

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Annual Report

2006



Principles

The Board will

- 1** Work in the public interest
- 2** Be independent and evidence-based
- 3** Be transparent in our procedures
- 4** Be accountable for our performance and expenditure
- 5** Consult and work in partnership with others
- 6** Operate risk-based regulation
- 7** Encourage diversity
- 8** Value our staff

Strategic Objectives

Strategic Objective 1 (Principle 1)

Protecting Consumers – To establish systems to identify areas of risk to consumers; to take action to remedy poor performance by barristers (or members of the profession); where things go wrong, to provide an efficient and fair complaints and disciplinary system.

Strategic Objective 2 (Principle 1)

Access to Justice – To promote accessible and flexible high quality legal services in a competitive market.

Strategic Objective 3 (Principle 2)

Independent Regulation – To be recognised as a respected, independent regulator operating according to best regulatory principles with the confidence of the Legal Services Board, consumers, the Bar and other stakeholders.

Strategic Objective 4

Excellence and Quality – To promote excellence and quality within the profession and ensure that those who qualify as barristers have the right level of skills and knowledge to provide services to the public, including employers.

Strategic Objective 5 (Principle 7)

Diversity – To promote diversity in the profession so that those with the right abilities are able to make a career as a barrister irrespective of their background, race, religion, sex, sexual orientation, disability or age.

Bar Standards Board Annual Report

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Chair's Statement

Welcome to the first Annual Report of the Bar Standards Board.

We have lived through a challenging and rewarding year. At our very first meeting, in January 2006, we reflected on the task in front of us. To establish a new organisation whilst continuing to deliver high-quality regulation; to develop modern, evidence-based decision-making processes whilst maintaining the best of the existing system; to demonstrate our independence but crucially, to do so in a way that would carry the confidence of all who have an interest in the continued success of the Bar.

These are a complex set of requirements. But I am pleased to report that we are well on our way to achieving them.

This report is a significant milestone in that process. It outlines our way of working and our collective commitment as a Board to clearly defined regulatory principles. It reports on our work, on what we have been able to achieve and what we still need to do. But I hope that through all of this it demonstrates our willingness to listen, to learn and to improve. These are characteristics that we expect of the profession. It is only right that they are characteristics we should share.

It is worth reflecting on the context in which we were established. In response to Sir David Clementi's radical recommendations for reform of legal service regulation, the Bar Council moved swiftly and commendably to implement his proposals. This was a brave move and we are fully aware that our success or

failure reflects as keenly on the profession itself as it does upon this Board. We are fortunate that we share our fundamental goals with the Bar Council: to promote and protect the public interest; and to ensure the profession maintains its reputation for excellence. About this there must be no misunderstanding, even if our approaches and priorities may differ.

But to achieve these goals we must set about the business of regulation in a way that reflects society's expectations. Attitudes to professional self-regulation have changed. Regulators need to be demonstrably independent from those who represent professionals. This requires the adoption of appropriate corporate governance processes. These must allow for the Board to run its business without any suggestion of interference. Our negotiations with the Bar Council have made great strides in this area.

I believe that this report demonstrates our commitment to a new way of working and to developing a model of regulation that is fit for purpose, cost effective and dedicated to the concept of serving the public interest. The year on which we report has been challenging. Whilst we are confident in our achievements we are not complacent. Improvements can and will be made to our processes, our style and our methods of engagement with interested parties. But we believe the signs are encouraging; not just for our performance as a regulator, but for our impact on the consumer experience, on the independent Bar's ability to retain its rightful place at the heart of the justice system, and on those who wish to enter the profession and achieve the necessary skills and knowledge for the profession's continued success.

None of this can be achieved without the commitment of our Board, Committee members and staff, all of whom show a dedication, commitment and understanding of the issues facing the Bar that is creditable. It is to their credit that we have been able to deliver the demanding programme of work described in this report and I extend my personal thanks to all of you. Particular thanks are due to our Vice-Chair, George Leggatt QC and our Director, Mark Stobbs, for their support and commitment.

Ruth Evans

Chair

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Director's Report

Our journey to this point has been rapid. Within a little over twelve months from Sir David Clementi's recommendation that the legal professions needed to separate their regulatory and representative functions, the Bar Standards Board was able to hold its first meeting on 26 January 2006. I believe this rapid pace is just one of many examples of the profession's willingness to adopt new ideas whilst making sure that the best of what has gone before is retained. This is an ethos that we in the Bar Standards Board share and it underpins all that we do.

Change at such a pace and on such a scale is challenging. It was demanding to effect the organisational changes required to establish the new model whilst continuing to provide a high quality service to consumers, barristers, students and others. It required commitment and flexibility, patience and resilience from staff and from the leaders of the profession. Thanks are due to the Bar Council in this regard and, in particular, to Stephen Hockman QC, Geoffrey Vos QC and David Southern, respectively Chairman, Vice-Chairman and Treasurer, and also to David Hobart its Chief Executive. The BSB's achievements in our first twelve months of operation could not have been accomplished without their support.

Reflecting on the year I am struck by the energy and commitment and good will with which the new Board approached its regulatory remit and by the open and collaborative way it proceeded to work. The members of the Board bring real expertise from a number of disciplines to the Board's work and provide a refreshing approach to the task. From the beginning the Board was clear that it would not shy away from the difficult issues facing the profession and that it would not be constrained by previous ideas about how to address them. This approach informed both the day-to-day work of the Board and the early challenges identified by the Board.

These included:

- *The need for research* – a recognition that the Board must take an evidence-based approach to its work, informed by high quality independent research;
- *A commitment to quality* – an understanding that the public interest is best served by a Bar committed to the highest professional standards;
- *The formation of the Consumer Panel* – a commitment to place the consumer at the heart of regulation and engage with them early in policy development;
- *The Complaints Review* – a willingness to expose processes to independent scrutiny so that the service to consumers and barristers can be improved;
- *A review of Deferral of Call* – a willingness to address a long-standing debate from a fresh perspective;
- *Stakeholder engagement* – an enthusiasm for dialogue and constructive working relationships with all parties interested in the regulation of the Bar.

This work was described in our three-year strategic plan published in November 2006; a document that sets out not just what we aim to achieve over the next three years, but also our mission and our principles. The strategy was subject to full public consultation and we are grateful for the constructive responses we received. The plan will guide our future work and will form the basis of our first business plan, currently in development.

I would like to pay tribute to the hard work and dedication of the staff of the Bar Standards Board, new and old, without whose efforts it would not have been possible to implement the new regulatory regime or to maintain a consistently high-quality service to the profession and consumers alike. It cannot have been easy to adjust to such a change of approach, but I believe that all see the potential for significant improvement. I should also pay tribute to two senior colleagues who retired this year – Nigel Bastin, Head of Education and Training, and Michael Scott CB. CBE. DSO., Complaints Commissioner.

For ten years Nigel had a significant impact on the standards of education for barristers, overseeing validation processes for the Bar Vocational Course, improvements to pupillage procedures, the introduction of compulsory professional development for barristers and many other changes which have left the Bar's training procedures substantially improved.

Michael was our first Complaints Commissioner and was responsible for introducing the then new complaints system with its powers to award compensation for inadequate professional service. He succeeded in the difficult task of giving both the Bar and the Legal Services Ombudsman confidence in his approach through his scrupulous and robust fairness and a clear no-nonsense style. His successor, Robert Behrens, is building on these achievements and will shortly be reporting on ways we can improve our complaints system as we move forward. He has already made an important impression on the way in which we do our work.

So, as we move into our second year of operation, we will consolidate what we have learnt so far. But we will also continue to change and adapt as we respond to shifts in public opinion, the prevailing legislative framework and as we improve our practices – much as the profession itself changes and adapts to these factors – as we rightly should. We are also conscious that as 'early adopters' of the Clementi model our experiences are an important indicator of the challenges to come.

At our heart we remain committed to our mission: to be recognised as promoting and safeguarding the highest standards of legal education and practice in the interests of clients, the public and the profession. We are committed to the future of a strong, diverse Bar serving the interests of its clients and in which consumers have confidence. We are willing to be judged by our results.

Mark Stobbs

Director

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Overview of the Year

This report describes the Board's activities for 2006. It has been a "set up" year in which the building blocks of both structural change and policy development have been founded. This section provides an overview of the way in which the Board has approached its inaugural year whilst the sections that follow outline the day to day work of the Board.

Context

The backdrop to our work in 2006 was the legislative change which will set the future environment in which the Board is to operate. Whilst the Government's White Paper, *The Future of Legal Services: Putting Consumers First*, preceded the Board's creation, we engaged fully in the discussions following publication of the draft Legal Services Bill and presented evidence to the Joint Select Committee. The Board warmly welcomes the Bill. We consider that it is likely to lead to major improvements in the regulation of legal services with benefits for consumers and the profession alike.

We had some concerns, however, which we have expressed strongly to Ministers and officials:

- The proposals for the Office for Legal Complaints (OLC) give no power for the OLC to delegate to the BSB complaints for which compensation might be an appropriate response and where the expertise of the BSB will assist in the assessment of the complaint. This is likely to result in a diminution in the quality of the service that complainants and barristers will obtain under the new system;
- The powers of the Legal Services Board (LSB) to intervene in the work of the Board are likely to result in the LSB second-guessing the BSB's work and to make it less like the "light touch" regulator envisaged by Sir David Clementi. The danger with this is that unnecessary costs and delay will be built into the regulatory process;
- The Bill did not adequately provide for the separation of powers between the representative side of the Bar Council and the regulator.

This last concern has been recognised by the Government and the Board is now content that the Bill provides a way of ensuring that the Board's independence is maintained.

The Board will continue to press the additional points with Government and with Parliament in order to ensure that the regulatory framework for the Bar retains its current high quality, cost-effective ethos and does not lead to consumer detriment.

Structure of the Bar Standards Board

Our Board has 15 members – seven lay members and eight barrister members. In 2006 four regulatory committees managed our primary duties – covering standards, quality, complaints and entry to the profession. Towards the end of 2006 we reviewed this structure and agreed the importance of education and training to our work required the greater focus that would be provided by a dedicated Education and Training Committee.

The Board also recognised the need to ensure that its own processes and performance were monitored thoroughly. It agreed to establish a Performance and Best Value Committee to oversee the Board's performance in terms both of its outputs and its costs. Both Committees will be established in the spring of 2007.

Full information on Board membership and Committee structure can be found at Appendix 1.

We are supported by a staff of 34 reporting to the BSB. Human resources, finance, accommodation and IT support are delivered by a shared Central Services Department to ensure consistency across the representative and regulatory functions. The staff who worked for us in 2006 are set out at Appendix 2.

In addition we are fortunate to have independent access to the Bar Council's International Relations Secretariat, Equality and Diversity team and Brussels Office.

This structure is recognised by the Board as being cost-effective, but it obviously creates organisational challenges. We have been working out these challenges in a constructive dialogue with the Bar Council. Many have been resolved and we expect the others to be resolved in due course.

Key achievements

In our first year, we needed to establish the way in which we would undertake our work and our priorities. We began this by developing our strategic approach – by committing to principles of best regulatory practice; by understanding the challenges before us; and by identifying a set of regulatory objectives. These were drawn together in our first three-year Strategic Plan, published in November 2006.

These principles inform all of our activities:

■ Putting the public interest first

The public interest is central to all of our decisions. As an independent regulator we are entrusted to balance the interests of all of those with a stake in the regulation of the Bar. We will achieve this by:

- Setting out the values that we feel the profession should espouse;
- Adopting a consultative, evidence-based approach whereby we weigh the arguments put to us and publish our reasons for our decisions;
- Establishing a consumer panel (see below) to provide expert advice for the Board to balance the input from the Bar;
- Reviewing our rules and procedures to ensure that they are fit for purpose – the first step was asking our new Complaints Commissioner, Robert Behrens, to review the complaints system.

■ Independence and evidence-based

Our Standing Orders ensure we are able to take decisions independently of the Bar Council's representative function. The Board was however aware of concerns from some quarters that the new regulatory system would be little more than a new version of the old one.

Whilst these fears can only be finally allayed through our actions, the Board has taken the following steps to address them and to ensure that our work is evidence based:

- We issued a wide-ranging consultation on Deferral of Call in July 2006, involving independent research from Ipsos MORI;
- We again commissioned Ipsos MORI to conduct a survey of the Bar and of its users in autumn 2006, after a competitive tender. The research will identify the concerns that the Bar and its users have and will inform our work by helping us to target our resources. It will also provide a benchmark against which we can track our impact in future years. We expect the results to be available in autumn 2007;
- We developed a corporate identity which has subsequently been applied to all published Board material;
- In conducting his review of our complaints system, Robert Behrens undertook major research to look at the attitudes of those who have used the system;
- We lobbied Government to ensure that the Bill provided appropriately for the BSB's independence from representative concerns.

■ Transparency

The Board is committed to openness in its decision-making and to exposing its processes to scrutiny. So:

- Board meetings are open to the public and dates and times of meetings are posted on the Board's website;
- Our decisions will be clearly publicised and written in a way which makes our reasoning and understanding of the public interest clear;
- Our consultation processes will be open to all and responses published.

■ Accountability

The Board is acutely aware that its work should represent value for money. So the Board has:

- adopted the principles of better regulation to ensure that regulation is proportionate, accountable, consistent, transparent and targeted;
- established a Performance and Best Value Committee to monitor our adherence to our principles and ensure that we run our work efficiently and economically;
- pressed for the Bar Council's accounts to be transparent in showing the Board's expenditure.

Details of our expenditure for our first financial year can be found in Appendix 5.

■ Consultation

Consultation with all stakeholders is crucial for the Board to ensure that its decisions are made in the light of all the evidence. In 2006, the Board and its Committees:

- issued 6 consultations on a range of issues including Deferral of Call, entertainment of solicitors, increasing the power to award compensation up to £15,000 in respect of inadequate professional service jurisdiction and on the acceptance of instructions – this will plainly increase in future years;

Strategic
Objective 3
Independent
Regulation

- held a range of open seminars to inform our consultation on Deferral of Call;
- established a Consumer Panel – Dianne Hayter was appointed its Chair after an open recruitment exercise and its membership is drawn from the wide and diffuse range of clients of the Bar, with a particular focus on consumers whose experience of the Bar is more likely to be a single 'distress' purchase (often in the fields of family, employment and other civil law) and have a perspective that needs to be heard but which is not always easy to obtain. The Panel's membership can be found at Appendix 1;
- met key stakeholders, with regular meetings established with the Solicitors Regulation Authority and the Consumer Complaints Service, the Legal Services Ombudsman, the Immigration Services Commissioner, the National Consumer Council and Which? and the Inns of Court. Meetings were also held with ministers, DCA officials and its consumer panel, the senior judiciary and the Chairman of the Office of Fair Trading, and we gave evidence to the Joint Select Committee on the Legal Services Bill;
- began a programme of meetings with representatives of the Bar, including the Circuits, Specialist Bar Associations and the Inns of Court.

■ Risk-based regulation

Focussing on the areas which pose greatest risk to the public allows the Board to target its limited resources at those areas where it can have greatest impact. It also reduces to a minimum the risk of over-regulation.

In establishing its early priorities, the Board assessed that one issue with the potential to cause significant consumer detriment was Deferral of Call, which had caused intense debate at the Bar and which could have considerable potential impact on consumers and future barristers.

We will continue to develop our risk framework in 2007 to ensure we target our limited resources at the areas presenting the greatest risk to the public interest. This will be of particular importance in our work on quality.

■ **Diversity**

This is a central aim of the Board. The Bar needs to be able to serve the full range of clients that reflect our multi-cultural society. Success at the Bar should also be based on merit and there should not be inappropriate barriers to entry or progression within the profession.

The Board has established an Equality and Diversity sub-group which will draw up a comprehensive picture of the issues surrounding equality and diversity at the Bar and devise a strategic approach to dealing with them. This will be backed by proper training for Board members and staff.

■ **Valuing our staff**

The contribution made by staff to the work of the Board cannot be overstated. They are our most valuable asset and they must receive training and development opportunities commensurate with their place at the heart of our work. We will continue to work closely with the Central Services Department to ensure our staff are valued, developed and managed effectively.

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Core Areas of Activity

Education, Training and Qualifications

Overview

Ensuring that those who qualify as barristers have the right level of skills and knowledge to provide high quality legal services is a core objective of the BSB.

There are four stages to any barrister's professional education: the academic stage; the vocational stage; pupillage; and compulsory professional development during practice. The Education and Training teams implement the policies, rules and regulations. Their work is complemented by the Qualifications team who deal with requests for exemption from the requirements relating to pupillage from those with appropriate qualifications from elsewhere.

During 2006, the primary committees governing education and training and qualifications were the Standards, Quality Assurance and Qualifications Committees. As of 2007, the relevant work of the Standards and Quality Assurance Committees will be done by the new Education and Training Committee.

As the Board was established, a group led by the Board's Vice-Chair, George Leggatt QC, was reviewing the Consolidated Regulations, which set out the training requirements for those wishing to become barristers. The new Training Regulations will be clearer and more flexible than their predecessors and will implement the model for the BSB's governance by ensuring that the BSB alone has the power to amend those regulations. The draft has been subject to

considerable consultation with the Inns of Court and it is expected that the new regulations will be approved in the spring of 2007.

A shortage of staff in the Education and Training team in 2006 has meant that some activities had to be postponed. We expect to catch up on these in 2007. It is to the credit of the team that they continued to provide a good standard of service in that time.

Key achievements

Academic Stage

The Bar Standards Board works closely with the Law Society, through the Joint Academic Stage Board (JASB), to monitor and accredit law degrees. Four visits were attended by BSB staff in 2006.

Vocational Stage

The Bar Standards Board monitors the quality of the Bar Vocational Course providers, through its BVC sub-committee.

The BVC generates intense debate across the profession and beyond. In particular, concerns have been raised with the Board about the numbers of students seeking to start on the BVC relative to the number of pupillage places available and the perennial question of Deferral of Call. These matters and others were the subject of useful debate at the annual BVC Providers Conference organised by the Board and held in Birmingham in July 2006.

Strategic
Objective 4
Excellence
and Quality

■ BVC Monitoring

The team works closely with the eight institutions accredited to provide the BVC and held quarterly meetings with the BVC Providers Group. Its programme of monitoring visits covered four of those providers this year.

■ BVC Review

Work began on proposals for a review of the BVC, pending the new Education and Training Committee taking up its work. It had been hoped that the Bar Council would be able to complete the review by 2008. This has not proved possible and the BSB agreed to delay the review so that changes would be completed by 2010 and to extend the contracts of the existing providers until then. The review will see the Board conducting a rigorous re-evaluation of the aims and objectives of the BVC, its method of delivery and its entrance requirements. At this stage the Board has no view on what will emerge from the review.

■ Deferral of Call

The question of Deferral of Call to the Bar has been exercising the Bar Council for a number of years. The concern here was that a substantial number of people gain the title of barrister at a stage before they are entitled to practise as such. It has been suggested that this may cause confusion for consumers, who may mistakenly believe that the title implies that the individual is fully qualified. Others argued that deferring gaining the title until pupillage has been completed may well be a major deterrent for those from overseas or from non-traditional backgrounds from attempting the course. If overseas students do not come here then that may have an important effect in due course on the work for the commercial Bar or the influence of the common law in the developing world.

The BSB decided to undertake a review of the question from first principles and issued a public consultation in July 2006. This process was supplemented by a number of workshops with key stakeholders to develop the debate. Research was also commissioned on perceptions of the public and of students. We are very grateful to Sir Michael Buckley, a former Parliamentary Ombudsman, who has carried out



considerable work in analysing the policy and responses for the Board. A decision is expected in the summer of 2007.

Pupillage Stage

Obtaining pupillage continues to be the most difficult hurdle for those wishing to enter the profession. Given the intense competition for pupillage places, the Board's role in ensuring transparency and fairness in the recruitment processes is critical.

The Board ensures that the framework for pupillage equips future barristers with the skills and competencies they need to practise at the Bar. It regulates the way in which pupillages are advertised and funded with a view to making sure the process for gaining these places is as fair as possible. It also monitors the quality of pupillage, carrying out audit visits to chambers to ensure that standards are maintained.



- **Registration**
513 first six month pupillages and 565 second six were registered by the team during the 2005/06 academic year (compared with 556 and 598 in 2004/5).
- **Monitoring**
The Quality Assurance Committee has taken over responsibility for monitoring the quality of pupillage. In 2006 this was limited to Chambers where there were concerns about the quality of pupillage. Three Chambers visits were initiated in 2006 and we await reports from the visits.
- **Waivers**
In 2006, 50 applications for waivers from the advertising and funding regulations were considered, of which 22 were granted. Waivers are granted only in exceptional circumstances, because the requirements of advertising and funding are seen as essential for ensuring fairness and equality of opportunity in pupillage.
- **Recognition of pupillage training organisations**
In 2006, the Lord Chancellor approved amendments to the Consolidated Regulations to permit organisations to offer pupillage on the same basis as Chambers. This is a potentially important new system that could enable

more pupillages to be offered, easing some of the demand for places. Work to implement these rules and the procedures for recognising bodies as suitable to offer pupillages will be completed in 2007.

Continuing Professional Development

It is two years since the requirements for compulsory professional development were extended to cover all barristers. They are sufficiently well-established for the Board to be able to review their operation and see whether the requirements could be better targeted – for example, the Standards Committee has been considering whether to extend compulsory advocacy training to those who have been in practice for between four and six years. The Board also intends to establish a monitoring system for courses and providers to ensure quality assurance for both barristers and consumers.

■ Accreditation

The team saw an increase in the number of course providers and the amount of courses offered (from 7918 courses in 2005 to 9427 to 2006). These numbers include an increased number of “one-off course” accreditation requests i.e. courses attended by barristers which would qualify for CPD points but where these had not been accredited by the Board beforehand. A more detailed breakdown of the figures is included in the table below.

Type of Provider	Number of Accredited Courses – 2006
Inns/Circuits/SBAs	329
GLS	415
Chambers	2035
Universities	170
External	5263
Solicitors	221
Magistrates Courts	222
Online	20
Individual Lectures (by barristers)	752

Qualifications

Increasing numbers of applications for waivers of pupillage or other requirements relating to practice continue to be made to the Board. These are considered by the Qualifications Committee and its five sub-committees, each of which is dedicated to a particular type of application.

■ Applications

The Board received 1281 applications in 2006 compared to 1042 in 2005 – a 23% increase. Most applications incur an administration charge to help cover the cost of assessment. The breakdown of applications can be seen in the table below:

	Number of Applications (2005 numbers in brackets)
Transferring Solicitors	98 (90)
Transferring Qualified Lawyers Panel	65 (56)
Pupillage Panel	171 (186)
CPD Panel	749 (690) *
Practising Rules Panel	118 (n/a)
Pupillage Funding & Advertising Panel	50 (n/a)
Full Committee	30 (20)
Totals	1281 (1042)

* The majority of these applications are dealt with out of committee by the qualifications team working to agreed assessment criteria.

■ Guidelines

Work to develop a new set of criteria and improved guidelines for all types of application began in 2006. The objective is to streamline the existing guidelines and to present them in a unified way so as to give better guidance to both the Committee and to applicants and to reinforce consistent decision-making. The work will be completed during the first half of 2007.

■ Non-Practising Barristers

In 2006, work concluded on the question of the extent to which non-practising barristers called since 31 July 2000 should be permitted to use the title “barrister”

when offering legal services. The review began before the establishment of the BSB and was a Bar Council/Inns of Court initiative, chaired by Mr Justice Richards. The review's conclusions were that there should be no change to the existing provisions prohibiting such barristers offering legal services from using the title, but that the pupillage system should be reviewed as a matter of urgency so as to consider whether more training and qualification opportunities can be created for BVC graduates. These recommendations will be considered by the new Education and Training Committee.

Standards, Guidance and Quality

Overview

Ensuring that accessible and flexible high quality legal services are available in a competitive market is a further core objective of the BSB. At the heart of this is the Code of Conduct; the rules governing professional practice that all who are called to the Bar must comply with. The Code is maintained and reviewed by the Board's Standards Committee who also issue regulatory guidance to supplement the Code of Conduct.

Strategic
Objective 2
Access to
Justice

In addition to these rules, and the demanding standards for entry to the profession, the Board is committed to ensuring the quality of barristers is maintained and indeed improved whilst they are at the Bar. The primary vehicle for this work is the Quality Assurance Committee.

Key achievements

Standards

This year, the main areas of work have been:

■ Chambers complaints handling

In late 2004, the Bar Council asked a working group chaired by Sue Carr QC to look at the way in which Chambers handle complaints. That group identified significant deficiencies in the procedures in a number of Chambers. The recommendations of the review were passed to the Board in 2006 for implementation. The Standards Committee agreed to adopt all of the recommendations in the Carr report and 2007 will see detailed and more stringent principles of complaints handling. These will require all chambers to have a complaints procedure which complies with best practice. Disciplinary action will be taken against any chambers which do not comply.

Strategic
Objective 1
Protecting
Consumers

■ Entertainment by Chambers

The Standards Committee identified a concern about the increasing use of entertainment by barristers as a means of promoting their practices. In particular, there has been debate as to whether particularly generous entertainment breaches the existing rules of professional conduct which prohibit inducements to clients to give barristers work. A public consultation paper was issued and the Board will be asked to reach a decision in 2007.

■ Acceptance of instructions

The Committee has instituted a public consultation paper seeking views on how far the rules and guidance governing when barristers are deemed to have accepted work and when they may decline work reflect good practice. In particular, the Committee will be considering whether the Code should be amended. A decision is expected in the summer of 2007.

■ Review of Public Access

The Public Access Rules, which took effect in 2004, allowed barristers to accept work directly from members of the public in a wide variety of cases. The rules contained a number of safeguards and it was clearly right to look at the way in which the rules have been working in the last two years. The Committee will be looking at the training and other regulatory requirements and considering whether they need amendment. This review is likely to continue well into 2007.

■ Compulsory Further Advocacy Training

In order to support the Bar's wider quality initiative, the Committee began to consider whether further advocacy training should be imposed on barristers who have been in practice for between four and six years (at present it is only compulsory for the first three years). The Committee was keen to satisfy itself that there was evidence to justify the change and will be reaching a decision in the spring of 2007.

Quality and Monitoring

Once pupillage has been completed, the question of determining a barrister's quality is largely left to the market – unless following a complaint it is clear that

he or she is unfit to practise. The BSB is committed to determining whether that approach is appropriate or whether additional initiatives, delivered by the regulator in conjunction with the profession, can reinforce standards. The Quality Assurance Committee has been tasked with reviewing the way in which the Board can achieve this goal and developing a Quality Strategy.

■ Chambers monitoring

One of the principal tasks of the committee has been to look at monitoring Chambers' compliance with the Code, building on an initial programme of pupillage-focussed compliance visits. Proposals will be considered by the BSB in 2007.

■ Equality and diversity monitoring

The BSB is committed to promoting diversity within the profession so that anyone with the right abilities is able to make a career as a barrister irrespective of their personal circumstances. The Board established an Equality and Diversity sub-group dedicated to developing a forward-looking diversity strategy for the BSB. This will be the subject of a full public consultation during 2007.

In order to establish a baseline for its work, the Board is seeking to improve the collection of information about the extent of diversity of the Bar. This is necessary if the Board is to identify where problems may lie, how the careers of people from different backgrounds develop and how to find solutions to those challenges. A new questionnaire is being developed to capture this information, which will be piloted in the course of 2007. The existing statistics about the Bar are set out at Appendix 3.

■ CPD Compliance Monitoring

The CPD Compliance team is responsible for monitoring barristers' compliance with the CPD requirements in the Code. CPD plays an important quality assurance role in ensuring that all practising barristers keep up to date. In 2006 710 barristers did not complete their CPD and were referred to the

Strategic
Objective 4
Excellence
and Quality

Strategic
Objective 5
Diversity

Complaints Committee for disciplinary action under the fines and warning system. The focus of the team is, however, on securing compliance wherever possible, and considerable time is spent encouraging barristers to complete their CPD and advising them of the implications of non-compliance. This process will be enhanced during 2007 with the development of an on-line system for registering CPD hours.

Complaints and Discipline

Overview

Most barristers provide a high standard of service and clients can have confidence in the work they do. If however a barrister's service is not up to the required standards, then clients need access to a high quality complaints service. The Complaints team and the Investigations team work closely to investigate complaints and ensure appropriate action is taken when required.

Strategic
Objective 1
Protecting
Consumers

The Board's independent Complaints Commissioner, Robert Behrens, oversees the process. He reviews every complaint and refers those that warrant investigation to the Board's Complaints Committee. Where the Complaints Committee concludes that disciplinary action is needed matters are passed to the Investigations team so that a summary hearing or disciplinary tribunal can be convened as appropriate. We have been greatly helped by the Council of the Inns of Court who administer these panels. Complainants who are dissatisfied with our consideration of complaints may refer their complaint to the Legal Services Ombudsman (LSO), who reviews approximately one in three of our third party complaints. It will be seen from the complaints statistics that in 2006 the LSO issued 182 reports on the BSB's handling of individual complaints. It is pleasing that in 86% of cases the LSO considered that our handling of the complaint was satisfactory and the final decision taken on the complaint reasonable. Whilst this figure is indicative of a reasonably high satisfaction rating, we are committed to improving on that figure.

In 2006 the Commissioner began a Strategic Review of the complaints process to ensure that the system is fair to complainants and barristers, provides swift redress and appropriate sanctions. He is due to report in 2007. We believe that this review is crucial to the future of disciplinary regulation and the confidence that the outside world has in the Board's procedures.

Key achievements

Complaints

The complaints process underwent a degree of change in 2006 with increased involvement of lay members (including for the first time lay vice-chairs of the Complaints Committee) and the arrival of a new Complaints Commissioner.

■ IPS Compensation Limits

A consultation exercise conducted jointly by the Complaints and Standards Committees sought views on proposals to increase the amounts of compensation that can be awarded in cases of inadequate professional service from £5,000 to £15,000 and giving to disciplinary panels the power to require barristers to apologise to complainants should there be a finding of misconduct. The decision on the proposals for change will be taken by the summer of 2007.

■ Fines and warnings

2006 saw the introduction of a system of administrative fines and written warnings for minor disciplinary offences (such as breaches of CPD requirements). Whilst there were some initial teething problems with the introduction of the new system it is expected that this will reduce the workload of the team and allow for more efficient use of resources.

■ Workload and performance

Complaints received from third parties e.g. clients, solicitors, judges etc increased by approximately 6% from 560 in 2005 to 592 in 2006. Formal complaints raised by the BSB itself decreased by some 40% from 317 in 2005 to 192 in 2006. This reduction is a direct result of the introduction of the fines and written warning system. A significantly higher number of cases were closed during the year from 708 in 2005 to 845 in 2006.

Turnaround time for complaint closures has increased in that 59% of cases were closed in under six months in 2005, compared with 56% in 2006. This is largely due to the need to ensure that complainants' concerns were properly understood and addressed. Nevertheless, we believe that there is scope for improvement here

and will be looking at this in the light of the Commissioner's review. We would also envisage publishing formal targets for the system.

Tables showing the main statistics for the Team can be found at Appendix 4.

Investigations

The Investigations team deals with complaints which have been referred either to summary hearings (reserved for cases where there is no disagreement on the facts and the infraction does not warrant a sanction greater than a three month suspension) and disciplinary tribunals which deal with the most serious cases of professional misconduct and have the power to disbar a barrister.

■ Use of Judges in Disciplinary Tribunals

The Bar is fortunate in that it has access to judges to assist in disciplinary tribunals and appeals. In 2006 we commenced a review of the way in which we use this expert resource, with a view to making sure our calls on it are justified, appropriate and proportionate.

■ Workload and performance

118 new cases were referred for disciplinary action in 2006 whilst 236 disciplinary cases were closed. This reflects the existence of a backlog of cases developed while the Council addressed the implications of a decision which required major amendments to the composition of disciplinary panels. It is greatly to the credit of the team and of the Council of the Inns of Court that this backlog was eliminated in under six months.

Summary Hearings: Most cases dealt with through summary hearings relate to failures to comply with practising requirements e.g. completion of CPD hours or payment of practising certificate fees. The requirement that, from 2004, all barristers were required to undertake CPD led to a significant rise in summary hearing referrals in 2005 – from 83 in 2004 to 177 in 2005. This dropped to 53 in 2006 as a result of the fines and written warnings system. However, there may be a number of cases in the pipeline in respect of barristers who have failed to comply with the new warnings and fines system. The conviction rate at summary

hearing panels is consistently high with 93% of cases proved in 2006 against a conviction rate of over 83% in 2005.

Disciplinary Tribunals: In contrast to the downward trend in referrals to summary hearings, the referrals to disciplinary tribunals have increased consistently year on year. The absolute numbers remain small but the percentage increases are significant. In 2004 there were 45 referrals to disciplinary tribunals whereas in 2006 there were 65, an increase of 44% in two years. Alongside this, there has also been a significant increase in the BSB conviction rate at tribunals. In 2005, disciplinary tribunals found 59% of cases proved whereas in 2006 this figure rose to over 82%, an increase of almost 40% in one year. Further the number of disbarments has increased with 17 barristers disbarred in 2006. During 2007 we will be reviewing our data collection and analysis systems with a view to providing statistics that allow for more informed analysis of background trends and themes.

The Investigations team expects to conclude summary hearings within four months and disciplinary tribunals within a time period of six-seven months. These time frames reflect the amount of preparation cases require including the exchange of evidence. However, the statistics show that at the end of 2006, out of 84 open disciplinary cases, more than 33% were over 18 months old. This reflects the complexity of such cases and the fact that many defendants are unwilling to co-operate with the procedure. Nevertheless, work is needed to speed up the processes and the Commissioner's review may address these concerns.

5

The Year Ahead

The Board has set itself a challenging programme. We will continue to fulfil our regulatory remit and we will work to deliver our strategic objectives. But we will also reflect on what we have learned from our first year of operation, consider ways in which we can improve our performance and ensure that the public interest is always at the heart of regulation.

In 2007 we will consolidate the work we have begun in 2006 and move to address the major policy issues affecting the Bar and, in particular, will:

- Reach decisions on the initiatives begun this year – particularly on Deferral of Call, but also on entertainment by barristers, the acceptance of work and Chambers' complaints systems;
- Begin a major review of the Code of Conduct to ensure that it is up to date and fit for purpose and to address concerns that have been expressed about the restrictions contained in it;
- Review the Bar Vocational Course to ensure that it provides the skills required of barristers;
- Review the question of Quality Assurance for the Bar and develop a strategy to achieve a proportionate way of assuring clients that their barristers are of the right quality to meet their needs;
- Receive the report of the Complaints Commissioner on the Bar's complaints process and hope to take forward its recommendations;
- Continue to engage with Government over the Legal Services Bill to ensure the system of regulation proposed for the Bar does not reduce the quality of service to consumers or to the profession;

- In the light of the Ipsos MORI benchmarking survey, develop further our research programme and our work programme to ensure that we are meeting the public interest concerns about the Bar;
- Develop a business plan to carry forward our strategy and proper performance indicators and mechanisms to account for the Board's work;
- Build on our work in communicating with the profession, the public and other stakeholders to increase knowledge of the Board's work;
- Maintain a constructive dialogue with the Bar Council to ensure our financial and constitutional arrangements allow for effective independent regulation.

These initiatives will require the Board to seek the views of everyone with an interest in the Bar and the important role it plays in protecting the public interest in a modern democracy. This will mean greater engagement with the profession, through the Bar Council, the Inns, the SBAs, with individual barristers and with those seeking to enter the profession. We will need to find productive ways of discovering the views of consumers of legal services, through bodies that speak on their behalf, through continued involvement of our Consumer Panel and directly, through research and other innovative means. And we will need to make sure that our influence and reach extends to policy-makers across England and Wales.

Please let us know if we succeed.



6

Financial Summary

The summary of accounts for the year 2006 is at Appendix 5.

The Board's budget was agreed in the summer of 2005 on the basis of the tasks that the Board was known to be likely to undertake. It did not (and could not) predict the work that the Board would wish to do in addition to that, particularly in terms of establishing its identity, undertaking research and developing its own structure.

The Bar Council and the Finance Committee showed considerable understanding and flexibility in dealing with our requests for additional expenditure – in particular, the costs of research, of the Board's identity and launch and some additional posts.

The budget for 2007 was created with greater certainty but, at the time, it was unclear how projects would actually develop. The Board is preparing a business plan for 2008 and following years and this will provide greater certainty and predictability in budgeting and expenditure.

The Board is committed to working accountably and economically. Its new Performance and Best Value Committee will play a major role in providing confidence and accountability in our processes.

Appendix 1: The Bar Standards Board

The Board comprises 15 members, seven lay members and eight barristers. The Members of the Board are:

Ruth Evans – Chair

George Leggatt QC – Vice-Chair

Clara Arokiasamy – Lay Member

Philip Bartle QC – Chair of the Quality Assurance Committee

Sarah Brown – Lay Member

John Burrow – Barrister Member

John Carrier – Lay Member

Sandy Forrest – Lay Member

Christopher Graham – Lay Member

Vicki Harris – Lay Member

Charles Hollander QC – Chair of the Standards Committee

Simon Monty QC – Chair of the Qualifications Committee

Michael Pooles QC – Barrister Member

Richard Price OBE QC – Chair of the Complaints Committee

Emily Windsor – Barrister Member

In 2006, the Board was supported by four Committees

- **Qualifications** – responsible for looking at individual applications from people wishing to become barristers but who may be exempted from the normal training requirements;

- **Standards** (formerly the Rules Committee) – responsible for the Code of Conduct which all barristers must obey and issuing guidance on good practice and, in 2006, for rules governing training for the Bar;
- **Quality Assurance** (formerly the Monitoring Committee) – responsible for monitoring standards at the Bar; and
- **Complaints** (formerly the Conduct Committee) – responsible for investigating complaints and taking action against barristers who have breached the Code of Conduct or provided poor service.

The Board also established a Consumer Panel in September 2006. Its membership is as follows:

Dianne Hayter (Chair)

Fiona Freedland – Action against Medical Accidents

Andrew Greensmith – Resolution

Nancy Kelley – Refugee Council

Sue Leggate – Which?

Aleathia Mann – National Federation of Women's Institutes

James Molloy – AA

Victoria Mortimer-Harvey – Association of Personal Injury Lawyers

John Rees – Local Government Association

Teresa Reynolds – Victim Support

James Sandbach – Citizens Advice

Chris Stanley – NACRO

Rodney Warren – Criminal Litigation Solicitors Association

Appendix 2: Bar Standards Board Staff – 31 December 2006

Mark Stobbs – Director
Vacant – PA to Director and Chair

Board Operations

Jennifer Maclean – Head of Board Operations

Complaints

Robert Behrens – Complaints Commissioner
Anju Still – PA to Complaints Commissioner

Adrian Turner – Complaints Manager
Andrew Hill – Complaints Officer
Gillian Sharp – Complaints Officer
Baykan Fikri – Secretary to the Complaints Manager
Michelle O'Brien – Secretary to the Complaints Manager

Elena Barilone – Administration and Statistics Officer

Investigations

Sara Down – Investigations Manager
Fredelinda Telfer – Investigations Officer
Neil Mallon – Investigations Officer
Ariel Ricci – Assistant Investigations Officer
Lesley Shepherd – Administrative Officer, Investigations
Hazel Fillery – Administration Assistant, Investigations
Kathryn Camp – Secretary, Investigations

Education and Training

Valerie Shrimplin (from 1 January 2007) – Head of Education and Training
Vacant – Education Officer
Andrea Clerk – Pupillage Officer
Elizabeth Prats – Continuing Education Officer
Ellen Harewood – Administration Officer, Education Standards
Jack Daley – Administration Assistant, Education Standards
Carmen Kommu – Administration Assistant, Education Standards

Qualifications

Cordelia Lean – Manager, Qualifications Regulations (Secondment)
Steve Behr – Training Regulations Officer – Academic Stage
Pauline Smith – Training Regulations Officer – Qualifications Committee
Lucy Mersh – Training Regulations Assistant

Standards and Quality

Oliver Hanmer – Head of Standards and Quality
Dawn Elvy – Training Compliance Officer
Rachel Reeves – Training Compliance Assistant
Sarah Hellier – Clerical Assistant, Training Compliance
Rose-Marie Lewis – Clerical Assistant, Training Compliance

Strategy and Communications

Julie Myers – Head of Strategy and Communications
Jennifer Sauboorah – Research Officer

Appendix 3: Annual Statistics for the Practising Bar 2006

	Men	Women	Total
Self Employed Bar (incl QCs)			
In London	5342 (5270)	2243 (2194)	7585 (7464)
Outside London	3028 (2995)	1401 (1345)	4429 (4340)
Overseas	11 (10)	9 (4)	20 (14)
Total	8381 (8275)	3653 (3543)	12034 (11818)
QCs at the Self Employed Bar	1160 (1051)	118 (92)	1278 (1143)
Employed Bar	1539 (1534)	1317 (1271)	2856 (2805)
Total Practising Bar	9920 (9809)	4970 (4814)	14890 (14623)
Barristers Called to the Bar 2005/2006	794 (754)	846 (722)	1640 (1476)
Pupillages 2005/2006	1st 6 months:	513 (556)	
	2nd 6 months:	565 (598)	

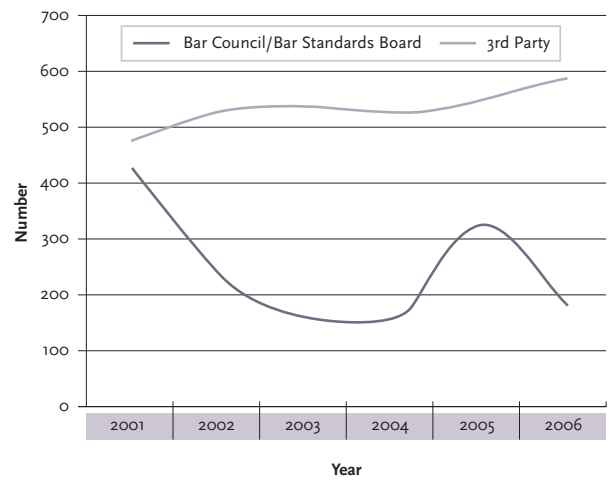
Chambers	
In London	207 (212)
Outside London	139 (148)
Total	346 (360)

Sole Practitioners	
In London	125 (111)
Outside London	173 (170)
Total	298 (281)

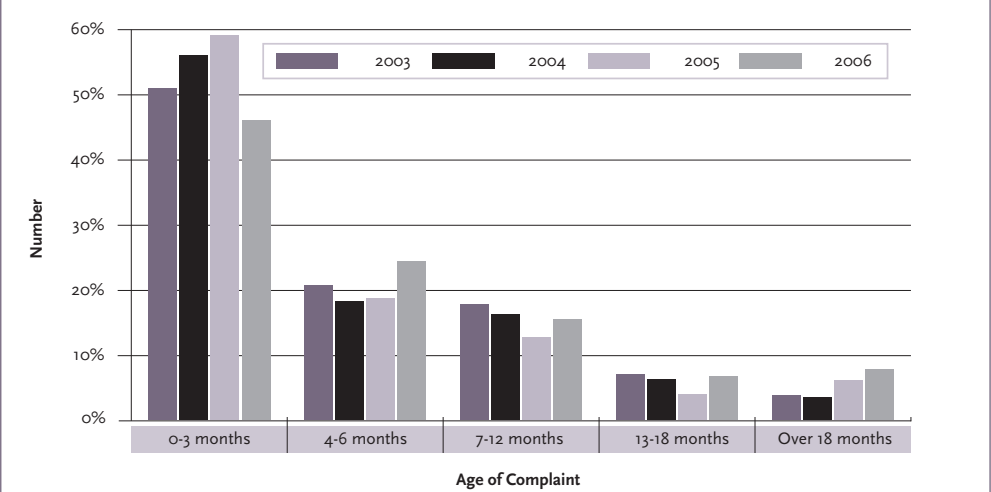
Previous year's figures in brackets

Appendix 4: Complaints Statistics

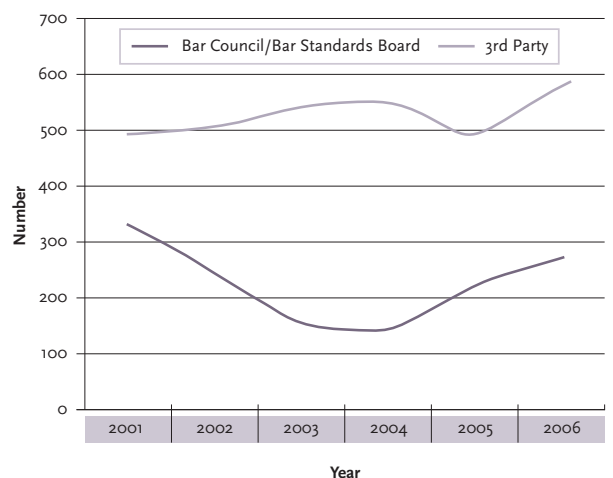
Complaints opened – 2001 to 2006



Comparison of turnaround times for 3rd party complaints



Complaints closed – 2001 to 2006



Appendix 5: Bar Council, BSB Costs 2006

	Conduct & Investigations	Education & Training	Management/ Policy/Support	2006 Total	2005 Total
Staff Nos. (2006 inc. Chair and 6 Lay Members)	14	10	18	42	30
	£	£	£	£	£
Staff Costs:					
Salaries/NIC/Pension	562,223	482,810	438,698	1,483,731	1,296,855
Recruitment	20,946	13,421	11,344	45,711	55,018
Temporary Staff	62,235	20,235	12,560	95,030	92,513
Travel, accomm. etc	4,583	4,718	14,986	24,287	5,850
Other	14,462	23,193	29,478	67,133	65,871
	664,449	544,377	507,066	1,715,892	1,516,107
Activity Costs:					
Commissioner	16,256			16,256	1,544
Complaints	53,023			53,023	31,466
Investigations	162,751			162,751	139,028
Standards			8,558	8,558	9,481
Quality Assurance		116,773		116,773	107,880
Education			19,994	19,994	35,009
Qualifications			9,278	9,278	
	232,030	154,603		386,633	324,408

	Conduct & Investigations	Education & Training	Management/ Policy/Support	2006 Total	2005 Total
	£	£	£	£	£
Corporate:					
Launch, inc. logo			29,497	29,497	0
Business stationery			12,319	12,319	0
Research			103,699	103,699	6,087
Consumer Panel			675	675	0
Prof. Fees			5,075	5,075	0
OISC			6,550	6,550	2,770
Other			9,096	9,096	5,358
			166,911	166,911	14,215
Total Direct Costs	896,479	698,980	673,977	2,269,436	1,854,730
Allocated Overheads:					
Office Accommodation				286,334	303,382
Printing, duplicating & stationery				155,928	156,795
Membership Records				83,056	78,640
Accounting & Finance				255,339	189,971
Office Management (Reception,HR etc)				222,452	230,243
Registry				36,082	63,362
IT				51,991	32,910
Equal Opportunities				120,072	141,210
Total Allocated Costs				1,211,254	1,196,513
Total Cost of Regulation				3,480,690	3,051,243





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