

|                           |
|---------------------------|
| BAR<br>STANDARDS<br>BOARD |
|---------------------------|

REGULATING BARRISTERS

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

Thursday 27 November 2014, Room 1.1, First Floor  
289 – 293 High Holborn, London, WC1V 7HZ

- Present:** Ruth Deech QC (Hon) (Chair)  
Patricia Robertson QC (Vice Chair) – items 7-13  
Rolande Anderson  
Rob Behrens  
Malcolm Cohen  
Justine Davidge  
Tim Robinson  
Andrew Sanders  
Sam Stein QC  
Richard Thompson  
Anne Wright
- By invitation:** James Wakefield (COIC)  
Sir Andrew Burns (incoming Chair, BSB)  
Andrew Mitchell QC (incoming barrister Board Member)  
Adam Solomon (incoming barrister Board Member)
- BSB Executive in attendance:** Viki Calais (Business Manager)  
Andrew Cohen (Business Support Officer)  
Vanessa Davies (Director General)  
Oliver Hanmer (Director of Supervision) – items 7-13  
Andrew Lamberti (Communications Manager)  
Ewen Macleod (Director of Regulatory Policy)  
John Picken (Board & Committees Officer)  
Pippa Prangley (Regulatory Risk Manager)  
Amanda Thompson (Director of Strategy & Communications)  
Stephanie Williams (Legal and Policy Assistant)

**Item 1 – Welcome and introductions****ACTION**

1. The Chair welcomed members and guests to the meeting, in particular the incoming Chair, Sir Andrew Burns and barrister Board Members Andrew Mitchell QC and Adam Solomon. All three were invited to observe the meeting and will commence their formal roles in January 2015.
2. She paid tribute to Sarah Clarke who is leaving the Board at the end of the year and gratefully acknowledged her significant contribution, particularly her work in teaching advocacy. She also thanked the outgoing Officers of the Bar Council, especially Stephen Collier (Treasurer).
3. **Item 2 – Apologies**
  - Sarah Clarke;
  - Simon Lofthouse QC;
  - Sarah Brown (Special Adviser);
  - Emily Windsor (Special Adviser);

- Stephen Collier (Treasurer, Bar Council);
- Stephen Crowne (Chief Executive, Bar Council);
- Joanne Dixon (Qualifications Manager);
- Sara Jagger (Director of Professional Conduct);
- Simon Thornton-Wood (Director of Education & Training)
- Keith Baldwin (incoming Special Adviser);
- Nicola Sawford (incoming lay Board Member).

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

4. The following declarations of hospitality were made:
- Anne Wright and Ewen Macleod – attendance at the BACFI Denning Lecture and Christmas Reception (20 November 2014);
  - Vanessa Davies – attendance at the farewell reception for Charles Plant (outgoing Chair of the SRA).

### **Item 4 – Approval of Part 1 (public) minutes (23 October 2014)**

(Annex A)

5. The Board approved Part 1 of the minutes of the meetings held on Thursday 23 October 2014.

### **Item 5 – Matters Arising**

Education related documents – Chair’s sign off (min P21a – 11 Sept 14)

The Chair referred to an action point arising from the private session of the meeting held on 11 September 2014. She confirmed she had approved the documents listed below in accordance with the authority delegated by the Board:

- a) the BTT Handbook;
- b) the BPTC Handbook;
- c) the General Guide to CPD;
- d) the Pupillage Handbook.

### **Item 6a – Action points and Forward Agenda**

Action points and progress (Annex B)

7. The Board noted progress on the action list. The Chair commented as follows:
- there have been noticeable improvements in the management of E&D issues, both in terms of compliance and monitoring, which is welcome (min 13f – 26 Jun 14);
  - the need for a Memorandum of Understanding in relation to BSB User Group members (min 20a – 16 Jun 11) now seems questionable.
8. In response, the following comments were made:
- notwithstanding the above, there is a continuing challenge for E&D in terms of data collection and efforts are being maintained to improve return rates;
  - the BSB has changed the manner in which it engages with stakeholders since the User Group was first envisaged. This occurs in a more individual and targeted way making the concept of a MoU somewhat redundant. In consequence, the action point will be removed from the list.

**JP to  
note**

Forward Agenda (Annex C)

9. The Board noted the forward agenda list.

**Item 7 – Performance Report for Q2 (Jul – Sept 2014)**

BSB 082 (14)

10. Anne Wright highlighted the following points:
- income targets for 2014/15 are likely to be missed. We are already 13% down on the anticipated figure of £1,816k;
  - annual expenditure is forecast to be 2% below the budgeted figure of £5,313k;
  - in response to the income projection issue, the PRP Committee will oversee the creation of new income indicators to give earlier warning on income shortfall;
  - the performance indicators for the Professional Conduct Department (PCD) have improved considerably when compared to those reported for Q1.
11. In respect of the performance dashboard (Annex 1), she commented as follows:
- several activities are rated amber but this is mostly due to projects not meeting anticipated milestones at this point in time. In the majority of cases, it is expected that sufficient progress will be made in the latter stages to make up for time lost;
  - some re-scheduling is likely eg the PCD user feedback survey which may be delayed until Q1 of 2015-16;
  - staff turnover has remained at similar levels to Q2 of 2013/14 but the large increase experienced in Q3 of last year is not likely to be repeated.
12. Members commented as follows:
- the development of income indicators will not address income shortfall so it is not clear why this is being done. We need to avoid successively re-budgeting;
  - the work of the Qualifications Committee should not be seen in terms of income generation. A reduction in applications should not necessarily be regarded as unwelcome;
  - the dashboard has a “green” rating for budgetary expenditure even though the underspend at Q2 is £404k. From a different perspective, however, this could be coded red as it might reflect failure to deliver on previously agreed targets;
  - there should be a half-yearly reconciliation of actual and budgeted expenditure to identify any noteworthy differences and the reasons for this;
  - the report gives a useful overview of performance but it would assist further if variances in the budget summary could be consistently annotated;
  - the improvement in PCD indicators is noted. It would help to know if the Independent Observer will report separately on the management of long-running cases;
  - the Emoluments Committee’s endorsement of the reward and retention policy will assist in stabilising staff turnover;
  - the report refers to the International Strategy (paragraph 11h). In this regard, the BSB might consider establishing a presence at one or more of the higher profile international conferences.
13. In response the following comments were made:
- improved income forecasting will enable the BSB to work through the eventual financial impact at an earlier stage. This will help in making appropriate budgetary adjustments. Demand-led activities such as applications to conduct litigation can only be estimated and therefore need to be closely monitored. There is no intention to re-budget;

- we are still only half way through the financial year and there is a large consultancy contract which is due for payment by February 2015. This will reduce the existing budgetary surplus. Both QASA and entity regulation have been slower in delivery for reasons previously explained to the Board. This has also impacted on previously anticipated expenditure levels;
- the coding would change from green to red were there to be a 10% or higher variance between actual and budgeted expenditure levels.

14. **AGREED**

- a) to note the report, particularly that year-end income projections are likely to fall short of expectations, and to monitor the anticipated underspend in future reports.
- b) that future budget summaries be fully annotated.
- c) to suggest that a reconciliation is undertaken to identify where variances are most apparent and the reasons for this.
- d) to note the suggestion that the BSB raise its profile at international conferences and give this further consideration in due course.

**AC**  
**VC to**  
**note**  
**VLD to**  
**note**

**Item 8 – BSB annual report on BTAS and the Browne recommendations**  
BSB 083 (14)

15. The Board considered an update to the contract management arrangements in respect of the Council of the Inns of Court (COIC) and the Bar Tribunals and Adjudication Service (BTAS).
16. Vanessa Davies reported the views of Simon Lofthouse QC in relation to paragraph 9 of the report, insofar as this relates to payment of barrister members of BTAS tribunals. He is concerned about this both as a matter of principle and for the potential knock-on effect it may have on the existing pro bono contributions of barristers to BSB Committees. Vanessa confirmed that there is no provision in the 2015-16 budget for payment to barristers.
17. Members commented as follows:
  - the report gives a detailed account of progress to date and provides a useful assurance of the current contract monitoring arrangements;
  - given the satisfactory nature of the report, a quarterly cycle of monitoring visits may no longer be required.
18. In response, Vanessa Davies referred to paragraph 21 of the report which set out the reasons for contract monitoring as well as the suggestion that these may be reduced to a six-monthly cycle. James Wakefield confirmed on behalf of COIC that it was content with the current arrangements, though a quarterly cycle has led to some duplication of data.

19. **AGREED**

to note the report.

**Item 9 – Chair’s Report on Visits and Meetings**  
BSB 084 (14)

20. Ruth Deech QC (Hon) commented as follows:
  - there are some corrections to the text ie:
    - ❖ 11 Nov – should read “Dame Janet Gaymer”;
    - ❖ 23 Nov – should read “Sir Roy Goode QC”;
  - her meeting with Simon Hughes (17 Nov) concerned her Bill on monetary settlements and divorce;

- the speech from Nick Lavender QC on the future of the Bar (1 Nov) will be circulated to Board Members via the Friday mailing.

JP to note

21. **AGREED**

to note the report.

**Item 10 – Director General’s Report**

BSB 085(14)

22. Vanessa Davies referred to the BSB session at the Bar Conference and thanked Fiona McKinson for her organisation of the event as well as the very helpful contributions from Patricia Robertson QC, Joanne Dixon, Amanda de Winter and Paul Mosson.
23. Ewen Macleod referred to paragraph 7 of the report concerning regulatory policy insofar as this relates to current restrictions on the scope of practice of employed barristers whose employers are not authorised bodies. He commented as follows:
- the Bar Association for Commerce, Finance and Industry (BACFI) has made the case that there is no regulatory reason for preventing such barristers from undertaking non-reserved legal activities, given that these can be already be undertaken by unregistered barristers;
  - if these individuals chose to undertake this work, they would then need to give up their practising certificates and not hold themselves out as barristers;
  - the Standards Committee has asked the Regulatory Policy team to gather evidence in support of a rule change proposal for the Board to consider early in the New Year.

24. **AGREED**

to note the report.

**Item 11 – Any Other Business**

25. a) Entity Regulation  
Vanessa Davies confirmed that the Chief Executive of the LSB had given an assurance that the BSB would receive formal approval as a regulator of entities in the very near future.

*Post meeting note:**the LSB formally confirmed changes to the BSB’s regulatory arrangements to enable it to authorise and regulate entities in its Decision Notice dated 28 November 2014.*

- b) Ruth Deech QC (Hon)  
Patricia Robertson QC led a tribute to Ruth Deech QC (Hon) for chairing the BSB over the past six years. Members concurred that she had provided tremendous leadership and resolve during a period of significant change and expressed their appreciation for her valuable work.

**Item 12 – Dates of next meetings**

26. • Thursday 11 December 2014 (Board Away Day).  
• Thursday 29 January 2015 (full Board meeting).

**Item 13 – 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) Approval of Part 2 (private) minutes (23 October 2014);
- (2) Matters Arising;
- (3) Action points and progress – Part 2;
- (4) QASA - update;
- (5) Corporate Risk Register;
- (6) Alternative business structures: compensation arrangements;
- (7) Strategic information management (including data quality update);
- (8) Update from the Regulators' Summit;
- (9) Any other private business.

28. The meeting finished at 5.15 pm.