee will scrutinise

the BSB budget proposals before the BSB considers its budget for submission in accordance with the Finance Manual procedures.

Staff

50. The BSB appoints its own officers and support staff and determines their remuneration. Persons so appointed shall be employees of the Bar Council and the BSB shall consult fully with the Bar Council in matters relating to that employment.

Annex 1

THE SEVEN PRINCIPLES OF PUBLIC LIFE (NOLAN PRINCIPLES)

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Annex 2 – TERMS OF REFERENCE OF BSB COMMITTEES

Annex 2a - Education and Training

The terms of reference of the Education and Training Committee are:

1. On behalf of the BSB to provide specialist oversight of the regulation of education, training and quality assurance and for that purpose it will:
 - a. monitor action taken by the BSB;
 - b. endorse substantial and substantive policy proposals to the Board that have been developed by the BSB
 - c. actively keep under review the regulatory arrangements relating to its terms of reference and report periodically to the Board as to the need for its continued operation;
2. The BSB may direct the Education Committee as to its scope of work.;

The membership of the Education and Training Committee shall consist of:

1. A chair who shall also be a member of the BSB Board,
2. Two lay members, normally also Board members,
3. Two practising barristers, normally also Board members, and
4. two senior legal academics with experience of vocational training (in addition to the lay members above).

Annex 2b - Governance, Risk and Audit Committee

The Terms of Reference of the Governance, Risk and Audit Committee are:

1. to advise the Board on the effectiveness of the corporate governance structures, and to monitor and recommend to the Board action in respect of the effectiveness of the strategic arrangements for governance, risk management and audit. This includes agreeing a programme of Board member training and development to satisfy corporate governance guidelines;
2. to monitor and recommend to the Board action in respect of the Board's management of risks, including arrangements for business continuity and disaster recovery;
3. to agree action in respect of the effectiveness of the Board's financial management and control systems, and internal business processes, including accounting policies, anti-fraud and whistle-blowing arrangements;
4. to develop the BSB's internal audit function including the appointment of the Board's Internal Auditors. To agree the annual audit plan and include any audit reviews that the Board wishes to see conducted. To monitor and recommend to the Board the results of the Board's internal audit arrangements and the effectiveness of the response to issues identified by audit activity; and
5. to review relevant assessment reports and assurance reports (including the Independent Observer) to secure an understanding of improvements that could be made and best practice revealed by such reports. To provide necessary assurances to the Board, that in turn provides assurances to the Bar Council's Audit Committee.

The membership of the Governance Risk and Audit Committee shall be:

6. A lay chair who must also be a Board member,
7. A lay or barrister vice chair, and
8. Three other members who must not be Board members.

Annex 2c - Planning, Resources and Performance Committee

The Terms of Reference of the Planning, Resources and Performance Committee are:

1. to consider, and support the Board and the executive in formulating, the overall strategy for the BSB, with particular emphasis on horizon scanning, vision, mission statement, priorities, activities and outcomes. To scrutinise the BSB's three-year strategic plan and annual business plan before the Board's signoff is sought. Agree actions to ensure that the BSB's associated strategies (Communications, IT, HR and research) are aligned to the corporate strategy;
2. to oversee operational and programme delivery (without duplicating the detailed oversight provided by any other committee or programme/project governance structure) as well as financial performance against the objectives and targets set out in the Business Plan. To support the Board and executive with finalising the BSB's Annual Report publications;
3. to consider the annual budget and revenue, in the context of the strategic and business plans, to question whether proposed funding is adequate and properly and effectively allocated across the business, and agree certain levels of virement between programmes (as anticipated in the Finance Manual with levels set by the Committee from time to time);
4. to consider how the BSB presents financial information to best effect and with appropriate transparency and comprehensiveness. To consider the reliability of forecasting and how the pursuit and achievement of efficiency savings are reported;
5. to review and agree actions on the effectiveness of service level agreements within the organisation;
6. to consider how the BSB undertakes planning activity to best effect and in a timely and consistent manner, as well as to review the robustness of programme and project plans. To support the Board and the executive with the planning and monitoring of the implementation of the Regulatory Standards Framework; and
7. to agree how the BSB monitors, measures and reports performance to best effect, with appropriate transparency and in a timely and consistent manner. To consider the quarterly performance reports prior to submission to the Board.

The membership of the Planning Resources and Performance Committee shall be:

8. Five members, including a Chair who must be a member of the Board and have an overall lay majority.

Annex 2d - Professional Conduct

The terms of reference of the Professional Conduct Committee are:

1. to carry out the functions and exercise the powers under Part 5 of the BSB Handbook
2. to respond to and, where appropriate, defend appeals against and other challenges to actions and decisions of the Committee and of disciplinary tribunals and panels constituted under the regulations rules referred to at (1) above;
3. to make recommendations to other committees or to the Board about matters of professional conduct, including changes to rules referred to at (1) above when the Committee considers it appropriate to do so;
4. to liaise, where appropriate, with other BSB Committees, the Bar Tribunals and Adjudication Service, the Legal Ombudsman and any other bodies relevant to the work of the Committee in exercising its functions;
5. to undertake such other tasks as the Board may require; and
6. to report to the Board on its work as and when required.

The membership of the Professional Conduct Committee shall be:

7. A chair and 4 vice chairs. There must be 2 lay and 2 barrister vice chairs. The chair can be either a lay or barrister member;
8. A minimum of 10 lay members and a maximum of 24 lay members; and
9. Subject to a minimum of 10, a number of barristers to enable the Committee in the judgment of the Chair to carry out its business expeditiously.

Annex 2e - Qualifications

The terms of reference of the Qualifications Committee are:

1. to consider and determine:
 - a. applications for exemption from any requirement of the Bar Training Rules (Section 4B of the Handbook); and
 - b. any request for review made under 4B10, 3C6 or 3E11 of the Handbook
2. to consider and determine all applications for authorisation under the following (including dispensations from and waivers):
 - a. waivers from the requirement to work with a “qualified person” (rS20 & rS21);
 - b. authorisation to conduct litigation (rS49)
 - c. waivers from the requirement to undertake Public Access work (rC120)
 - d. waivers or extensions of time in relation to the Continuing Professional Development Regulations (section 4C)
 - e. waivers from the pupillage funding and advertising requirements (rC113);
 - f. authorisation of Approved Training Organisations (rQ39);
 - g. approval for licensed access; and
 - h. any other rule or regulation as may be delegated to it by the Board.
3. to discharge the functions of the Bar Council and the Inns in respect of the recognition of European lawyers conferred upon them pursuant to the European Communities (Recognition of Professional Qualifications) Regulations 2007 and the European Communities (Lawyers’ Practice) Regulations (2000).
4. to exercise the powers of the Board to designate Legal Advice Centres;
5. to supervise and, where necessary, decide questions concerning the issue of practising certificates and the registration of pupil supervisors;
6. to liaise, where appropriate, with other BSB Committees, representative committees of the Bar Council, the Inns’ Council and any other body on any matters of concern or common interest;
7. to undertake such other tasks as the Board may require; and
8. to report to the Board on its work as and when required.

The membership of the Qualifications Committee shall be:

9. A chair and three vice-chairs, of whom two must be lay persons and two must be practising barristers;
10. At least three lay persons; and
11. At least six practising barristers.

Annex 3 – APPOINTMENTS PROCESS FOR BSB COMMITTEES

1. The BSB appoints and reappoints all Chairs, Vice Chairs and members of its Committees on merit.
2. The BSB appoints a Recruitment Panel annually to oversee the selection of new members of its Committees. Unless this proves impractical, all Recruitment Panels constituted for members of the Professional Conduct Committee shall contain a Board member who also sits on the Professional Conduct Committee.
3. Appointments of BSB members to the posts of BSB Committee Chairs and BSB members of Committees are made by the BSB Chair in consultation with the BSB Vice Chair and BSB Director.
4. The Recruitment Panel is responsible for:
 - a. appointing a selection panel for each committee where there is a vacancy;
 - b. ensuring that each selection panel consists of:
 - i. two members of the recruitment panel, preferably being a lay member and a practising barrister member of the BSB,
 - ii. an independent person with knowledge of the CPA Code of Practice or similar skills and experience in good recruitment procedures.
5. The Recruitment Panel must consider the recommendations of each selection panel before deciding on an appointment.
6. Appraisals must inform retention and reappointment recommendations and decisions. The BSB Chair or their nominees must carry out the appraisals.
7. All appointments made by the selection panel shall be for a fixed period of up to three years. Appointments may be renewed for a further fixed period of up to three years without holding a competition, if the Chair of the Committee concerned is satisfied that:
 - a. the person has performed to the standard to be expected of the office held, and
 - b. it is in the interests of the BSB to renew the appointment.
8. For the avoidance of doubt, the Recruitment Panel must exercise its functions under this Annex itself and has no power to appoint a sub-committee or working group. However, with the consent of the Board, the Chair may appoint former members of the Board or former members of the Committees to carry out such tasks as the Board may agree
9. In exceptional circumstances, the BSB may resolve to offer an extension of an individual person's or group of persons' appointment beyond the maximum six year period of appointment permitted above. Any resolution to make a limited offer of extension must:
 - a. allow for an extension of no more than 18 months in duration,
 - b. be made by offer in writing, and
 - c. be made for a specific reason that is articulated in the offer of extension

Bar Council Standing Orders – proposed amendments

Status

1. For agreement.

Executive Summary:

2. The Bar Council is seeking agreement from the Bar Standards Board regarding the amendment to its standing orders. It proposes to take all of the parts of its existing standing orders that apply to or affect the Bar Standards Board and place them into a separate, standalone set of standing orders. The Board has previously agreed with this approach. A specific set of standing orders are now provided for approval. There are a number of changes that the Bar Standards Board suggested which the Bar Council does not intend to make but, it is submitted to the Board, these are not material matters and should not affect a decision to agree this change.

Recommendations

3. It is recommended to the Board that it:
 - a. Approves the proposed new Bar Council Standing Orders.

Background

4. The Board previously considered whether or not to support the Bar Council's stated intention to separate its standing orders so that there is one set that deals with joint Bar Council and BSB matters and a separate set that deal with representative matters. The Board agreed to this in principle.
5. We made a number of suggestions regarding the standing orders and how they might be phrased. Some of these amendments have been accepted but a number have not. These are not considered by the Executive to be material issues that would affect the Board's ability to agree these standing orders.
6. The new standing orders are attached as Annex 1 and are now presented for Bar Standards Board approval.

Comment

7. The Bar Standards Board suggested codifying a number of administrative aspects in the revised Standing Orders eg voting rights and procedures, minimum requirements for the frequency of meetings, inserting a power to enable a committee to co-opt a member. Most issues have not ever arisen in the past so the Bar Council does not propose to include additional provisions to address these aspects. While the Bar Standards Board approach has been to address these kinds of structural matters in its standing orders, the Bar Council's approach is not considered by the Executive to be a reason not to approve these standing orders.

8. The Bar Council has revised the drafting as follows:
 - a. An insertion to address a BSB request to clarify that the function of the Finance Committee to “review the quarterly and annual reports by the BSB to the Bar Council” did not include a requirement to report those matters to Saturday morning meetings. This has been addressed by inserting the words “in its capacity of as Approved Regulator” in paragraph 53e of Annex 1.
 - b. Terms of office for all Finance Committee and Audit Committee members have now been specified (three years, renewable once), following a BSB request to clarify this.
 - c. The changes put forward regarding the Emoluments Committee have been proposed by that Committee. One thing to note in this area is the alteration regarding who decides remuneration for the Chairman and Vice-Chairman of the Bar Council and the Chair and Vice Chair of the Bar Standards Board. Rather than the full committee considering those matters, a sub-set of the committee will so do. That sub-set excludes all regulatory and representative members of the committee.
 - d. The quorum for Budget Review Groups and Chairmen’s Committee have been added, following a BSB suggestion.
 - e. A new section on Governance and treatment of future proposed amendments to the standing orders has been added.
 - f. A good number of minor amendments have been made, eg the standing orders now refer to the Director General of the Bar Standards Board.
9. The revised standing orders are attached as Annex 1 with the suggested amendments shown in a light shading. Strike through indicates where things have been deleted. Section in dark shading are cross-references that will be checked for accuracy before finalisation by the Bar Council.
10. It is our understanding that the Bar Council will consider these proposed changes at its first meeting in 2016, which occurs on 23 January before the Bar Standards Board first meets next year.

Resource implications

11. No resource implications arise from this proposal.

Equality Impact Assessment

12. We see no equality impact issues arising from these changes from a Bar Standards Board perspective. Presumably the Bar Council will conduct a full assessment before submission to the Bar Council meeting.

Risk implications

13. There are no significant risks arising from these proposed changes. It assists with the separation of functions to support regulatory independence which arguably lowers any risk of there being a perception of any compromise of independence.

Impacts on other teams / departments or projects

14. There are no wider BSB impacts. This involves very little alteration to existing working practices.

Consultation

15. This paper is the means by which the Bar Council is consulting with the Bar Standards Board. The Bar Standards Board does not need to consult on this issue.

Regulatory objectives

16. The proposals made do not affect the regulatory objectives. The Bar Council is seeking agreement to these changes to ensure that the principle of regulatory independence contained within the Legal Services Act 2007 is not compromised.

Publicity

17. The Bar Council will publish these changes in due course. The BSB will not be publishing anything relating to these changes.

Annexes

18. Annex 1 – Amended Standing Orders

Lead responsibility:

Amanda Thompson

Please note that all formatting, numbering and cross-referencing will be addressed following approval of content

Part Three

[INSERT FRONT SHEET]

Preamble

The Bar Council is an approved regulator for the purposes of the Legal Services Act 2007. The functions and powers of the Bar Council are set out in its constitution.

The Bar Council has established the Bar Standards Board (“the BSB”) to exercise the regulatory functions of the Bar Council. The functions and powers of the BSB are set out in its constitution.

The Bar Council and the BSB wish to have in place arrangements which observe and respect the principle of regulatory independence (as defined in rule 1 of the Internal Governance Rules 2009), i.e. the principle that structures or persons with representative functions must not exert, or be permitted to exert, undue influence or control over the performance of regulatory functions, or any person(s) discharging those functions.

These Standing Orders are held jointly by the Bar Council and the BSB and set out the powers and functions of committees and groups where there is representation by both parties. The powers and functions of the Bar Council in its representative capacity are set out in the Bar Council’s Standing Orders. The powers and functions of regulatory committees and groups are set out in the BSB’s Standing Orders.

Definitions

In these Standing Orders, unless the context requires otherwise:

“Approved regulator” has the meaning given in section 20(2) of the Legal Services Act 2007.

“The Bar Council” means the Council of the General Council of the Bar of England and Wales.

“The Bar Standards Board” and “BSB” means the Board established by the Bar Council in accordance with the Legal Services Act 2007 independently to exercise and oversee the regulatory functions of the Bar Council.

“Bar Representation Fee” means the voluntary fee payable to support representational activity by the Bar Council.

Please note that all formatting, numbering and cross-referencing will be addressed following approval of content

"The Chairman of the Bar Council", and "Vice-Chairman of the Bar Council", shall mean the Chairman and Vice-Chairman respectively of the Bar Council elected pursuant to the provisions of the Bar Council Constitution.

"The Chair of the BSB" and "Vice-Chair of the BSB" shall mean those persons for the time being appointed to that positions.

"The Chief Executive" shall mean the person for the time being appointed to such position pursuant to the provision of Regulation 17 of the Constitution of the General Council of the Bar.

"The Director General of the BSB" shall mean the member of the Bar Council's staff for the time being appointed to that position.

"The Director of Finance" means the member of the Bar Council's staff with day-to-day responsibility for financial matters.

"The Director of Human Resources" means the member of the Bar Council's staff with day-to-day responsibility for matters pertaining to human resources.

"The General Management Committee" ("GMC") shall mean the standing committee of the Bar Council described in Regulation 12(b) of the Bar Council Constitution.

"Internal Governance Rules" means the Internal Governance Rules made by the Legal Services Board.

"Lay person" has the meaning given in paragraph 2(4) of Schedule 1 to the Legal Services Act 2007 and "lay member" has a corresponding meaning.

"Member of the BSB" means a person, whether practising barrister or otherwise, who for the time being holds a seat on the Board of the Bar Standards Board.

"Practising barrister" means a barrister holding a current practising certificate issued by the Bar Council.

"Practising Certificate Fee" means the amount payable for a practising certificate each year.

"Regulatory functions" has the meaning given in section 27(1) of the Legal Services Act 2007, and the BSB is responsible for determining any question whether a matter involves the exercise of a regulatory function.

"Representative functions" has the meaning given in section 27(1) of the Legal Services Act 2007.

Part 1 – Public

Please note that all formatting, numbering and cross-referencing will be addressed following approval of content

“Resources Group” means the shared services section of the organisation, supporting the Bar Council and the Bar Standards Board.

“The Seven Principles of Public Life” means the Seven Principles of Public Life as laid down in the First Report of the Committee on Standards in Public Life and amended by the Committee following its review in January 2013.

“The Treasurer” shall mean the Treasurer of the Bar Council elected pursuant to the provisions of the Bar Council Constitution.

Any terms used in the Legal Services Act 2007 have the same meaning as in that Act.

The masculine shall include the feminine gender.

The plural shall include the singular and vice versa.

Finance and Resources

General

15. The purpose of ~~this Part~~ **these Standing Orders** is to set out the arrangements:
 - a. For ensuring that the Bar Council’s finances and other resources are properly managed and accounted for; and
 - b. For ensuring that the Bar Council complies with its obligations under rule 7(d) of the Internal Governance Rules 2009, **made by the Legal Services Board under s30 of the Legal Services Act**, to take such steps as are reasonably practicable to ensure that it provides such resources as are reasonably required for or in connection with the exercise of its regulatory functions.
51. The Treasurer on behalf of the GMC, BSB and the Finance and the Audit Committees will keep the Bar Council briefed on all matters of financial importance and on behalf of the Finance and the Audit Committees will keep the BSB briefed on all matters of financial importance.
52. The Chief Executive is the accounting officer and responsible for financial planning, day-to-day financial management and the collection of practising certificate fees and ~~member services~~ **the Bar Representation Fee**.

Finance Committee

53. The terms of reference of the Finance Committee are:

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- a. To determine and keep under review the Bar Council's accounting policies and procedures including the Finance Manual which sets out the procedures for preparing the annual budget, levels and procedures for the authorisation of expenditure, procurement policy and other financial controls;
- b. To review and finalise the annual revenue and capital expenditure budgets, in consultation with the BSB and GMC as appropriate, for presentation to the Bar Council;
- c. To review, also in consultation with the BSB and GMC as appropriate, and put forward proposals to the Bar Council for the practising certificate fees and ~~member services~~ Bar Representation Fee (including levels, bandings, discounts, surcharges, payment methods, exemption waivers and refunds) which are consistent with section 51 of the Legal Services Act 2007 and the Practising Fee Rules 2009 made by the Legal Services Board and:
 - i. to conduct such consultation in relation thereto as may be required pursuant to the Practising Certificate Rules 2009; and
 - ii. to apply to the Legal Services Board for approval of the practising certificate fee determined by the Bar Council.
- d. To review the Bar Council's management accounts and the associate reports provided by the Chief Executive and the BSB Director General and make recommendations, take such actions or seek assurances as may be necessary or desirable in the interests of the Bar Council as a whole in the light of such accounts;
- e. To review the quarterly and annual reports made by the BSB to the Bar Council (in its capacity as Approved Regulator);
- f. To review quarterly the Bar Council's cash flow forecast;
- g. To review the Bar Council's annual accounts prior to their consideration by the Audit Committee;
- h. To determine and keep under review the Bar Council's banking arrangements, so as to ensure that they reflect current need, value for money and balance of risk;
- i. To keep under review the level and nature of the Bar Council's investments and borrowings and take all such action in relation thereto as is necessary or desirable in the interests of the Bar Council;

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- j. To provide advice on any financial matters referred to it by the Bar Council, the BSB or the GMC;
 - k. To consider the reports and decide upon the recommendations of the Emoluments Committee; and
 - l. To review the findings of the internal and external auditors and ensure that financial issues raised in the management letter are addressed by the appropriate Bar Council staff and to ensure that issues raised by the Audit Committee are appropriately responded to.
54. The membership of the Finance Committee shall be:
- a. The Treasurer of the Bar Council [Chairman];
 - b. The Vice-Chair of the BSB [Vice-Chairman];
 - c. The Chairman and Vice-Chairman of the Bar Council and the Chair of the BSB;
 - d. Two practising barristers nominated by the Chairman of the Bar Council, who shall be appointed for a term of three years, renewable once;
 - e. Two members of the BSB or of a BSB committee nominated by the Chair of the BSB, who shall be appointed for a term of three years, renewable once;
 - f. Two independent lay persons nominated jointly (in consultation with the Treasurer of the Bar Council) by the Chairman of the Bar Council and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including in particular the Commissioner for Public Appointments' Code of Practice for Ministerial Appointments to Public Bodies, who shall be appointed for a term of three years, renewable once;
 - g. The Chief Executive.

In attendance: the Director General of the BSB, other senior ~~Bar Council~~ staff as necessary and the ~~Head~~ Director of Finance (who shall act as secretary to the Finance Committee).

55. Each of the members of the Finance Committee other than the lay persons identified in paragraph 54(f) above and the Chief Executive may nominate an alternate who is entitled to take their place at any meeting which the member is unable to attend.
56. The quorum for meetings of the Finance Committee shall be 5 members (or alternates), which must include:

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- a. a member (or the alternate of a member) who is either one of the Officers of the Bar Council or one of the members identified in paragraph 54(d) above;
- b. a member (or the alternate of a member) who is either the Chair or the Vice-Chair of the BSB or one of the members identified in paragraph 54(e) above; and
- c. an independent lay member.

Audit Committee

57. The terms of reference of the Audit Committee are:

Governance and Risk Management

- a. To advise the Bar Council in relation the Bar Council's role as an approved regulator for the purposes of the Legal Services Act 2007 on all corporate governance matters and to review the effectiveness of all internal controls, including financial management arrangements and internal business processes and in so doing to make appropriate use for this purpose of:
 - i. internal audits;
 - ii. external audits; and
 - iii. reports and assurances from the Bar Council and the BSB.
- b. To review the Bar Council's and the BSB's risk management strategies, including processes for assessing, reporting, owning and managing business risks and their reputational and financial implications across all parts of the Bar Council, and to make recommendations and seek assurances or clarification as may be necessary or desirable in the interests of the Bar Council as a whole;
- c. To receive risks registers on a quarterly basis from the BSB and the Bar Council and assurances that effective control systems are in place and are being adhered to;
- d. To review and make arrangements on whistleblowing processes and the arrangements for investigating fraud, corruption and error;
- e. To keep under review the level and nature of the Bar Council's insurance cover;

Internal Audit

- f. To determine and keep under review the need for, and the arrangements for the provision of, internal audits, having regard to the need for the internal audit function to be effective, to be adequately resourced, to have appropriate standing within the Bar Council and the BSB and to be aligned with corporate risk registers;

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- g. To consider any internal audit reports, and any management responses thereto, and make recommendations or take such actions as may be necessary or desirable in the interests of the Bar Council in the light thereof;

External Audit

- h. To make recommendations to the Bar Council on the appointment and removal of the external auditors;
- i. To oversee the relationship with the external auditors, including:
 - i. approving their terms of engagement and remuneration;
 - ii. ensuring that the nature and scope of the external audit is agreed in advance; and
 - iii. ensuring that the external auditors are informed of any significant developments or risks which might impact upon the audit process or fee;
- j. To monitor and review the external auditor's independence, objectivity and effectiveness;
- k. To review the findings of the external auditor and ensure that appropriate actions are being taken;
- l. To determine and keep under review policy on the engagement of the external auditor to supply non-audit or consultancy services;
- m. To oversee the production, and monitor the integrity, of the Bar Council's Annual Report and Accounts and, subject to audit, to approve them for submission to the Bar Council; and

Statutory Compliance

- n. To review and make recommendations on the processes in place to ensure that the Bar Council meets its statutory obligations, including those with regard to employment, data protection and health and safety.

58. The membership of the Audit Committee shall be:

- a. A chairman who is an independent lay person with relevant audit knowledge and experience nominated jointly (in consultation with the Treasurer of the Bar Council) by the Chairman of the Bar Council and the Chair of the BSB acting in

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accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including in particular the Commissioner for Public Appointments' Code of Practice for Ministerial Appointments to Public Bodies;

- b. A vice-chairman who is a practising barrister with relevant audit knowledge and experience nominated by the chairman of the Audit Committee, **who shall be appointed for a term of three years, renewable once;**
- c. A member nominated by the Chairman of the Bar Council, **who shall be appointed for a term of three years, renewable once;**
- d. A member nominated by the Chair of the BSB, **who shall be appointed for a term of three years, renewable once;** and
- e. Two members (who may, but need not, be practising barristers) nominated by the chairman of the Audit Committee acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including in particular the Commissioner for Public Appointments' Code of Practice for Ministerial Appointments to Public Bodies **and who shall be appointed for a term of three years, renewable once.**

In attendance: the Chief Executive, the Director **General** of the BSB, other senior ~~Bar Council~~ staff as necessary and the ~~Head~~ **Director** of Finance (who shall act as secretary to the Audit Committee).

59. No person who is a member of the Finance Committee may also be (or act as an alternate for) a member of the Audit Committee.
60. The members of the Audit Committee identified in paragraph **58(b) to (d)** above may nominate an alternate who is entitled to take their place at any meeting which the member is unable to attend, **providing that alternate is not also a member of the Finance Committee.**
61. The quorum for meetings of the Audit Committee shall be 3 members (or alternates), ~~which must include the members identified in paragraph 58(c) and (d) above (or their alternates).~~

Emoluments Committee

62. The Emoluments Committee is a sub-committee of the Finance Committee.
63. The terms of reference of the Emoluments Committee are:

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- a. To set parameters for, determine, and report to the Finance Committee on, the remuneration and terms of engagement of the following:
 - i. ~~The Chairman of the Bar Council.~~ The Chief Executive
 - ii. ~~The Vice-Chairman of the Bar Council.~~ The Director General of the BSB
 - iii. ~~The Chair of the BSB.~~ Any other senior staff who sit outside the general staff banding structure
 - iv. ~~The Vice-Chair of the BSB.~~ The members of the BSB
 - v. ~~The members of the BSB.~~ All remunerated lay members of any Bar Council or BSB committee, sub-committee, panel, working party or other body
 - vi. ~~The Chief Executive.~~
 - vii. ~~The Director of the BSB.~~
 - viii. ~~Applicable senior staff~~
 - ix. ~~All lay members of any Bar Council or BSB committee, sub-committee, panel, working party or other body.~~
 - b. To advise the Chairman of the Bar Council on the recruitment of the Chief Executive and to advise the Chair of the BSB on the recruitment of the Director General of the BSB and, in the case of the Director of the BSB, the Chair of the BSB, on the recruitment of the Chief Executive and the Directors;
 - e. ~~To advise the Bar Council on human resources strategy and policy;~~
 - d. To advise on the annual pay award review to staff;
 - e. ~~To advise on best employment practice and the implications of new employment legislation;~~
 - f. To consider appeals by the Chief Executive, the Director General of the BSB relevant senior staff and staff who report directly to the Chief Executive or Director General relevant senior staff against decisions relating to dismissal, disciplinary sanction, grievance, promotion or demotion. Appeals will be heard by one of the lay members of the committee.
 - g. To provide general oversight and expert advice on HR matters.
64. The membership of the Emoluments Committee shall be:
- a. The Treasurer of the Bar Council (Chairman);
 - b. The Chairman of the Bar Council;
 - c. The Chair of the BSB (or, in respect of matters which the Chair of the BSB is not entitled to discuss, the Vice-Chair of the BSB);

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- d. Two independent lay persons, who may also be members of the Finance Committee, each of whom:
 - i. shall be nominated jointly (in consultation with the Treasurer of the Bar Council) by the Chairman of the Bar Council and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including in particular the Commissioner for Public Appointments' Code of Practice for Ministerial Appointments to Public Bodies; and
 - ii. shall be appointed for a term of three years, renewable once, having regard to their familiarity with current human resources practice and remuneration arrangements for senior appointments in the public and private sectors.

In attendance: the Chief Executive, the Director **General** of the BSB, other senior staff as necessary, and the ~~Head~~ **Director** of HR (who shall act as secretary to the Emoluments Committee).

65. Each of the members of the Emoluments Committee other than the lay persons identified in paragraph **64(d)** above may nominate an alternate who is entitled to take their place at any meeting which the member is unable to attend.
66. The quorum for meetings of the Emoluments Committee shall be 3 members (or alternates), which must include:
 - a. the Treasurer or Chairman of the Bar Council (or their alternate); and
 - b. the Chair or the Vice-Chair of the BSB (or their alternate).
67. No member of the Emoluments Committee shall take part in the discussion of a matter in which he or she has a personal interest.
68. A sub group of the Emoluments Committee consisting of the HR Director, the Chief Executive, the Treasurer and lay members of the Emoluments Committee will be responsible for setting the parameters for, determining, and reporting to Finance Committee on the remuneration and the terms of engagement of the following:
 - i. The Chairman of the Bar Council
 - ii. The Vice-Chairman of the Bar Council
 - iii. The Chair of the BSB
 - iv. The Vice Chair of the BSB

The provision of resources to the BSB

69. The resources to be provided to the BSB in each year shall be determined as part of the annual budgeting process.

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70. The resources provided to the BSB shall include, as provided for in the annual budget:
- a. Funds to be spent for the BSB's purposes identified in the annual budget;
 - b. The full-time services of the Director **General** of the BSB and of other Bar Council employees managed by the Director **General** of the BSB;
 - c. A share of shared services, including:
 - i. accommodation;
 - ii. IT services; and
 - iii. the services of Bar Council employees managed by the Chief Executive.
71. In relation to the resources provided to the BSB:
- a. The Bar Council shall observe the requirements of Part One of **the Bar Council constitution (discharge of regulatory functions)**;
 - b. The BSB shall observe the procedures and requirements contained in or made under **these Standing Orders** Part.
72. The procedures for preparing the annual budget shall be set out in the Finance Manual.
73. The Finance Committee and the BSB shall use their best endeavours to reach agreement as to those items in the annual budget concerning the resources to be provided to the BSB.
74. If in any year the Finance Committee and the BSB are unable to reach agreement on any such item or items, then a Budget Review Group shall be formed to resolve any such differences and the Finance Committee shall, in preparing the annual budget, give effect to the conclusions of that Budget Review Group.
75. Any other issues concerning the resources provided to the BSB:
- a. shall if possible be resolved by agreement between the Director **General** of the BSB and the ~~Head~~ **Director** of Finance;
 - b. if so not so resolved, shall be referred to and resolved by the Chief Executive;
 - c. if not so resolved, shall be referred by the Chief Executive to and resolved by the Finance Committee.

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Budget Review Groups

76. The membership of any Budget Review Group shall be
- a. The Treasurer of the Bar Council (Chairman);
 - b. The two independent lay members of the Finance Committee;
 - c. One member of the Finance Committee nominated by the Chairman of the Bar Council;
 - d. One member of the Finance Committee nominated by the Chair of the BSB.

All members shall be present to achieve quorum.

77. Meetings of a Budget Review Group shall be attended by:
- a. The Chief Executive;
 - b. Relevant senior staff;
 - c. Head Director of Finance;
 - d. Such other person(s) as the Budget Review Group may invite.
78. The terms of reference of any Budget Review Group shall be to resolve any difference in relation to those items in the annual budget concerning the resources to be provided to the BSB which arises in the preparation of the budget and which cannot be resolved by agreement between the Finance Committee and the BSB.
79. Any Budget Review Group shall consult with the BSB and shall have regard, inter alia, to:
- a. The requirements of Part One of the Bar Council constitution (discharge of regulatory functions);
 - b. The Bar Council's obligation under rule 7(d) of the Internal Governance Rules 2009 to take such steps as are reasonably practicable to ensure that it provides such resources as are reasonably required for or in connection with the exercise of its regulatory functions;
 - c. In respect of any disputed item proposed for inclusion in the annual budget:
 - i. The BSB's objectives (the determination of which is a matter for the BSB).

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- ii. Whether the proposed budget item is appropriate to achieve the BSB's objectives.
- iii. Any options for achieving those objectives more economically or efficiently.
- iv. Any measures which have been, or could be, taken to reduce the cost of the proposed item.
- v. Any offsets available against the cost of the proposed item.
- vi. Any cost/benefit analysis or assessment of priorities conducted by the BSB.
- vii. The financial burden on the profession both individually and collectively which would result from providing the resources required by the proposed item.

The Chairmen's Committee

80. The terms of reference of the Chairmen's Committee shall be to keep under review all aspects of the relationship between the Bar Council and the BSB.
81. The Chairmen's Committee shall consist of:
 - a. The Chairman of the Bar Council;
 - b. The Chair of the BSB;
 - c. The Vice-Chairman of the Bar Council;
 - d. The Vice-Chair of the BSB;
 - e. The Treasurer of the Bar Council;
 - f. The Chief Executive;
 - g. The Director General of the BSB.
82. Meetings of the Chairmen's Committee shall be attended by:
 - a. Relevant senior staff;
 - b. Such other person(s) as the Chairmen's Committee may invite.
83. In the interests of the preservation of independence, meetings of the Chairmen's Committee shall be chaired alternately by the Chairman of the Bar Council (or deputy) and the Chair of the BSB (or deputy). Meetings shall be administered by the Chief Executive's Office.

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84. The quorum for meetings of the Chairmen’s Committee shall be 4 members which must include the Chairman or Vice-Chairman of the Bar Council and the Chair or Vice-Chair of the Bar Standards Board.

Governance and amendments to the Standing Orders

Any amendments to these Standing Orders must be made in line with the principles of the joint protocol on ensuring regulatory independence.¹

Any party wishing to amend or update any part of the Standing Orders must seek the authority of both the Bar Standards Board and the Bar Council to do so, via appropriate internal governance processes. The administrative management of any amendments to the text must be affected through the office of the Chief Executive of the Bar Council.

A review of the Standing Orders will be scheduled on an annual basis at a meeting of the Bar Council, Bar Standards Board and Resources Group senior leadership team (SLT) to assess whether any amendments may be required by any party.

1

http://www.barcouncil.org.uk/media/314543/bar_council_and_bar_standards_board_protocol_141204.pdf

Chair’s Report on Visits and External Meetings, October – November 2015**Status:**

1. For noting

Executive Summary:

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

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

17 October	Attended the Annual Bar Conference
22 October	Met with the Chairman of the Legal Services Board, Sir Michael Pitt
22 October	Attended the Middle Temple Grand Day
10 November	Met and had lunch with the Chairman-Elect of the Bar Council, Chantal-Aimee Doerries QC
10 November	Attended the Lord Williams of Mostyn Memorial Lecture with refreshments at Gray’s Inn
12 November	Met with the Lord Chief Justice and the President of the Queen’s Bench Division at the Royal Courts of Justice
12 November	Chaired a meeting with the Chairman and the Chief Executive of the Legal Services Board
19 November	Met with the Parliamentary Under-Secretary of State and Minister for the Courts and Legal Aid, Shailesh Vara MP
24 November	To attend a roundtable discussion as part of the review on Ethics for Regulators by the Committee on Standards in Public Life
25 November	To meet with Sam Younger, the recently appointed Chairman of CILEx regulation
30 November	To attend the Inns’ Strategic Advisory Group meeting
30 November	To attend a COIC reception at Inner Temple

Equality Impact Assessment

3. No Impact

Risk implications

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

Consultation

5. None

Regulatory objectives

6. None

Publicity

7. None

Lead responsibility:

Sir Andrew Burns KCMG

Director General's report - BSB meeting 26 November 2015

For consideration and noting.

Director General

1. Internally my work in the last month has focussed on the governance review project, the recruitment of the new Vice Chair, settling the 2016/17 budget and handling some key regulatory policy issues reported on elsewhere on this month's agenda. Mid-year performance reviews for all staff have been taking place across the BSB and will be completed by 30 November.
2. I led three half-day visits to the RCJ for recently arrived BSB staff over the last month: these visits are a required part of staff induction: they help staff become more familiar with the work and environment of those we regulate and assist in forming good working relationships across the BSB.
3. I continue to be closely involved in Future Bar Training and related work, including discussing our recent consultation at two law schools in the last month and meeting with the Ministry of Justice to discuss legal education and advocacy quality standards.
4. I was pleased to join a panel presentation and discussion at the Law Society to launch national Pro Bono Week, speaking to the proposition "is regulation killing pro bono?" (to which the general and specific answer was: no.)
5. By the time of the Board meeting I will have attended a Committee on Standards in Public Life round table meeting on "ethics for regulators": I look forward to updating the Board on that subject.

ASPIRE

6. The self-assessment against the Regulatory Standards Framework was submitted at the end of October following Board discussion at their last meeting. Alan Kershaw, the independent scrutiniser, completed his certification of the process that the BSB adopted. The LSB will set out its preliminary views early in 2016 before formally reporting by the end of March.
7. Training for staff in consumer engagement and the risk framework will continue over the next few weeks. This training is designed to further embed our focus on ensuring that we engage in consumers when developing new policy and regulation or when we are taking regulatory decisions and ensuring that our approach to risk based regulation is consistent and coherent. The consumer training is being delivered jointly with the Legal Services Consumer Panel and similar training will be provided to the Board at its away day in December.
8. The governance strand of ASPIRE continues at pace with detailed planning on the phasing of the governance changes well advanced. An update is elsewhere on the Board agenda.

Regulatory Policy

Standards

9. Good progress has been made on the immigration thematic review over the last month. A meeting of the reference group (stakeholders who have agreed to help us shape the review) has taken place. The group provided valuable insight into on our work on mapping client journeys and tested our assumptions so far. Staff have also met with the SRA to discuss opportunities for joint working. Some key streams of work were identified where it would be beneficial for us to work more closely with the SRA. We have also started to analyse the information gathered so far (through supervision visits, the roundtable event, the reference group and desk research) to group issues into key themes. We are linking this information more closely to the risk index to help us identify and define the problems/issues within each theme. Planning has commenced for the next phase of work, which will include identifying gaps in information and developing options for each of the key themes. We will report to the Board in the New Year.
10. Work is also progressing on the public and licensed access review. A research company has been appointed jointly with the LSB to carry out a piece of research into the supply side of public access provision. We are also finalising the proposals for some additional research into the demand side. The aim is to target immigration clients in particular, to link in with the review into immigration services.
11. A consultation on amending the definition of employed barrister (non-authorised body) has been launched. The consultation seeks views on broadening the definition for barristers working in in-house organisations to allow them to work through agencies or corporate vehicles. Barristers who wish to work in this way currently have to apply for a waiver.
12. Work has also begun on analysing the responses to the Future of Training for the Bar consultation, as well as ongoing work on developing a guide to help consumers to understand barristers' services.

Regulatory risk

13. Following the successful networking event at Lincoln's Inn, time has been spent planning for the second phase of the Risk Outlook project. This phase starts in mid-November and will culminate in the publication of a Risk Outlook in 2016. It involves a small group of individuals from across the organisation working together in order to gather information, analyse it and condense it down into a final product that is insightful and which prompts action from those who read it. The first phase, which started earlier this year, has provided a wealth of information and direction to build on, providing a good springboard.
14. A joint event by the Regulatory Risk and Equality & Access to Justice teams continues to be planned. This will feed into the Risk Outlook and develop key contacts we can engage with more widely. In addition, we have started engaging with the Personal Support Unit to better understand litigants in person and unmet legal need. This involved observing a training session delivered to pupils from one of the Inns of Court. Insights from this will also feed into the Risk Outlook.
15. The team has continued to support a project focused on the assessing of incoming information. Currently, we are planning for a significant amount of work over the next 12-18 months. This will focus around the development of a unit focusing on how information is assessed. This naturally dovetails with work on the Information Management (IM) programme and how we undertake risk assessments. A risk

assessment strategy will underpin this, setting a standard for risk assessments across the organisation. It will be supported by tactical improvements in the interim period.

16. Other work we are involved in includes the ABS implementation project and the thematic review of immigration and asylum work. Placing both projects within the context of regulatory risk has helped to structure the insights gathered. Alongside these, we are providing support to articulate a data dictionary (as part of the IM programme), which will enable the organisation to understand the breadth, depth and quality of its data.

Equality and Access to Justice

Research on Women at the Bar

17. A research proposal has been finalised for the project assessing the impact the equality rules of the BSB Handbook have had on women at the Bar. A Task & Finish group comprising members of the BSB Equality and Diversity Committee has been formed and research survey questions have been drafted. A survey targeting female barristers has been designed will be launched at the end of November to identify key areas of priority for future diversity objectives relating to women's experiences at the Bar.

Knowledge Sharing Session – LGBT Rights and Cross Cultural Competence

18. The E&AJ team held a Knowledge Sharing session in October. 54 BSB staff attended the event which was led by Johnathan Cooper OBE. Jonathan, a barrister at Doughty Street Chambers and Chief Executive of The Dignity Trust, addressed lesbian, gay, bisexual and trans (LGBT) human rights, including his work on seeking justice for disabled LGBT people. Josh Hepple, a LCP student with cerebral palsy, was also in attendance and shared his experiences and views about legal education. The BSB Director General and Equality and Access to Justice Policy Manager subsequently met with Jonathan to explore access issues around the BPTC and implications for the Future Bar Training programme. A further knowledge sharing session is planned with Jonathan Twitchin, a leading expert in the field of Cross-Cultural Communication, on 9 December for BSB and BC staff.

Cross-Cultural Communication Event

19. The E&AJ and Regulatory Risk teams are jointly planning an event to be held in January 2016 for leaders and experts in the field of “cross-cultural communication” (CCC) - appropriate and effective communication between individuals from different cultures. The symposium hosted by the BSB Chair and Director General is entitled “Does Cross-Cultural Communication Matter at the Bar?” The aim of the event is to build the BSB’s understanding of CCC, how this impacts upon our regulatory objectives, and ways in which we can build CCC amongst barristers through our regulatory tools. The symposium will also increase engagement and strengthen working relationships between the BSB and E&D stakeholders.

Equality Objectives 2015-16 Progress Review

20. A progress update of the BSB’s equality objectives and wider projects undertaken by the E&AJ team has been prepared and will be presented to the EDC in December. The Equality Act 2010 stipulates that public bodies must publish one or more equality objectives every four years as a minimum. The majority of the 11 published equality objectives are complete and the remainder are on track to be completed by their respective deadlines. Work on developing new objectives for 2016-17 will begin next year.

Working with External Partners and Stakeholders

21. On 16 October the E&AJ Policy Manager attended a Sheffield University School of Law event “Law and Diversity: *What Has Been Done, What We Need to Do?*” A subsequent meeting has been planned with a course leader to explore overlaps with our E&AJ programmes and the potential for future collaboration. The E&AJ Policy Manager has met with the General Manager of Just Lincolnshire, an anti- discrimination organisation serving the community of Lincolnshire. An opportunity to deliver a joint consumer E&AJ capacity-building partnership project in the New Year is being explored.

Wellbeing at the Bar

22. In light of the Bar Council’s recently published report on wellbeing at the Bar, a preliminary BSB project group comprising members of the E&AJ, Supervision and Professional Conduct teams has been formed. The group will explore the BSB’s regulatory role in tackling wellbeing issues highlighted by the report such as stress, addiction and mental health problems within the profession.

Staffing

23. Jessica Prandle (née Bradford) returned to her position as Senior Policy Officer, Equality and Diversity, in November following maternity leave. Jessica will be supporting the E&AJ Policy Manager in implementing the BSB’s programme of equality work and developing new equality objectives for 2016-17.

Supervision

24. Visits are underway to chambers categorised as Medium Impact and High Risk, following review of the Supervision Returns.
25. The team has met to review the impact assessment criteria to confirm whether the methodology provided a reasonable approach to identifying the highest impact chambers, in the light of the information gathered to date. This review will ensure that we continue to use an appropriate approach for assessment of new chambers/sole practitioners as they register.

Continuing Professional Development

26. The 2014 CPD spot Check has now been completed. The Spot Check focused on New Practitioners and High Risk Established Practitioners (EPP). Overall compliance rates were 91%.which was slightly lower than the 2013 Spot Check. This was a somewhat smaller sample than last year and the figures are not statistically significant for the profession.
27. A more detailed breakdown showed that the random sample of New Practitioners recorded 96% levels of compliance which was more in line with what we would expect from a random sample of barristers. In addition over half the New Practitioners completed more than the minimum 45 hours of CPD that they were required to. Again this was similar to the average of the profession which completes more CPD hours than the minimum each year.
28. The High Risk EPP barristers were at 86% rate of compliance. It is also noteworthy that the levels of noncompliance in the High Risk EPP barristers came predominantly from those barristers who were noncompliant with CPD in the previous spot check.
29. Nonetheless most barristers who had been given corrective action in the 2013 Spot Check did not have further non-compliance in the 2014 Spot Check.

Youth court advocacy

30. The research report by the Institute of Criminal Policy Research, commissioned by the BSB and CILEx, was published on 19 November. The Director of Supervision, along with the research team, reported on the research at the Youth Justice Convention on 24/25 October. The research is being considered by a Task and Finish Group set up by the Director of Supervision and comprising three board members. That Group will report its recommendations to the Board in early 2016.

Entity authorisation

31. At the time of writing, 36 entities appear on the BSB's Entities Register meaning they are authorised by the BSB to provide legal services. A further five decisions have been issued and these entities will be authorised to operate once confirmation of appropriate insurance is provided to the BSB and authorisation payment made.
32. The new on- line system is now fully operational.
33. Work on the implementation of Alternative Business Structures is ongoing. There continues to be regular engagement with the LSB.
34. Qualitative research to get a more in-depth view of the market and the extent of interest in setting up an ABS has been carried out. The results of this research are currently being collated.

Education and Training***Future Bar Training***

35. Planning of next stages in the programme plan has been agreed by the Programme Board, taking account of the need for substantial and detailed policy input, and integration with the wider regulatory approach of the BSB.
36. "Phase One" of the programme has drawn to a close. "Phase One" has set the foundations for regulatory change by:
- developing a Professional Statement;
 - developing a basis for sound policy development;
 - getting data affairs in order;
 - establishing a new CPD regime.
37. "Phase Two" was agreed by the Programme Board at their meeting in October, and starts with the analysis of the 60 responses received to the consultation on future approaches to training, which closed on 30 October. The analysis is planned for completion by the end of November and will be presented to the Board in January.
38. Initial work has also been undertaken to develop the Threshold Standards that will underpin the Professional Statement.

Operational update

39. The number of enrolled candidates for the BPTC in 2015/16 has been confirmed (1403, of which 160 part time), showing a second year of significant reduction. Potential causes include changing provider approaches to selection, impact of changing immigration policy toward overseas candidates, and greater awareness of the limited

opportunities at the Bar after qualification. Uncertainty about future regulation may also have an impact, though this is thought unlikely to be significant.

40. Plans have been put in place for the introduction of the new BPTC syllabus to the Bar Transfer Test, to take effect for the April 2016 sitting.
41. The Final Exam Board meeting for the 2015 BPTC Resit Assessments took place on 28 October, confirming results which have shown improvement on the same assessment in 2014. The Chair's report will be published in early December.
42. A review panel met on 2 October to consider one Request for Review of the Professional Ethics First Sit 2015 Assessment. The case made by the applicant was not accepted.
43. At the September sitting of the Bar Transfer Test, 18 of the 82 candidates passed the required assessments (compared with 27 of the 75 at the April sitting). With 157 candidates overall, the number of candidates has reverted to longer-term trends, after a significant spike in April 2014.
44. Following the date specified for barristers wishing to undertake public access work to complete newly specified training requirements (4 October), an extension was provided in view of late demand for places on the courses run by the three approved providers. An extension to 4 November was publicised through the training providers themselves, the Regulatory Update, and by other means.

Qualification Regulations

45. The Qualifications Committee met on 20 October 2015. It had a very constructive discussion about the Governance Review. It also considered three applications for review, upholding the original decision of the Panel in two cases and adjourning consideration of the third.

Staffing

46. Appointments have been made to the positions of Senior Training Supervision Officer and Data Analyst, both supporting training regulation from the outset, but the latter developing a wider role over time to support risk-based regulation.
47. Two appointments have also been made in the team to cover maternity leave arrangements.
48. An education Policy Manager was appointed to the Regulatory Policy team in October, but could not take up the post, which has been re-advertised.

Professional Conduct

General

49. PCD staff are focussing on ensuring that cases are completed within the KPI timescales.
50. Sam Benton, the new Professional Support Lawyer (Enforcement), commenced his role on 2 November. A New Zealand qualified lawyer, Sam brings to the PCD over eight years post qualification experience (PQE). He has previously worked in solicitors' firms providing services to the New Zealand government in relation to child care issues.

Part 1 – Public

51. Jake Armes has been appointed to the post of Projects and Operational Support Officer. This is a promotion for Jake who began in his new position on 16 November after fulfilling the role of Professional Conduct Assistant in the Assessment Team for the last six months. Interviews to find Jake's replacement in the Assessment Team were held in early November. A suitable candidate has been identified and she will join the PCD on 19 November.
52. Elsewhere in the Operational Support Team, those applications received for the post of Reports and Data Analysis Officer, vacated by Paul Martyn in October, have been disappointing with the subsequent plan to recruit via an agency also proving unsuccessful. The OST Manager is in discussion with HR about how to better advertise the post to attract suitable candidates.
53. Interviews for the role of Casework Supervisor in the Investigations and Hearings Team currently taking place and the PCD are hoping to make an appointment in the near future.

DT Regulations Review Project

54. A total of ten responses from interested organisations and individual barrister have been received as a result of the Consultation on the proposed changes to the Disciplinary Tribunal Regulations. The project group have considered the responses and will be discussing the findings at a Working Group meeting on 23 November. A Consultation Response Paper, to be put to the Board at its meeting in January 2016, will be drafted following the Working Group meeting.

Public Information Project

55. The project to improve the publicly available information about the enforcement system on the BSB's website remains on track with an overall "go live" date of mid-late March 2016. Law for Life, the consultants employed to produce copy for two of the new sections of the webpages, have now delivered which is being finalised for its inclusion on the website in the New Year. Meanwhile, those project group staff who attended training on "how to write for webpages" on 18 November will now focus on the production of wording for the remaining sections.

Time recording

56. The PCD will continue to record time spent on each aspect of our work until the end of 2015, when we will have recorded enough information to accurately calculate the cost of complaints. The system will be reviewed in January 2016 and it is likely that the PCD will carry on recording time spent working on disciplinary tribunals.

Judicial reviews

57. Since the last update, there have been no new applications for Judicial Review received by the PCD. These remain with one at the permission stage and the other two before the Court of Appeal. One of these has now been listed for 10/11 May and the other for 26 July 2016.

Strategy and Communications**Communications**

58. Since this report was prepared for the October Board meeting, the following press releases and announcements have been issued:
- 8 October: A barrister is suspended for mishandling client monies and not cooperating with the regulator;
 - 13 October: Press release to launch the consultation about removing restrictions on employed barristers;
 - 19 October: Announcement about the recruitment of a new vice-Chair;
 - 21 October: Press release to accompany the publication of the final version of the “Professional Statement”;
 - 22 October: A barrister is disbarred for instigating vexatious Employment Tribunal claims;
 - 23 October: Press release to accompany the publication of the Supervision report on “High Impact” chambers;
 - 30 October: A barrister is disbarred for failing to disclose criminal convictions prior to being Called to the Bar;
 - 5 November: A Bahamas based barrister is disbarred for falsely claiming he had been awarded a law degree and forging certificates.
59. The Board will have seen the fortnightly media coverage that the above announcements generated.

Work in Progress

60. In addition to business-as-usual activities, at the time of writing, the following pro-active communications are scheduled over the next few weeks and months:
- Publication of the Youth proceedings advocacy review report;
 - Publication of the new BPTC providers’ statistics/data report;
 - Arrangements for a new event around cross-cultural awareness and communication at the Bar;
 - Planning for communications activity associated with ABS authorisation; and,
 - Planning for communications activity associated with publication of the Risk Outlook and the Strategic Plan.

Online and social media

61. During October, 29,881 users visited the BSB website. At the time of writing, we have 12,830 followers on Twitter.

Research

62. Since the meeting in October, work has progressed as follows:
- Finalising the Complaints Diversity Analysis report for presentation to the E&D Committee in December;
 - Commencing work on the Data Dictionary as part of the Data Foundation Project;
 - Providing a training session on thematic qualitative analysis for staff in the Regulatory Policy department;
 - Commencing work on stage two of the Risk Outlook, specifically the Market Overview section;

- Completion of the literature review for the ASPIRE Consumer Research Programme;
- Providing updated quarterly data covering responses to the Change of Status survey to the Bar Council;
- Providing an evaluation of the proposed methodology of the supply side Public Access research tenders submitted to the BSB/LSB
- Development of the research design for the demand side of the Public Access research;
- Commencing Qualitative analysis of responses to the Pupillage Gateway survey;
- Attending the Research Strategy Group and Research Forum to discuss ongoing and upcoming research projects with other legal regulators.

Business Support

Governance

63. With the agreement by the Board on the Governance Review, the executive is now carrying out the implementation. A separate paper forms part of the papers for this meeting. The Assurance Framework is currently in development and the GRA and PRP committees will be reviewing the executive's proposals in January 2016.

Strategy, Business Plan and Budget

64. Further work is being carried out to refine and further develop the new Strategy for 2016-19. The Bar Council's Finance Committee approved the BSB's budget envelope for 2016-17. Quarter two for 2015-16 has just ended, so the team has compiled the mid-year management information reports and financial (re)forecasting.

Fees and Charges

65. Most of the drafting on the fees and charges consultation has been completed and this will be disseminated shortly.

Resources Group

Current Key Business Projects and Programme

66. *CPD Regulation Implementation*

- The CPD Consultation closed. There were 81 responses and a number of collective responses from the Inns of Court, Consumer Panel and Specialist Bar Associations. Analysis is underway.

67. *Property Strategy 2018/19 (Work Smart Programme)*

- The programme has been renamed "Work Smart" to focus on looking at ways we can create efficiencies through more flexible working arrangements.
- The first phase of the programme is underway to research the requirements and options available to us.
- A timetable has been drawn up to achieve an agreed option for implementation in a business case for the end of March 2016.
- An outline for a flexible working model has been drawn up as a first step to shaping our options for the future.
- This is being shaped as a key programme of work with the PMO.

The following fit underneath the umbrella of the Information Management Programme of work:

68. ***Authorisation to Practise 2016***

- Operational Planning underway
- Testing of the systems underway
- Policy and collateral review underway

69. ***Human Resources Information System (HRIS) and Payroll***

- HRIS went live on 7 October
- Outsourcing of payroll project is underway
- Further enhancements and release planned for HRIS.

70. ***Integrated solution Implementation***

- Procurement is underway for the integrated solution (including Customer Relationship Management system and new Self-service portal); for implementation kick off in February/March 2016.

71. ***Finance System***

- Procurement underway for a new Finance System, working towards implementation in July 2016

72. ***Entities regulation***

- Entities Application System is live and receiving applications; project closure is underway.
- Entities Renewal project is being scoped out for implementation by February 2016.

73. ***QASA***

- The QASA system is currently being tested in order to see what development is required for April 2016.

74. ***BSB Alternative Business Structures Implementation***

- Project underway with new timescales agreed for October 2016 launch.
- Scoping underway around processes and requirements for technology.

75. ***Data Foundation***

- Building off the Information Architecture project, data foundation has been launched to improve our data management and estate
- Includes data governance and data management practices,, data cleansing and preparation of data for migration
- Initial audit of the quality and integrity of data across the organisation underway
- Planned cleansing of data stored in our current systems is underway
- Data Governance framework, including functions, processes and roles being scoped out for implementation

76. **Management Information and Business Intelligence**

- Recruitment of MI/BI Analyst complete
- Business case for project agreed
- Scoping and analysis underway to build technology platforms and reporting tools

77. **PCI Compliance**

- Initial assessment of our compliance with the payment card industry standards has taken place
- An initial scope of work is to be negotiated and implemented based on priorities; this has been prioritised in the programme of work to achieve compliance

Key Resource Group Team Updates

Records

78. Recruitment for the vacancy of the Records Manager position has been completed and the new individual is due to start next week.
79. Other priorities include completion of Public Access returns from the Profession.

Finance

80. Sandy Sabapathy joined the finance team on a temporary basis replacing Uzma Anser whilst we evaluate the required resourcing for the team to enable it to support the organisation. Peter Edwards left the organisation at the end of October and we will be looking to fill the vacancy on a temporary basis with a view to permanently replace within three months.
81. Improvements to the management information are still being made to improve the quality and transparency of information with the monthly management accounts. Organisational and departmental processes are being reviewed on an ongoing basis to achieve best practice.
82. The delivery of cash received information to the BSB has been improved moving from a weekly report to a daily report and the team will shortly implement the same process for Member Services.
83. The Q2 reforecast was completed and the outcome presented to the Finance Committee on 27 October.
84. The detailed budgeting process is due to start with a target completion date of February 2016, to enable a final review by the Finance Committee in March 2016.
85. The PCF levels for 2016/17 were approved by Bar Council on 9 November in the context of the high level operating budgets for General Council of the Bar, including the BSB and Bar Council representative activities. The changes to PCF include applying a 1.25% rise to PCF fees and combining the separate LSB and the PCF levies into a single compulsory levy. A consultation process will start with the profession in November.

Facilities – Sam Forman

86. Data Protection obligations are being discussed through the data governance workshops. Existing guidance around data retention and disposal is being reviewed.
87. All statutory obligations against health and safety have been met.
88. Property Strategy – an outline for a work smart vision has been discussed with the property strategy group and work continues on the various strands of the programme.
89. A storage audit was carried out with results lower than three years ago. Work will continue on driving down the amount of storage retained and better use of scanning facilities.
90. The FM team are continuing to seek volunteers to join a “Green Team” in an attempt to identify schemes, initiatives and ways of reducing energy consumption.
91. Desk level training has been conducted with various staff on the StarLeaf Video/Audio Conferencing System. Committee members are encouraged to trial the system with training provided by the FM team.
92. The FM team relaunched their external print room services at the Bar Conference. A number of queries have been received following the relaunch.

Information Services

93. ***Recruitment***

- Ryan O’Donoghue recently left his role within the IS team, and we are currently recruiting for his replacement. We are continuing to monitor the performance of the service we provide whilst we seek a suitable replacement.
- We are also currently recruiting a CRM developer, this will enable us to manage the future development needs of the business without the sole reliance on third party suppliers, leading to accelerated responses to system change requests.
- Paul Martyn has joined the IS team as Business Intelligence Specialist. Paul will be designing and developing the organisations data warehouse estate and the governance framework.
- Steven Findlay has joined the IS team as Data Analyst on a fixed term contract. Steven will be assisting us with establishing the governance, data quality controls and cleansing of the information we currently hold within the organisation. Over the next few weeks he will be aiming to meet with key people to understand the current state of the data we hold, and map the data structures for our new CRM.

94. ***Other Key projects***

- Microsoft Software Compliance Review: We have been made aware by Microsoft that we are to be audited on our software licencing status, this creates a large amount of work for the IS team.
- Security Review: The IS team will be conducting a security review of our infrastructure, and how we manage our data. This will take place over the coming months and as part of our implementation of the IM Strategy.

Vanessa Davies
Director General BSB
19 November 2015