

Regulatory Update November 2018

[Tessa's blog for the email content of this month's Regulatory Update]

What do you think the BSB's priorities should be for the next three years?

On 22 October, we published a consultation seeking views on our strategic priorities and aims for the next three-year period starting in April 2019. Our proposed aims are supported by updated analysis of the key risks that might hinder the achievement of our regulatory objectives. What do you think the impact of technology will be on access to justice and the quality of advocacy for example? Or courts reform? Or the continuing pressure on the level and availability of legal aid? We are holding a consultation event in London on 6 December which you are welcome to attend. You will find more details on our website. The consultation is open until 10 December and we would very much like to hear your thoughts.

Following our thorough review over the past few years, at our last Board meeting on 25 October, we agreed a revised set of rules to govern the process by which prospective barristers will train and qualify in England and Wales. Subject to Legal Services Board approval, the new rules will come into force in early 2019. You can read more about this here or at one of our roadshow consultation events. And if your chambers offers pupillage there is some important information about applying to continue to provide pupillages in future.

You can also read the following articles in our website version of this month's Regulatory Update:

- Updated guidance for barristers supervising immigration advisers
- We are seeking views on our draft of the new Bar transparency rules

[RU articles to appear only on the website – ie not in the email]

Your views sought on our strategic priorities for 2019-22

Last month, we [published a consultation](#) seeking views on our strategic priorities and aims for the next three-year period starting in April 2019, supported by updated analysis of the key risks facing the achievement of our regulatory objectives.

We have proposed the following high-level aims for our 2019-22 Strategic Plan:

- delivering risk-based, targeted and effective regulation;
- encouraging an independent, strong, diverse and effective legal profession; and
- advancing access to justice in a changing market.

As the risk-based regulator of the Bar in England and Wales, our proposed strategic aims reflect the key risks to the achievement of our objectives that we have identified. The consultation paper also seeks views on these risk themes. They are:

- working cultures and professional environment inhibit an independent, strong, diverse and effective profession;
- innovation and disruption in the legal services market offer threats and opportunities for the profession and for the public; and
- affordability and lack of legal knowledge threaten access to justice.

Please do respond to our consultation and come to our consultation event on **Thursday 6 December, from 5pm – 7pm, at the Bar Standards Board office, 289-293 High Holborn London WC1V 7HZ.**

BSB speakers will provide an overview of the Strategic Plan and Risk Outlook, after which a panel will discuss several issues, including: diversity at the Bar, innovation in legal services and access to justice.

After the panel discussion, questions will be invited from the floor. Your thoughts are, as always, very important to us and we would welcome contributions to the discussion of our regulatory priorities.

If you would like to attend, please email ContactUs@BarStandardsBoard.org.uk with any accessibility and dietary requirements you or they may have **by 5pm on 12 November.**

If you are unable to attend, we would still like to hear from you about our plans for the upcoming three years. We welcome all responses to the consultation.

BSB agrees new Bar training rules

At our last Board meeting, we agreed a revised [set of rules](#) to govern the process by which prospective barristers will train and qualify in England and Wales. Subject to Legal Services Board (LSB) approval, the new rules will come into force in early 2019.

The rules are designed to ensure that training to become a barrister is more accessible, affordable and flexible and that it maintains the high standards of entry expected at the Bar. We have consulted extensively on various aspects of the rules

over the past few years as part of our comprehensive Future Bar Training (FBT) programme. Our most [recent consultation](#) ran between July and September 2018 and sought views on the drafting of the new training rules. We considered the responses we received to this consultation at our meeting, before agreeing a final set of rules to submit to the LSB for approval.

Information for students about the rule changes is available on [our website](#). This includes details of the transitional arrangements that will be put in place to ensure that neither current students who are already part way through their route to qualification as a barrister, nor those who have already qualified, are in any way disadvantaged.

In agreeing the new Bar training rules, we clarified one final FBT policy decision. This follows discussion with the Council of the Inns of Court about the current rule under which the Inns are required to accredit all barristers becoming pupil supervisors. The new rules require us to authorise all organisations providing pupillage. The authorisation process will require all such organisations – known as Authorised Education and Training Organisations (AETOs) – to provide assurance to us as to the suitability and competence of pupil supervisors, which will include compulsory training for pupil supervisors. As we have previously decided that pupil supervisor training need not be provided exclusively by the Inns, it was considered unnecessary to mandate accreditation of pupil supervisors by the Inns. However, we hope that the Inns will continue to provide pupil supervisor training and additional quality assurance to Chambers in order to assist them to meet their duties to us as AETOs.

Come to an FBT roadshow to find out more about how the training and qualification process for barristers is changing

From this month, we are launching a series of roadshows across the circuits [insert link to event webpage] to raise awareness about our plans to [change the training and qualification process](#) for becoming a barrister. Roadshows and events are planned as follows:

- The BSB's offices, 289-293 High Holborn, London, WC1V 7HZ, 6pm – 7pm, 15 November 2018;
- Deans Court Chambers, 24 St. John Street, Greater Manchester, M3 4DF, 6pm – 7pm, 20 November 2018;
- Bar Conference, 61-65 Great Queen St, London WC2B 5DA, 2pm-3pm, 24 November 2018, [book your place online](#);
- Western Circuit roadshow, venue TBC, 6pm – 7pm, 28 November 2018;
- National Pupillage Fair, Gray's Inn, 8 South Square, London, WC1R 5ET, 10.30am-3pm, 1 December

- Wales and Chester circuit, time tbc, 9 Park Place Chambers, 9 Park Place, Cardiff, CF10 3DP, 5 December 2018
- North Eastern circuit, 5.30pm-7pm, Park Square Barristers, Leeds, LS1 2LW, 17 January 2019

To book a place at a roadshow please email contactus@barstandardsboard.org.uk

Ahead of the roadshows why not familiarise yourself with the [2018 Pupillage Handbook](#) to see what changes Future Bar Training is bringing in 2019?

Visit our revised qualifying as a barrister web pages

We have updated our [qualifying as a barrister web pages](#) to reflect the future of training and qualification of barristers and to provide more detail about the new policies, which we recently announced as part of our [Future Bar Training \(FBT\) programme](#). These webpages are the destination for finding out what is changing with FBT.

The updated webpages illustrate possible future training routes for students to qualify as barristers in England and Wales and detail the basis by which we will authorise training courses within any of the new training routes. They also explain the role of the Inns of Court in the training and qualification of barristers.

Please update your bookmarks to ensure that you are accessing this useful information about:

- [becoming a barrister](#);
- [bar training components](#);
- [academic learning components](#);
- [vocational leaning components](#);
- [pupillage and work-based learning](#);
- [forms and guidelines](#); and
- [transferring lawyers](#).

Reminder: Update for the New Authorisations Framework – Are you a Pupillage Training Organisation (PTO)?

What is the Authorisation Framework?

1. Our 2017 [policy statement](#) on Bar training sets out a limited number of permissible training pathways to becoming a barrister. An Authorisation Framework (AF) has been developed to give effect to these policies. Specifically, the AF will all require intending Authorised Education and Training Organisations (AETOs)¹ to demonstrate how their proposals for training will both:

¹ The term AETOs includes organisations such as vocational providers, pupillage training organisations and approved training organisations.

- a. Offer one of the permitted training routes underpinned by the four core FBT principles (Flexibility, Accessibility, Affordability and High Standards); and
- b. Enable prospective barristers to meet the requirements of the [Professional Statement](#)² appropriate to the component of training being delivered.

What do chambers, BSB entities and other organisations that train pupils need to do to become authorised as an AETO?

In August 2018, we wrote to all chambers, BSB entities and other existing Pupillage Training Organisations to confirm whether they want to continue or to begin to provide pupillage. Those who do will be required to apply for authorisation under the new Authorisation Framework. If your chambers or organisation has not received this email, please complete the [online survey \[LINK\]](#). It should only take a few minutes to complete. The deadline for return of the survey has been extended to the end of 2018.

The new authorisation process will take place during 2019. In our previous communication, we had said that we would contact you by the end of November 2018 with full details of how to apply for authorisation as an AETO. Due to the extension of the survey deadline, we are now intending to contact all prospective AETOs in early 2019.

If you already provide pupillage, you can continue to do so. This will not affect current pupils, nor your ability to advertise for new pupils at present.

What will the application process involve?

Becoming an AETO should be a straightforward process. It will require you to submit details of your pupillage training programme, setting out how you will ensure that those whom you train satisfy the Threshold Standard and Competences of the BSB's [Professional Statement](#), as well as details of how your training will meet the criteria of flexibility, accessibility, affordability and sustaining high standards. Guidance and support will be available to help you to provide us with the information that we will need to authorise your AETO.

We want to test the authorisation process with some willing volunteers to ensure that applying to be an AETO really is as simple as we intend, so your support would be very welcome with this. Please [contact us](#) if you are interested in helping.

Will we have to renew our authorisation every year?

No. This will be a one-off process. AETOs will have to notify the BSB of any material change in their pupillage arrangements. The focus will then be on supervision of

² https://www.barstandardsboard.org.uk/media/1787559/bsb_professional_statement_and_competences_2016.pdf

pupillage, which will be risk-based and targeted only where it is necessary to ensure standards are being met.

If you have any questions about the questionnaire or about becoming an AETO, please get in touch with us via authorisations@barstandardsboard.org.uk

Seeking views on our draft of the new Bar transparency rules

There is still time to respond to our [consultation](#) which seeks views about our proposed new rules to improve transparency standards for clients of the Bar.

After a period of consultation last year in response to the Competition and Markets Authority's (CMA's) market study of legal services, we published our revised approach to [improving transparency for consumers of barristers' services](#) in February 2018. The new transparency standards relate to information about the areas of law in which barristers practise, the legal services provided by barristers, what those services cost and a client's right to redress.

Between November 2017 and February 2018, we ran a pilot scheme with nine chambers, entities and sole practitioners to test some suggested minimum disclosure requirements in order to help us finalise our rules. [An evaluation report of the pilot](#) is published alongside our consultation. Also published was a new research report ([Summary](#), [Full Report](#), [Technical Annex](#)) which we commissioned to explore how consumers make decisions when searching for barristers, and to test how consumers respond to different methods of presenting price and service information.

Following the completion of this consultation and approval by the Legal Services Board (LSB), these rules will come into force by May 2019. To ensure compliance with the transparency rules, we will undertake spot-checking from January 2020. The consultation closes on Friday 14 December 2018 at 5pm.

BSB seeks barrister and lay members for our new Independent Decision-Making Body

We are seeking barrister and lay members for our new Independent Decision-Making Body. This is an exciting period of change for us which we would like to encourage a more diverse range of people to join us in taking forward.

We are creating a new non-executive body responsible for taking all our regulatory decisions that require independent input. The body, known as the Independent Decision-Making Body (IDB), will start operating in June 2019. It will consist of a pool of suitably qualified decision makers from which panels of lay and barrister members will be formed to take decisions on individual cases – panels of three will be used for authorisations and five for disciplinary cases. Most of the decisions for which the IDB will be responsible will be in relation to whether disciplinary action should be taken where breaches of the professional obligations, as set out in the BSB Handbook, may have occurred. However, the IDB will also be responsible for, amongst other

things, taking decisions in relation to appeals against executive decisions not to grant waivers from the Handbook requirements or decisions not to authorise or license a body to provide legal services.

The work of an IDB member will include preparing for, chairing and/or attending Panel meetings, attending training sessions as required and ensuring that they stay up to date with issues related to the regulation of the Bar.

We are also recruiting to the position of Vice-Chair of the IDB. This position, in addition to the above functions, will be responsible, with the Chair of the IDB, for: providing the leadership of the IDB; assisting with carrying out the annual appraisals process of IDB members; providing feedback on panel member performance; and taking limited decisions outside panel meetings.

We welcome applications from barristers and lay people with experience across a range of practice areas, both executive and non-executive. Knowledge of higher legal education and/or qualification as a barrister are also sought.

Appointments will be for an initial period of up to three years, subject to a satisfactory appraisal on completion of 18 months' service. Candidates are invited to indicate which of the roles they are applying for in their covering letter, and to address the corresponding competencies contained in the application pack.

Remuneration for all members of the IDB is paid at a flat rate of £308 per day or £154 per half day (plus VAT, if relevant) – this covers both attendance at meetings and preparation time.

Meetings will be hosted from London, but we encourage applications from those located elsewhere in the country as facilities can be provided to attend IDB panel meetings remotely. However, all members will be expected, from time to time, to attend events in London for which reasonable expenses will be paid.

For more information and details on how to apply, please review the [welcome letter](#), [information pack](#), [IDB supporting details form](#), and [equality and diversity monitoring form](#). Candidates should provide a covering letter outlining how they meet the competencies required for the position(s), together with a brief CV.

We welcome applications from all people who meet the role requirements regardless of background and particularly encourage those from groups that are currently underrepresented in our independent decision-making processes such as women, and members of the LGBT, disability and BME communities.

If you have any queries, please contact Alex Williams, Operational Support Team Manager, or Sophie Maddison, Senior Supervision & Authorisations Officer in the first instance: AWilliams@BarStandardsBoard.org.uk
SMaddison@BarStandardsBoard.org.uk

Please send completed applications to: OST@BarStandardsBoard.org.uk
Closing date for applications: **9am Monday 7 January 2019.**

Interviews will take place in London in the week commencing 25 February 2019. The date may change, including the possible addition of other dates, depending on interview panel and applicant availability. Mandatory training will take place in April and May 2019.

Have we got correct details of your practice address?

Please ensure that you have given us of your correct practice address in accordance with rS69 of our Handbook. If your practice address changes, you must tell our Records Department within 28 days.

Give us your feedback

If you have any thoughts about how we can improve the Regulatory Update or what content you would like to read, please email contactus@barstandardsboard.org.uk.