

BAR STANDARDS BOARD

REGULATING BARRISTERS

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

Thursday 29 January 2015, Room 1.1, First Floor
 289 – 293 High Holborn, London, WC1V 7HZ

- Present:** Sir Andrew Burns KCMG (Chair)
 Patricia Robertson QC (Vice Chair)
 Rolande Anderson
 Rob Behrens – items 6-15
 Malcolm Cohen
 Justine Davidge – items 7-15
 Simon Lofthouse QC
 Andrew Mitchell QC
 Tim Robinson
 Andrew Sanders
 Adam Solomon
 Sam Stein QC
 Richard Thompson
- By invitation:** Keith Baldwin (Special Adviser)
 Matthew Nicklin QC (Special Adviser)
 Nicola Sawford (Board Member designate)
 James Wakefield (COIC)
- Bar Council in attendance:** Alistair McDonald (Bar Council Chairman) – items 1-8
 Lorinda Long (Bar Council Treasurer)
 Stephen Crowne (Chief Executive, Bar Council)
 Mark Hatcher (Special Adviser to the Chairman of the Bar Council)
- BSB Executive in attendance:** Viki Calais (Business Manager)
 Sarah Charlesworth (Senior Policy Officer, E&D)
 Vanessa Davies (Director General)
 Joanne Dixon (Qualifications Manager)
 Oliver Hanmer (Director of Supervision)
 Sara Jagger (Director of Professional Conduct)
 Andrew Lamberti (Communications Manager)
 Ewen Macleod (Director of Regulatory Policy)
 John Picken (Governance Officer)
 Pippa Prangle (Regulatory Risk Manager)
 Amanda Thompson (Director of Strategy & Communications)
 Simon Thornton-Wood (Director of Education & Training)
 Stephanie Williams (Legal and Policy Assistant)

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

1. The Chair thanked the members of the Bar Standards Board for their warm welcome and paid tribute to his predecessor, Baroness Ruth Deech. He looked forward to leading the BSB through the next phase of our journey to becoming a modern and efficient regulator, protecting the public interest while retaining the trust and confidence of the profession itself.
2. He then welcomed members and guests, in particular Keith Baldwin who was attending his first meeting in the role of Special Adviser and Nicola Sawford who was attending as a guest prior to starting in her formal role as Board Member from 1 September 2015.
3. The Chair referred to the list of newly appointed QCs published in early January 2015. In this regard, he was pleased to note the success of the following individuals:
 - Nicholas Stonor (a current member of the Professional Conduct Committee), and
 - Nathan Pillow (a former Chief Examiner, Central Examinations Board).

4. **Item 2 – Apologies**

- Anne Wright;
- Sarah Brown (Special Adviser);
- Chantal-Aimée Doerries QC (Vice Chairman, Bar Council);
- Andrew Cohen (Business Support Officer).

Item 3 – Members’ interests and hospitality

5. None.

Item 4 – Approval of Part 1 (public) minutes (27 November 2014)
(Annex A)

6. The Board approved Part 1 of the minutes of the meetings held on Thursday 27 November 2014.
7. In addressing this item, the Vice Chair referred to the concept of “starred” agenda items ie those which are included in papers for the public record but which would not normally need to be discussed. The Board agreed that standard items for minutes and matters arising could be starred in this way. Members can either comment in advance, or give prior notification if they wish to raise issues at the meeting itself about other starred items.

8. **Item 5 – Matters Arising**

None.

Items 6a & b – Action points and Forward AgendaAction points and progress (Annex B)

9. The Board noted progress on the action list.

Forward Agenda (Annex C)

10. The Board noted the forward agenda list. Vanessa Davies referred to the Board Away Day (23 April 2015). She proposed that this commences earlier than usual (at 11 am) as more time is needed for the agenda items.

11. **AGREED**

to consult Board Members on their availability for the April Away Day at an earlier start time.

JP

Item 7 – Aggregated Diversity Data on the Barrister Profession

BSB 001 (15)

12. Rolande Anderson commented as follows:
- the Annex sets out the diversity data which the BSB publishes annually to meet both its statutory obligations and the requirements of the LSB;
 - disclosure rates remain problematic, particularly for religion, disability, sexual orientation, caring responsibilities and socio-economic background;
 - a letter was sent to the profession in October 2014 to explain the purpose of collecting this information and why it is an important part of making the profession a fairer place to work;
 - disclosure rates among pupils at the Bar have improved. This is linked to incorporating data requests with other procedures eg pupillage registration. In addition, the Barrister Connect website now incorporates reminders to encourage e&d data input;
 - the Bar Council is researching women’s experiences at the Bar (report due to be published in March 2015). The E&D Committee will use the outcome of this to shape its own focus groups for a research project on the impact of the equality rules and the retention and progression of women barristers.
13. The Board commented as follows:
- it is difficult to draw any meaningful conclusions when the disclosure rates are so low. There may be a danger of misinterpreting trends if the returns that are received are not typical;
 - smaller scale “cohort” analyses may be worth considering;
 - we need to understand why there is a fall in disclosure rates for some strands;
 - we could follow up our letter with a reminder in the next Regulatory Update email to the profession;
 - the report recommends exploring the techniques used by other organisations. This should be pursued. If barristers are suspicious of why we need this data, their perceptions may change if we can show how our data requests compares to those of other professional regulatory bodies.
14. In response Rolande Anderson stated that:
- we should publish what data we have on all strands. This will at least highlight the issue. The caveats and limitations that will need to apply to any statistical analysis are understood;
 - separate data analysis of smaller groups are planned eg year of call, BPTC entrants etc;
 - there is an historical perspective in terms of data collation. The Bar has collected data on gender, age and ethnicity for many years but only recently for the other diversity strands;
 - we collect diversity data as directed by the LSB and are bound by the questions it wishes us to include. Comparative studies with other regulatory bodies would, however, identify good practice techniques so this would be worth undertaking.
15. **AGREED**
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|----|--|-------------------|
| a) | to approve the aggregated diversity data report for publication on the BSB website by the end of January 2015. | SC / FM |
| b) | to note the continuing efforts to promote better disclosure of diversity data from the profession. | |
| c) | include a reminder in the next Regulatory Update email to the profession about the value of providing e&d data. | SC / FM |
| d) | to endorse the proposal to research best practice techniques in other organisations regarding the collation of diversity data. | SC to note |

Item 8 – Education and Training Committee Annual Report to the Board

BSB 002 (15)

16. Simon Thornton-Wood highlighted the following:
- the Future Bar Training project is underway. This operates over and above the day-to-day work of the E&T Department and represents a major investment to review and modernise the BSB’s regulatory role in education;
 - Kaplan Law School closed as a BPTC provider last year;
 - the overall number of BPTC students fell;
 - the number of Bar Transfer Test candidates rose sharply in 2014 but is expected to fall back this year.
17. **AGREED**
to note the report.

Item 9 – Professional Conduct Committee / Professional Conduct Department Enforcement Interim Report 2014/15

BSB 003 (15)

18. Simon Lofthouse QC commented as follows:
- the report covers the period 1 April – 30 September 2014;
 - the number of external complaints has remained stable but those raised internally have increased. This is primarily due to multiple complaints about one set of chambers;
 - performance targets for the year are on track, though the Assessments Team is facing staff shortages which may eventually impact on KPIs;
 - the Department now addresses its workload from a risk based perspective;
 - the Quality Review Sub-Committee (QRSC) is actively monitoring the decisions made by staff under delegated powers from the Professional Conduct Committee. It made recommendations in one case detailed in paragraph 3.33 of the report.
19. In response to a question about tribunals, the following comments were made:
- one or more charges were proved in 89% of cases for the period in question. This figure has been 100% in the past but, equally, that might reflect an overly cautious approach on the part of the regulator;
 - there are occasions when new information arrives late but demonstrates a good defence. This can lead to withdrawals of action prior to the hearing.
20. Other questions about the report were raised as follows:
- there has been an appreciable rise in the number of complaints concerning “failure to act appropriately toward pupil”;
 - it would be helpful to know if the effect of the risk based approach ie whether the allocation of “high risk” to a case changes its priority status;
 - there is a difference in the provisions of the old and new Code of Conduct and it would be useful to know how this will be managed for statistical purposes in future reports.
21. In response, Sara Jagger stated that:
- the rise in pupillage-related complaints concerned a single chambers;
 - cases are risk assessed as they arrive and very high risk cases can result in immediate action. The process leading to tribunal incorporates several risk review stages involving both staff and Member input;
 - for the most part, it is possible to make broad and reasonable comparisons between the old Code and the Handbook which should allow for effective future reporting.

22. **AGREED**
to note the content of the report and its conclusions (para 4.1-4.4).
- Item 10 – Revised BSB / Bar Council Protocol**
BSB 004 (15)
23. The Board noted revisions to the BSB / Bar Council Protocol.
- Item 11 – Chair’s Report on Visits and Meetings**
BSB 005 (15)
24. The Board noted the Chair’s report on visits and meetings.
- Item 12 – Director General’s Report**
BSB 006 (15)
25. The following points were highlighted:
- there is a proposal to consult the profession on rule changes concerning the powers of the Professional Conduct Committee (para 46);
 - the number of expressions of interest for entity regulation registration has now risen to around sixty;
 - the E&D online training package has already been sent to new Members of the Board for their completion. In discussing this point the Board agreed that all its members should receive this as a refresher course.
26. **AGREED**
- a) to note the report.
 - b) to forward the online E&D Training course to all Board Members.
- JP**
- Item 13 – Any Other Business**
27. Leveson Report
The Ministry of Justice has published its report on “Review of Efficiency in Criminal Proceedings” chaired by the Rt Hon Sir Brian Leveson. The Executive is currently studying its content for any implications this may have for the BSB. Board Members will be sent paper copies of the report on request.
- Item 14 – Date of next meeting**
28. • Thursday 26 February 2015.
- Item 15 – Private Session**
29. 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 – 27 November 2014;
 - (2) Matters Arising;
 - (3) Action points and progress – Part 2;
 - (4) QASA – timetable for implementation;
 - (5) Future Bar Training: emerging policy themes;
 - (6) Future regulation of the Academic Stage for the Bar;
 - (7) Regulatory Risk 2015
 - (8) Compensation arrangements: Licensing Authority application;
 - (9) Any other private business:
 - (a) Entity Regulation: Bar Mutual Indemnity Fund;
 - (b) Standard Contractual Terms & the Cab Rank Rule;
 - (c) Article in Legal Futures.
30. The meeting finished at 5.20 pm.