

<p>BAR STANDARDS BOARD</p>

REGULATING BARRISTERS

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

Thursday 20 February 2014, Room 1, First Floor
289 – 293 High Holborn, London, WC1V 7HZ

Present	Ruth Deech QC (Hon) (Chair) Rob Behrens Sarah Clarke Justine Davidge Simon Lofthouse QC Tim Robinson Richard Thompson
Attending by invitation	James Wakefield (COIC representative) Emily Windsor (Special Adviser) - items 7-14
BSB Executive in attendance	Andrew Cohen (Business Support Officer) Vanessa Davies (Director) Joanne Dixon (Qualification Regulations Manager) Sara Down (Head of Professional Conduct) Eugene Grant (Communications & Press Officer) Oliver Hanmer (Head of Supervision) Ewen Macleod (Head of Regulatory Policy) John Picken (Board & Committees Officer) Simon Thornton-Wood (Head of Education & Training)
Bar Council Executive in attendance	Stephen Crowne (Chief Executive, Bar Council)
Press	Catherine Baksi (Law Society Gazette)

ACTION**Item 1 – Welcome and introductions**

1. The Chair welcomed members and guests to the meeting.

Item 2 – Apologies

2.
 - Rolande Anderson
 - Malcolm Cohen
 - Patricia Robertson QC
 - Andrew Sanders
 - Sam Stein QC
 - Anne Wright
 - Sarah Brown (special adviser)
 - Matthew Nicklin QC (special adviser)
 - Nicholas Lavender QC (Bar Council Chairman)
 - Alistair Macdonald QC (Bar Council Vice Chairman)
 - Jessica Bradford (Senior Policy Officer, E&D)
 - Ben Denison (Chief Information Officer)

- Viki Calais (Business Manager)
- Roger Hammond (Change Programme Manager)
- Sarah Loutfi (E&D Adviser)
- Amanda Thompson (Head of Strategy & Communications)

Item 3 – Members’ interests and hospitality

3. None.

Item 4 – Approval of Part 1 (public) minutes – 23 January 2014 (Annex A)

4. The Board approved Part 1 of the minutes of the meeting held on Thursday 23 January 2014.

Item 5 – Matters arising

5. None.

Item 6 – Action Points & Forward Agendas

6. Action points and progress (Annex B)

The Board noted the updates to the action list as set out in Annex B.

7. Forward agendas (Annex C)

The Board noted the forward agenda list and agreed to include a further item in the March agenda about feedback about the Handbook. This arises from an earlier request from the Chair to the Regulatory Policy Team that comment and queries from barristers on the new Handbook should be tracked for any themes or patterns that might emerge.

**JP to
note**

Item 7 – Performance Report Q3 (as at 31 December 2013)

BSB 009 (14)

8. The Board considered the Q3 performance report. The salient points were:
- the income and expenditure variations were incorrectly stated in the original report. Amended figures were circulated to Members prior to the meeting and the public version of the papers will be corrected accordingly;
 - QASA remains a cause for concern. The delay to the start of the scheme has detrimentally affected projected income streams, though, conversely expenditure has been less than anticipated;
 - progress on entity regulation might stall further depending on the time required for s69 order to come into effect. This order may be helpful in confirming the BSB’s disciplinary powers over entities. The budget for entity regulation is also overspent primarily because of increased spending on legal fees;
 - development of an evidence base is highlighted amber. This is because a post in the Research Team remains vacant at present and could have knock-on effects for delivery times;
 - the PRP Committee asked that the following items be brought to the Board’s attention;
 - ❖ the drop in performance against KPIs in the Professional Conduct Team during Q3;
 - ❖ the high staff turnover figures (27%).
9. Vanessa Davies also reported a comment from Sarah Brown about the date quoted for designation as a Licensing Authority. This should be stated as the end of June 2014 instead of March. This is because the licensing authority application is a separate process and dependent upon the LSB approving the entity regulation application.

**AC to
note**

10. Members commented as follows:
- the reasons given in the report for the drop in PCD performance need fuller explanation;
 - sickness figures are already above target with one quarter remaining. It would be useful to:
 - ❖ separate out long term sickness figures; and
 - ❖ analyse the pattern of short term sickness;
 - it would be useful to receive an update on appeals against decisions made by disciplinary tribunals that were incorrectly constituted by COIC.
11. In response, the following comments were made:
- the lack of management reports meant that PCD staff were not always aware of impending KPI deadlines. It occurred at a time when there was a switch in databases and the staff member responsible for performance reporting was on long term sick leave. These circumstances are unlikely to recur;
 - the BSB is a small organisation with limited career opportunities for its staff though the range of skills a staff member develops can make them attractive to other employers;
 - most of the turnover has occurred at junior levels within the organisation and four of the eleven posts in question were as a result of voluntary redundancy;
 - exit interviews are conducted and senior management is made aware if any particular issues come to light;
 - weekly monitoring procedures are already in place which includes staff sickness rates and these processes are due to be reviewed further by the Head of HR;
 - to date the courts have found in favour of the BSB as regards the COIC cases. Four individuals are seeking permission from the Court of Appeal to appeal their cases. Negotiations on cost recovery from COIC are continuing.
12. **AGREED**
- a) to note the performance summary.
 - b) to separate out long and short term sickness totals for future performance reports.

**AC to
note**

Item 8 – Board Delegation of the Authorisation to Conduct Litigation

BSB 010 (14)

13. The Board considered a paper concerning a request from the Qualifications Committee to delegate decisions on authorisation to conduct litigation to staff members. The salient points were:
- formal delegation of powers to staff is needed so that applications from barristers to conduct litigation can be processed outside meetings of the Qualifications Committee;
 - the Board has previously delegated powers to the executive for similar work covered by the Terms of Reference of the Professional Conduct Committee. This proposal reflects that practice and accords with the previous decision of the Qualifications Committee, endorsed by the Board, to delegate more of its work to staff.
14. The following comments were made:
- the recommendation is for delegation to apply to a range of staff members through to Training and Regulation Officer level. It is unusual for the most junior members of staff to have the same level of delegation as more senior members;

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- there needs to be a clear audit trail to demonstrate staff members are acting within the powers delegated to them;
 - Sarah Brown has suggested that delegation be limited to the Director. This means the line of authority will run through that post making the Director responsible for how the powers are used even when decisions are taken by others.
15. In response, the following comments were made:
- the staff in the Qualifications Team are fully trained and will make decisions in line with previously published criteria already available on the website. The Qualifications Committee retains a right of review of those decisions;
 - in terms of audit, a list of all authorities delegated to staff will be maintained (similar to the process already in place in the Professional Conduct Department);
 - as an interim measure, the Board may wish to delegate authority just to the Director pending approval of a fuller scheme of delegation.
16. **AGREED**
- a) to delegate authority to approve the conduct of litigation to the Director with immediate effect.
 - b) that these powers be applied in line with the guidance given on the criteria for decision making as published on the BSB website.
 - c) to ask that details of delegation to approve the conduct of litigation across the various staff grades be presented to the March Board meeting, along with the full Scheme of Delegations item due to be discussed at that time.

JD / VLD
to note
VLD to
note
JD

Item 9 – Education & Training: Annual Report for 2013

BSB 011 (14)

17. The Board considered the 2013 Annual Report from the Education & Training Committee. Simon Thornton-Wood referred to paragraph 42 concerning data on pupillage numbers. The report is currently incomplete in this respect but a final, agreed figure will be incorporated in the published version. This is likely to show an uplift in the numbers of pupillages previously indicated.
18. The following comments were made:
- Justine Davidge needs to be included in the membership list for the Committee;
 - there is a marked upward trend in the numbers of overseas candidates taking the Bar Transfer Test (BTT) but it is unclear what is driving this forward or what are the pass rates.
19. Joanne Dixon advised that the increase in BTT numbers specifically concerns candidates from Bangladesh. Applications are being co-ordinated by a training organisation in that country, of which the Board is already aware. Whilst most of the candidates wish to practise in their own jurisdiction, they are using the BTT route to gain an appropriate qualification, though the pass rates are generally low.
20. **AGREED**
- a) to note the content of the 2013 Annual Report from the Education & Training Committee.
 - b) that the membership list be corrected and figures on pupillage numbers be included prior to publication.

STW

Item 10 – Chair’s Report on Visits and Meetings: Jan 14 – Feb 14

BSB 012 (14)

21. The Chair referred to her report on visits and meetings. Her discussion on 13 February with David Edmonds, Chair of the LSB, focused on the issue of lay Chairs and ethics.
22. **AGREED**
to note the report.

Item 11 – Director’s Report

BSB 013 (14)

23. Vanessa Davies highlighted the following:
- the meeting of the International Legal Regulators’ workshop, referred to in paragraph 2 of the report, will take place on 8-9 July 2014;
 - the Supervision Committee met for the first time on 18 February 2014;
 - the Bar Barometer will now be published one week later than anticipated (w/c 24 February 2014);
 - the authorisation to practise renewals are underway. There were problems early on about access to the Barrister Connect site but these have since been resolved. So far one third of barristers have renewed their certificates and the Records Team is up to date with enquiries.
24. **AGREED**
to note the report.

Item 12 – Any Other Business

25. None

Item 13 – Dates of next meeting

26. Thursday 27 March 2014.

Item 14 – 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 January 2014;
 - (2) Matters Arising;
 - (3) Action points and progress – Part 2;
 - (4) Corporate Risk Register;
 - (5) Business Plan 2014-15;
 - (6) QASA Update;
 - (7) Prosecution Panel remuneration – update paper;
 - (8) Note on appointment of Chair in succession to Baroness Deech QC (Hon) Jan 2015 and appointment of Board members for 2014 and 15 (*post meeting note – discussion on this item was subsequently deferred*);
 - (9) Any other private business.
28. Neither the Bar Council nor COIC was invited to attend the private session. The meeting finished at 5.15 pm.