

*Note: the timings quoted are indicative only and the meeting may extend beyond the anticipated finish.*



REGULATING BARRISTERS

## Meeting of the Bar Standards Board

**Thursday 30 November 2023, 5.00 pm** (Hybrid meeting - in person and online)

**Rooms 1.4 – 1.7, First Floor, BSB Offices / MS Teams**

### Agenda – Part 1 – Public

**This meeting will be recorded for the purposes of minute taking as previously agreed by the Board. Your consent to this is assumed if you decide to attend. The recording will be deleted once the minutes are formally approved at the next meeting**

*Note: this meeting will be preceded by a seminar for Board Members commencing at 3.15 pm (same venue). It will be a discussion on Innovation and Technology*

			<b>Page</b>
1.	<b>Welcome / announcements</b> (5.00 pm)	Chair	
2.	<b>Apologies</b>	Chair	
3.	<b>Members' interests and hospitality</b>	Chair	
4.	<b>Approval of minutes from the last meeting</b> <b>(5 October 2023)</b>	Annex A Chair	<b>3-8</b>
5.	a) <b>Matters arising &amp; Action List</b>	Annex B Chair	<b>9</b>
	b) <b>Forward agenda</b>	Annex C Chair	<b>11</b>
6.	<b>Performance Report: Quarter 2 2023/24</b> (5.05 pm)	BSB 051 (23) Mark Neale	<b>13-39</b>
7.	<b>Annual report to the Board on Bar Training</b> (5.15 pm)	BSB 052 (23) Victoria Stec / Rupika Madhura	<b>41-87</b>
8.	<b>Interim Suspension - Consultation response</b> (5.35 pm)	BSB 053 (23) Sara Jagger / Ahmet Arikan	<b>89-106</b>
9.	<b>Governance, Risk &amp; Audit (GRA) Committee</b> <b>Annual Report 2023</b> (5.45 pm)	BSB 054 (23) Stephen Thornton	<b>107-111</b>
10.	<b>Performance &amp; Strategic Planning (PSP)</b> <b>Committee Mid-Year Report 2023/24</b> (5.50 pm)	BSB 055 (23) Steve Haines	<b>113-115</b>
11.	<b>Reform of BSB's Regulatory Capacity</b> (5.55 pm)	BSB 056 (23) Mark Neale	<b>117-128</b>
12.	<b>Director General's Report – Public Session</b> (6.00 pm)	BSB 057 (23) Mark Neale	<b>129</b>
13.	<b>Dates of Board Meetings January 2024 -</b> <b>March 2025</b>	BSB 058 (23) Rebecca Forbes	<b>131</b>
14.	<b>Chair's Report on Visits &amp; External Meetings</b>	BSB 059 (23) Chair	<b>133</b>
15.	<b>Any other business</b>		

*Note: the timings quoted are indicative only and the meeting may extend beyond the anticipated finish.*

16. **Date of next meeting**  
Thursday 25 January 2024

17. **Private Session**  
(6.10 pm)

**John Picken**  
**Governance Officer**  
23 November 2023

<p>BAR STANDARDS BOARD</p>
------------------------------------

REGULATING BARRISTERS

**Part 1 - Public**  
**Minutes of the Bar Standards Board meeting**  
**Thursday 5 October 2023 (5.00 pm)**

**Hybrid Meeting, Rooms 1.4-1.7, BSB Offices & MS Teams**

- Present:** Kathryn Stone OBE (Chair)  
Alison Allden OBE (via Teams)  
Jeff Chapman KC  
Steve Haines  
Simon Lewis  
Andrew Mitchell KC  
Irena Sabic KC  
Professor Leslie Thomas KC  
Stephen Thornton CBE
- By invitation:** Malcolm Cree CBE (Chief Executive, Bar Council) (via Teams)  
Tim Grey (Chair, Independent Decision Making Body)  
Lorinda Long (Treasurer, Bar Council) (via Teams)  
Sam Townend KC (Vice Chair, Bar Council)  
Nick Vineall KC (Chair, Bar Council)  
James Wakefield KC (Hon) (Director, COIC)
- Press:** Neil Rose, Legal Futures
- In attendance:**  
**BSB Executive** Ahmet Arikan (Senior Policy Officer)  
Rhys Bevan (Head of Legal Support) (items 9-14)  
Charlie Cormack (Regulatory Panel Manager)  
Christopher Fitzsimons (Communications Manager)  
Rebecca Forbes (Head of Governance & Corporate Services)  
Edoardo Furlani (Reports and Data Analysis Officer)  
Teresa Haskins (Director of People, BSB) (via Teams)  
Saima Hirji (Acting Director of Regulatory Operations) (via Teams)  
Sara Jagger (Director of Legal and Enforcement)  
Imogen Kirby (Senior Reports and Data Analysis Officer)  
Ewen Macleod (Director of Strategy & Policy)  
Rupika Madhura (Director of Standards)  
Mark Neale (Director General)  
John Picken (Governance Officer)  
Wilf White (Director of Communications & Public Engagement)  
Alex Williams (Head of Operational Support)
- Resource Group:** Richard Cullen (Director of Finance)

**Item 1 – Welcome / Announcements****Action**

1. Kathryn Stone welcomed those present in particular those attending their first Board meeting ie:
  - Ahmet Arikan
  - Charlie Cormack
  - Edoardo Furlani
  - Tim Grey

2. **Item 2 – Apologies**

- Gisela Abbam
- Emir Feisal

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

3. None.

**Item 4 – Approval of Part 1 (public) minutes (Annex A)**4. The Board **approved** the Part 1 (public) minutes of the meeting held on 27 July 2023.**Item 5a – Matters arising & Action List**5. There were no matters arising. The Board **noted** the update to the action list.**Item 5b – Forward agenda**6. The Board **noted** the forward agenda list. The Chair referred to the seminar on the BSB Access Programme which had immediately preceded the meeting. She thanked those involved in delivering that presentation and asked for a report on the outcome of the project to be included on the list.JP to  
note**Item 6 – Performance Report: Quarter 1**

BSB 040 (23)

7. Mark Neale highlighted the following:

- the good progress on the delivery of our enforcement work (a fall in both the age profile and number of cases);
- higher workloads within the Authorisations Team arising from a significant increase in demand from overseas lawyers seeking Call to the Bar;
- fees for handling these applications have not been reviewed since 2015. We have therefore suggested inflationary increases and propose to review them again so that we continue to recover our administrative costs (*note: the Board agreed to this suggestion*).

8. He added that:

- we have already strengthened the Authorisations Team as an interim measure;
- the ongoing review of Authorisations may identify structural measures we can consider for the longer term.

9. In response to questions raised, the Executive stated that:

- it is our long-standing policy to only recover the administrative costs of authorisation applications. We neither want applicants to subsidise the costs of regulation nor for the profession to do vice versa;
- the applications vary in complexity but the increase in volume means they are taking progressively more of the Authorisations Team’s time;
- we are uncertain as to the reasons for this the rise. It may simply reflect the desire of overseas lawyers to have the distinction of being Called to the Bar. Some further analysis of the caseload may identify particular themes.

10. Two barrister members noted that the increase derives mainly from the Indian sub-continent. They commented that:

- there is a long standing and mutually beneficial relationship between the Indian Bar and that for England and Wales. The former is an enormously successful contributor to our jurisdiction and having dual qualified barristers builds bridges and enhances Anglo-Indian relations;
- it is relatively straightforward to be Called to the Bar and is available even if the person concerned does not intend to practice in England and Wales. This relates to the ongoing discussion of when Call to the Bar should occur.

11. The following points were also raised:
- we should review fees on an annual basis;
  - we should prioritise applications from those who do intend to practise at the Bar in England and Wales;
  - the Bar Council may be better placed to advise on factors driving the increase in transfer applications, particularly those who are active in the Indian market. There may be commercial reasons about which we are unaware.
12. Sam Townend KC confirmed that the Bar Council would be very willing to work with the BSB on this issue. He noted that over recent years some very well-known and established figures from the Indian Bar have joined chambers so may have led the way for others to follow. James Wakefield KC (Hon) also cited evidence that the transfer route now seems to be commercially promoted, whereas that had not occurred before. Moreover, the Inns are aware that the practising Bar is supporting an increasingly larger non-practising Bar.
13. Irena Sabic KC asked for further information to explain the rise in the number of cases referred back to the Contact and Assessment Team prior to investigation. In response the Executive stated that:
- this occurred because of:
    - a lack of evidence from an Investigation and Enforcement perspective that there had been a breach of the Code; and
    - the need for other enquiries to be made before taking the case forward;
  - the root cause was insufficient communication between the two teams. This has been recognised and steps taken to improve matters.
14. Simon Lewis referred to the Business Plan Summary (Annex B) and asked for more nuanced and proactive indicators than the RAG ratings currently used ie advice about risk, timelines and deliverability of outcomes. The Chair agreed with this sentiment.
15. Mark Neale explained that we are now using RAG ratings to indicate whether or not we are making purposeful progress against goals. However, he agreed to consider this point further. Steve Haines commented that the business plan is based on perceived deliverables. Adding stretch to targets might simply generate more amber / red ratings and give a misleading impression of progress.
16. **AGREED**
- a) to note the report.
  - b) to increase regulatory fees under the BSB's control so that these fully recover current administrative costs. **RF to note**
  - c) that the Executive considers:
    - (i) annually reviewing authorisation fees; **MN / SH to note**
    - (ii) prioritising applications from transferring lawyers who intend to practice at the Bar in England and Wales; **MN to note**
    - (iii) working with the Bar Council to determine the cause for the rise in applications from transferring lawyers. **MN / note**
  - d) that the Executive reviews the use of RAG ratings for business plan progress reports with a view to providing more nuanced information for the Board. **MN / RF**

### Item 7 – Regulatory Decisions Annual Report 2022/23

BSB 041 (23)

17. The Board received the Regulatory Decisions Annual Report 2022/23 and, along with Saima Hirji, thanked Alex Williams and the Operational Support Team for its production. Simon Lewis noted the number of reports about bullying and harassment nearly doubled compared to 2021/22. This prompted a wider discussion, and the salient points were:

- recent Tribunal cases for sexual misconduct brought by the BSB attracted significant attention and underlined the message that this behaviour will not be tolerated at the Bar;
  - this may mean people have greater trust and confidence in our systems and are therefore more prepared to report bullying and harassment. We should make this clear in any press statement accompanying publication of the report;
  - these cases place considerable demands on the individual making the report and a key factor is that person's ongoing resolve to see the process through to the end.
18. In respect of the latter point, Nick Vineall KC emphasised the need for such cases to be prioritised and dealt with in as timely a manner as possible.
19. In response to other questions raised, the Executive clarified the following:
- the term "other" refers to any cases received that are not a report on alleged misconduct or any enquiry;
  - the terms "cases" and "reports" are sometimes used interchangeably, and next year's report will need to address this to avoid confusion;
  - the "themes" referenced in paragraph 75 relate to the categorisation of reports received by Supervision from the Contact and Assessment Team. "Thematic Reviews" are those opened by the BSB to research particular areas of regulation;
  - the reports received about barristers' use of social media generally related to inappropriate use of language.
20. The Chair agreed with comments from other Board Members about the challenges in responding to reports on the use of social media, given the counter arguments of freedom of expression. She acknowledged the need to monitor and manage this issue carefully but also track to see what difference our new guidance has made. That was published in September 2023 so next year's report will be able to compare the six months prior to its introduction with the six months post-publication.
21. **AGREED**
- to approve the Regulatory Decision Annual Report 2022/23 for publication and to request that any covering press release clarifies the likely reasons for the rise in reports about bullying and harassment (cf. min 17).

SH to  
note

WW

**Item 8 – Independent Decision Making Body Annual Report 2022/23**  
BSB 042 (23)

22. Tim Grey highlighted the following:
- the improvements in efficiency that have arisen from the accelerated investigations programme, particularly in respect of drafting decisions;
  - the forthcoming round of recruitment that will seek to address existing diversity issues, especially in respect of barrister members. This is not just in terms of protected characteristics but also for areas of practice at the Bar;
  - IDB Member training has improved ie:
    - we now onboard new recruits with more experienced Members;
    - we have introduced a rolling programme for Members to observe the conduct of Authorisation Panels and so gain knowledge and experience. This is because they meet much less frequently than Enforcement Panels.
23. Leslie Thomas KC asked about the desire to increase diversity within the IDB. In response, Tim Grey stated that:
- we can address underrepresentation of practice areas by specifically targeting Specialist Bar Associations (SBAs);
  - some protected characteristics (eg sex / gender) are properly represented but there is a lack of ethnic diversity among barrister IDB members. We should identify whether the issue is a lack of applications or conversion of these to appointments;

- the terms of office of IDB Members are staggered meaning there is a rolling programme of recruitment so there will be further opportunities in the year ahead.
24. Alex Williams added that:
- the “competencies” listed in the recruitment pack have not been revised since 2019 and will be re-worded to encourage a wider pool of applicants;
  - hitherto applications predominantly came from those with previous regulatory experience, whereas a broader range would be welcome.
25. Members said that it would be helpful:
- that the Board see the overall IDB recruitment plan for monitoring purposes;
  - to ensure the selection panels are appropriately diverse;
  - to analyse the ethnicity profiles of previous rounds of applicants / appointments.
26. In respect of the latter two points, Rebecca Forbes stated:
- selection panels are diverse and include an independent member as per the Governance Manual requirements;
  - though we encourage applicants to complete E&D monitoring forms, we cannot mandate them to do so;
  - applications received are analysed at three stages ie:
    - full application cohort;
    - shortlisted candidates;
    - appointments made;
  - we have data for all the years since the IDB was formed.
27. Nick Vineall KC noted the absence of a silk on the IDB. Diversity can also be considered from a seniority perspective. If this is addressed, it would enhance the credibility of the IDB among the profession. RF to note
28. **AGREED** WW  
RF  
RF
- a) to approve the IDB Annual Report 2022/23 for publication.
- b) to request an update on the plan for IDB recruitment at the next meeting.
- c) to note the comments about diversifying the IDB (cf. mins 25 and 27).
- Item 9 – Legal Services Board Action Plan – progress report**  
BSB 043 (23)
29. Mark Neale commented as follows:
- the BSB Chair and Director General met their LSB counterparts earlier in the day. This was a helpful meeting in which the LSB made clear its satisfaction with the BSB’s progress on the action plan;
  - the “all green” RAG status of the annex to the report indicates that we are taking forward purposeful activity in all areas;
  - short-term challenges remain eg d to maintain momentum on the work on assuring competence following the departure of the Director of Regulatory Operations, but this will now be addressed by Rupika Madhura in her new role as Interim Director of Standards.
30. Simon Lewis welcomed the improvement in working relations with the LSB. He also reiterated his earlier point about the use of RAG ratings and the format for the report (cf. min 14). Stephen Thornton endorsed this view and suggested a commentary as a supplement. Mark Neale agreed to provide a covering report with the next iteration.
31. **AGREED** MN
- to note the action plan and request a covering report with the next iteration with reference to the above points (cf. min 30).

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

BSB 044 (23)

32. The Board **noted** the report.

**Item 11 – Chair’s Report on Visits and External Meetings**

BSB 045 (23)

33. The Chair commented positively on events that gave her opportunities to engage with barristers, in particular the excellent advocacy course at Keble College, Oxford.
34. The Board **noted** the report.

**Item 12 – Any Other Business**

35. None.

**Item 13 – Date of next meeting**

36. Thursday 30 November 2023. This will be followed by a Board Dinner at Coopers Restaurant, Lincoln’s Inn Fields, Holborn.

**Item 14 – Private Session**

37. The Board resolved to consider the following items in private session:
- (1) Approval of Part 2 (private) minutes – 27 July 2023.
  - (2) Matters arising and action points – Part 2.
  - (3) Budget Proposal – 2024 / 25 financial year
  - (4) Review of the Independent Reviewer process.
  - (5) Consolidated Risk Report.
  - (6) Director General’s Strategic Update – Private Session.
  - (7) Board Evaluation
  - (8) Any other private business.
38. The meeting finished at 6.05 pm.



**BSB – List of Part 1 Actions  
30 November 2023**

*(This includes a summary of all actions from the previous meetings)*

Min ref	Action required	Person(s) responsible	Date of action required	Progress report	
				Date	Summary of update
16d (05/10/23)	Review the use of RAG ratings for business plan progress reports with a view to providing more nuanced information for the Board	Rebecca Forbes / Mark Neale	23/11/23	20/11/23	<b>Completed</b> – see detail in LSB action plan paper and Quarter 2 performance paper
21 (05/10/23)	publish the Regulatory Decision Annual Report 2022/23 and explain the likely reasons for the rise in reports about bullying and harassment	Wilf White	immediate	11/10/23	<b>Completed</b> – published on website with press release
28a (05/10/23)	publish the Independent Decision Making Body Annual Report 2022/23	Wilf White	immediate	11/10/23	<b>Completed</b> – published on website with press release
28b (05/10/23)	provide update on the plan for IDB recruitment	Rebecca Forbes	23/11/23	20/11/23	<b>Completed</b> – applications opened on 7 November and will close on 4 December, with (blind) longlisting in December, shortlisting in January and interviews in February.
28c (05/10/23)	seek to diversify the IDB taking into account comments at the October meeting about the need to analyse E&D profiles from previous recruitment rounds and the desirability to attract silks to the IDB	Rebecca Forbes	23/11/23	20/11/23	<b>Completed</b> - The Chair of the IDB wrote to 13 E&D groups and 16 SBAs to encourage applications from a more diverse pool (in terms of protected characteristics, specialty area and seniority), having reviewed the E&D analyses of recent recruitments and the E&D profile of the existing membership. At shortlisting, selection panel will be provided with E&D analyses from recent recruitments and the E&D profile of the existing membership.
31 (05/10/23)	a covering report with the next iteration of the LSB action plan to supplement the RAG ratings provided	Mark Neale	23/11/23	21/11/23	<b>Completed</b> – see BSB Paper 056 (23)



## Forward Agenda

### Thursday 25 January 2024

- Annual Diversity Data Report
- Governance: Policies on Declaration of Interests, and Gifts and Hospitality, and Board Code of Conduct
- Board consideration of the LSB’s regulatory performance assessment of BSB, and six-monthly self-assessment against the LSB Regulatory Performance Framework
- Director General’s Report (public & private session)
- LSB Action Plan – progress report
- Annual “deep dive” on the corporate risk register
- Enforcement Review – interim report
- Risk Framework Review – Final Report and Implementation
- Draft Anti-Racist Strategy
- Handbook priorities for 2023 – 2024, final approval

### Thursday 21 March 2024

- BSB Business Plan 2024/25
- Consolidated Risk Report
- Director General’s Report (public & private session)
- Quarter 3 performance report
- LSB Action Plan – progress report
- KPI pilot evaluation
- Outcome of consultation on our expectations of chambers
- BSB Data and Intelligence Strategy: Scheme of work and public document

### Thursday 11 April 2024 (special meeting)

- Independent Review of Enforcements – findings

### Thursday 23 May 2024

- Year-end report of the Performance & Strategic Planning Committee (PSP) 2023/24
- Q4 performance report
- Director General’s Report
- Corporate Risk Report (summary)

### Thursday 27 June 2024 (Board Away Day)

- Strategy & Capability
- External Board Evaluation

### Thursday 25 July 2024

- Annual Report 2023-24 (including Cost Transparency Metrics)
- Director General’s Report

### Thursday 26 September 2024

- Q1 performance report
- Director General’s Report
- Regulatory Decisions Annual Report 2023/24
- Independent Decision Making Body Annual Report 2023-24
- Budget Proposal – 2025/26 financial year
- Consolidated Risk Report
- Enforcement Review – consultation responses

**Thursday 28 November 2024**

- Mid year report from the PSP Committee
- GRA Annual Report
- Annual report – Bar Training
- Q2 performance report
- Director General’s Report
- Dates for Board Meetings (Jan 2025 – Mar 2026)
- Corporate Risk Report (summary)

**Thursday 30 January 2025**

- Annual Diversity Data Report
- Director General’s Report
- Annual “deep dive” on the corporate risk register

**Thursday 27 March 2025**

- Director General’s Report
- BSB Business Plan 2025/26 and final budget
- Q3 performance report
- Consolidated Risk Report

<b>Meeting:</b>	Board	<b>Date:</b>	30 November 2023
<b>Title:</b>	Performance Report: Quarter 2 (2023/24)		
<b>Author:</b>	Mark Neale		
<b>Post:</b>	Director General		

<b>Paper for:</b>	<b>Decision:</b> <input type="checkbox"/>	<b>Discussion</b> <input checked="" type="checkbox"/>	<b>Noting</b> <input type="checkbox"/>	<b>Other:</b> <input checked="" type="checkbox"/> Recommendation
-------------------	---	---	--	--

<b>Paper relates to the Regulatory Objective (s) highlighted in bold below</b>	
(a)	<b>protecting and promoting the public interest</b>
(b)	<b>supporting the constitutional principle of the rule of law</b>
(c)	<b>improving access to justice</b>
(d)	<b>protecting and promoting the interests of consumers</b>
(e)	<b>promoting competition in the provision of services</b>
(f)	<b>encouraging an independent, strong, diverse and effective legal profession</b>
(g)	<b>increasing public understanding of citizens' legal rights and duties</b>
(h)	<b>promoting and maintaining adherence to the professional principles</b>
<input type="checkbox"/>	Paper does not principally relate to Regulatory Objectives

## Purpose

1. This paper comments on performance to the end of the second quarter in September 2023, covering both operational performance and progress in delivering the Business Plan 2023/24. The paper also outlines short-term actions to tackle continuing backlogs in the Authorisations and Contact & Assessment Teams and, drawing on the early findings of the Fieldfisher review, to strengthen the latter team on a continuing basis.

## Summary

2. Key points to note, and for discussion, are:

### *Operational performance*

- i. the quality of decision-making remains high, with no adverse independent reviewer recommendations during the quarter (or indeed the first half of the year);
- ii. the Contact & Assessment Team (CAT) was highly productive clearing just under 500 reports over the quarter and reducing the caseload for the third quarter in succession;
- iii. the Authorisations Team was also productive, closing the highest quarterly total of applications (240) for a year, but new applications, particularly from transferring lawyers, continue to outpace clearances: there are now 650 open applications of which around 400 are from transferring overseas lawyers;
- iv. the investigations caseload by end September was at the lowest level since the beginning of 2022/23, with only 64 cases live and 24 on hold;
- v. one consequence is that the balance of the Team's work has moved to supporting disciplinary tribunal hearings which more than doubled in Q2 compared to Q1 rather than the conduct of investigations themselves, with 19 completed across the quarter;

*Actions to address backlogs and to strengthen operational performance*

- vi. we intend to take urgent action to tackle the backlog of authorisation applications from transferring overseas lawyers by establishing now a short-term task force to work through these applications;
- vii. we also intend to take a similar approach to the residual backlog of reports to the Contact and Assessment Team and, consistent with early findings of the Fieldfisher review of enforcement, we see a case for reinforcing the Team on a continuing basis to provide greater resilience and depth of expertise.

*Business Plan 2023/24 & reforms*

- viii. we have re-defined and re-visited our approach to the RAG ratings of progress against the Business Plan and reform programme: green denotes that purposeful activity is underway to broadly the expected timetable; amber denotes that we have materially adjusted what we aim to deliver or the timetable to which we intend to deliver it; and red denotes that the aim is unlikely to be achieved to any realistic timescale;
- ix. tested against these definitions, we invite the Committee to note the progress described in paragraph 13 below.

**Operational Performance – annex A***Performance: the facts*

3. Taking, first, our performance in assessing the reports we receive about barristers, we can see that the quality of work has remained very high. There have been no adverse independent reviews in the first half of the year. Productivity in clearing reports was also high, with 481 closed in Q2. This enabled a further useful reduction in the team's current caseload over the quarter. The Board will note, however, that, although the backlog is steadily falling, the caseload still contains roughly two hundred cases which are outside the eight week target.
4. By contrast, authorisation caseloads are continuing to rise in response to growing demand and now constitute the Senior Leadership Team's principal concern. Despite clearing 240 applications over the quarter - the highest clearance rate since the same quarter of last year – this was easily out-paced by the 350 new applications received – the fifth consecutive quarter in which new applications have exceeded those cleared. As a result the caseload has now risen to 650, of which 415 are overdue. Roughly 400 of the outstanding applications are from transferring overseas lawyers.
5. Turning to investigations, the success of the accelerated programme can be seen in the much reduced caseload. There are currently only 64 live investigations, with 24 on hold for reasons beyond BSB's control. A consequence of this is a fall in the number of investigations completed in quarter 2, down to 19 (50 over the first half of the year). Simultaneously, the balance of work has shifted towards support for the increasing flow of Disciplinary Tribunal cases generated by the high numbers of investigations concluded in the latter half of last year.
6. The other noteworthy development last quarter is the introduction of a system of rating investigations for complexity on a five point scale (1 denoting the most straightforward and 5 the most complex). The initial rating classed 60% of live investigations as 3 or above.

*Performance: proposed further action*

7. As the Board is aware, we have taken a range of actions over the course of the last eighteen months to improve operational performance, mostly notably by putting in place the programme to accelerate investigations. We have also selectively strengthened the other operational teams. We can now see that further action is necessary.
8. The top priority is to tackle the growing backlog of authorisation applications from overseas lawyers. Accordingly, we intend to establish a time-limited, 'taskforce' within the Authorisations Team to act as a dedicated resource for Transferring Qualified Lawyer (TQL) applications only at an additional cost of £24k in 2023/24 and £52k in 2024/25. The taskforce will assume responsibility for TQL assessments and all related correspondence. This should then enable the rest of the team to focus on other 'business as usual' applications and project work.
9. In the case of the Contact & Assessment Team, which handles the initial assessment of the roughly 1 500 - 1700 reports we receive annually on barristers, we face both a short-term backlog challenge and a longer-term resilience issue.
10. As described in paragraph 3 above, the backlog of reports – now numbering around 200 - is falling, but slowly. To set the Team up for future success, we want to address this backlog once and for all. We propose to address this through a targeted approach by bringing in some temporary resource at the start of 2024.
11. In parallel the Fieldfisher independent review of our enforcement process has identified the need to strengthen the Contact & Assessment Team's resilience for the longer-term. The Team has been outstandingly productive in recent quarters, but is at full stretch and has been working significant overtime. This is not sustainable on a continuing basis and leaves no scope for Team members to contribute their operational expertise to our the BSB's important project work, particularly our work to improve our ability to extract useful intelligence from the reports we receive. We shall bring forward proposals to build greater resilience in March when the Board is invited to settle next year's budget.
12. We expect to be able to absorb the 2023/24 costs of the two task forces outlined above without detriment to this year's budget. We shall consider whether we can identify savings within the budget for 2024/25, already approved by the Board, to off-set the additional operational costs outlined above.

**Progress against the Business Plan – annex B**

13. In response to challenge at the October Board, we have re-visited our approach to assigning RAG ratings to our business plan objectives, including to the programme of reform agreed by the Board in April. Our revised definitions are as follows:
  - **Green:** purposeful activity is underway to broadly the expected timetable;
  - **Amber:** there are material adjustments to what we are aiming to deliver or to the timetable to which we are aiming to deliver;
  - **Red:** the original aim is unlikely to be achieved to any realistic timescale.

14. Tested against these definitions, the majority of our commitments in the Business Plan 2023/24 remain on track. Significant milestones this Autumn include:
- publication of our consultation paper on the future role of chambers;
  - publication of revised guidance on conduct in non-professional life and on the use of social media;
  - the approval of a new policy on the independent review of BSB regulatory decisions; and
  - re-joining *Legal Choices*.
15. Further information about progress in delivering our programme of regulatory reform is contained in the parallel paper – BSB Paper 056 (23).

**Annexes**

Annex A – Quarter 2 operational performance  
Annex B – BP & Performance Dashboard Q2

**Mark Neale**  
**Director General**



## 2023-24 Quarter 2 Performance report – Regulatory Operations and Legal and Enforcement Departments

## All teams overview

Team	KPI	Total Cases/ Applications/ Reviews closed	Performance Q2
CAT	<b>General Enquiries</b>		
	Substantive responses to general enquires, that can be addressed by CAT, provided within 5 working days. <b>(Target 80%)</b>	212	95.8%
	General enquiries, which cannot be answered by CAT, that are referred to another team within 3 working days. <b>(Target 80%)</b>	60	83.3%
	<b>Initial Assessment</b>		
	Reports assessed and concluded by CAT, or referred to another team for action, within eight weeks. <b>(Target 80%)</b>	481	59.3%
	<b>Quality indicators</b>		
Cases where the Independent Reviewer upholds the original decision following a request for review. <b>(Target 95%)</b>	6	100.0%	
Authorisations	<b>Authorisation, Exemptions and Waivers</b>		
	Applications determined within six weeks of receipt of the complete application. <b>(Target 75%)</b>	240	43.3%
	Applications determined within eight weeks of receipt of the complete. <b>(Target 80%)</b>		55.4%
	Applications determined within twelve weeks of receipt of the complete application. <b>(Target 98%)</b>		75.4%
	<b>Entity (including ABS) Authorisation</b>		
	Authorisation decisions made within six months of receipt of the application and associated fee. <b>(Target 90%)</b>	3	100%
Authorisation decisions made within nine months of receipt of the application and associated fee. <b>(Target 100%)</b>	100%		

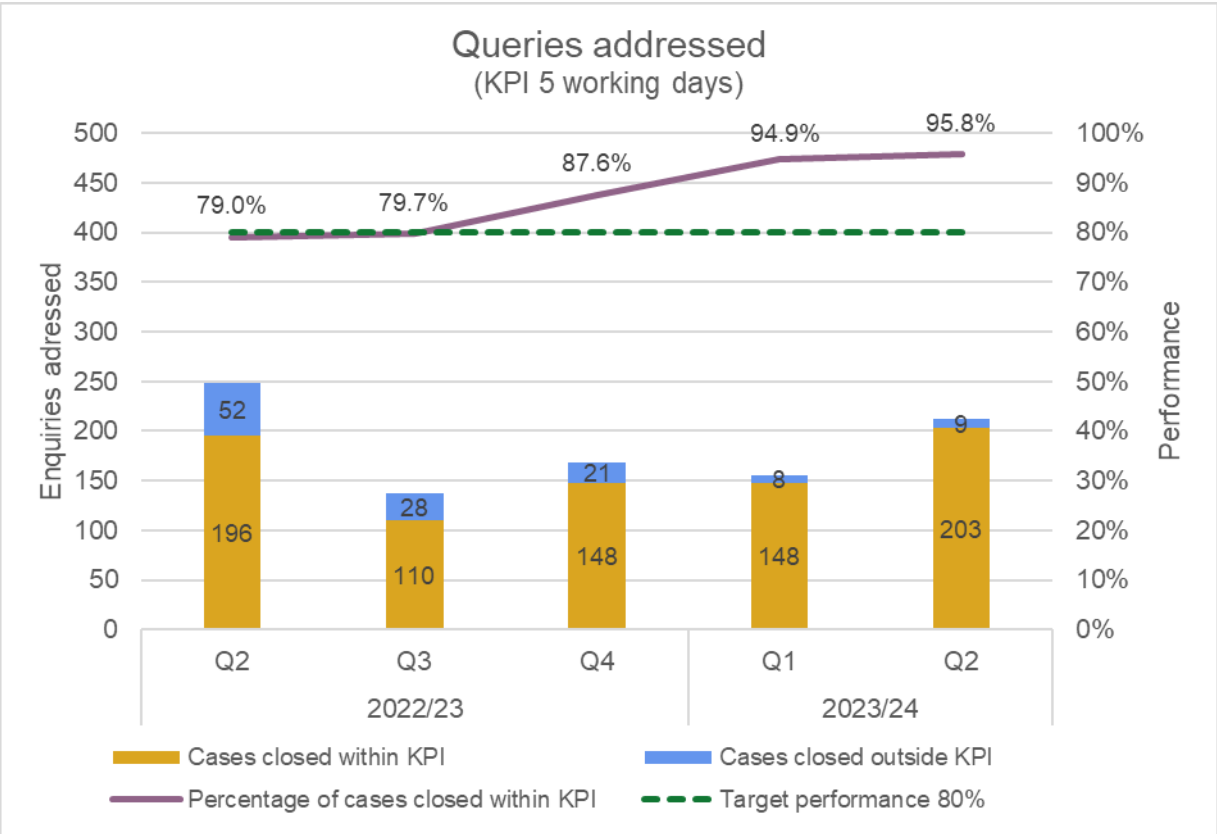
Team	KPI	Total Cases/ Applications/ Reviews closed	Performance Q2
I&E	<b>Referral of cases</b>		
	Cases referred by CAT to another team for regulatory action that are accepted or referred back to CAT within 2 weeks. <b>(Target 80%)</b>	34	91.2%
	<b>Investigation of allegations</b>		
	Investigations of allegations of breaches of the Handbook completed, and a decision taken on disposal, within 25 weeks of acceptance. <b>(Target 80%)</b>	19	31.6%
	<b>Determination by Consent</b>		
	Process completed (service standard 93 working days). <b>(No target)</b>	2	50.0%
	<b>Disciplinary Tribunal</b>		
	Cases concluded (service standard 197 working days). <b>(No target)</b>	8	50.0%
	<b>Quality indicators</b>		
	Cases where the Independent Reviewer upholds the original decision following a request for review. <b>(Target 95%)</b>	1	100.0%
Appeals against the imposition of administrative sanctions and % successful. <b>(Target 0%)</b>	1	100.0%	
Appeals of Disciplinary Tribunal decisions concluded and % successful attributable to procedural or other error by the BSB or discrimination in the decision-making process. <b>(Target 0%)</b>	n/a	n/a	
Supervision	<b>Allocations</b>		
	Cases assigned within 3 working days of the team receiving the referral from CAT. <b>(Target 80%)</b>	22	100.0%
	<b>Regulatory Response</b>		
	Cases for which a regulatory response was agreed within 20 working days of the case being assigned. <b>(Target 80%)</b>	48	97.9%
	<b>Visits</b>		
Visit report letters issued within 5 working days of a visit to an organisation. <b>(Target 80%)</b>	1	0.0%	

Contact & Assessment

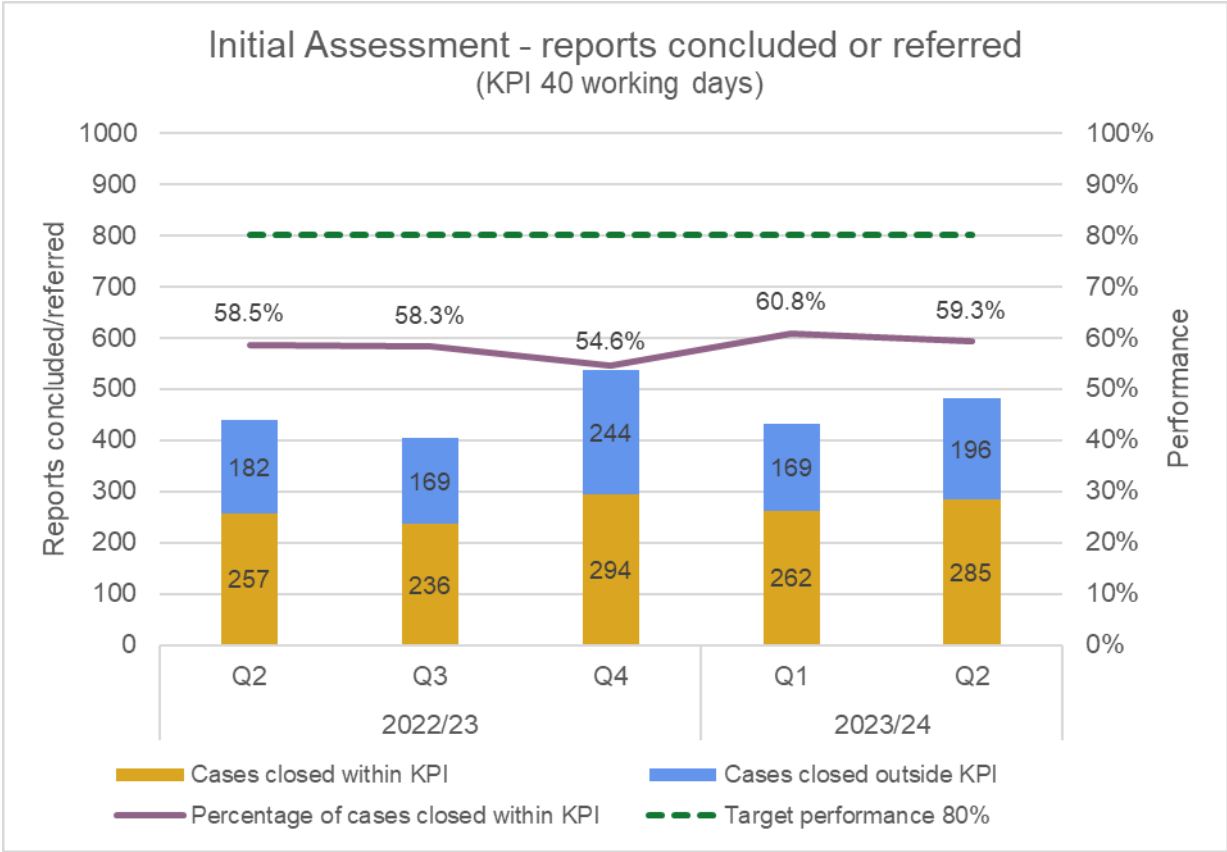
Key points

- The team have met three out of four KPI targets this quarter.
- Performance against the Initial Assessment KPI has dipped slightly, but over 50 more cases have been closed this quarter than last.
- The overall reports caseload has reduced this quarter.

KPIs & performance data

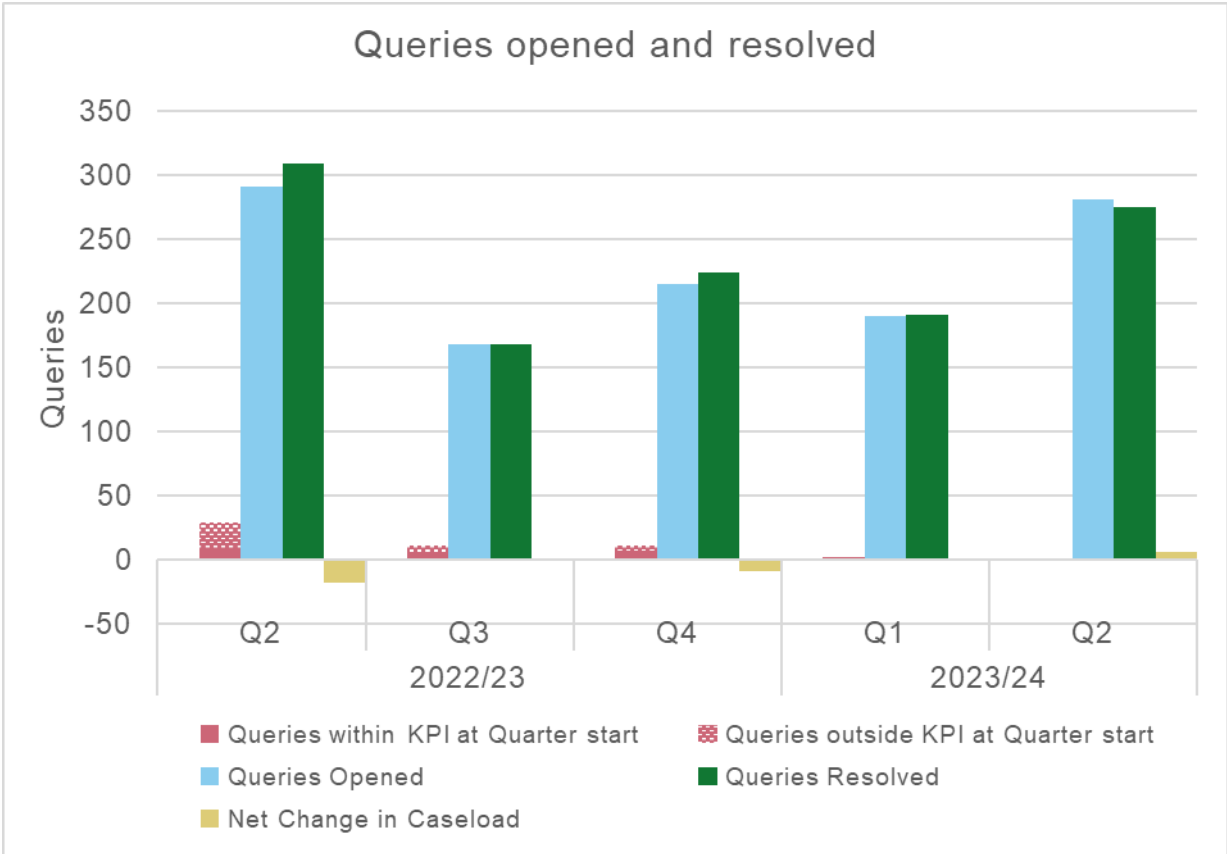


1. For general enquiries, performance for 2023/24 is at its highest since reporting began in 2019/20. There has also been improvement in performance every quarter since quarter 1 last year (when the cyber-attack occurred).



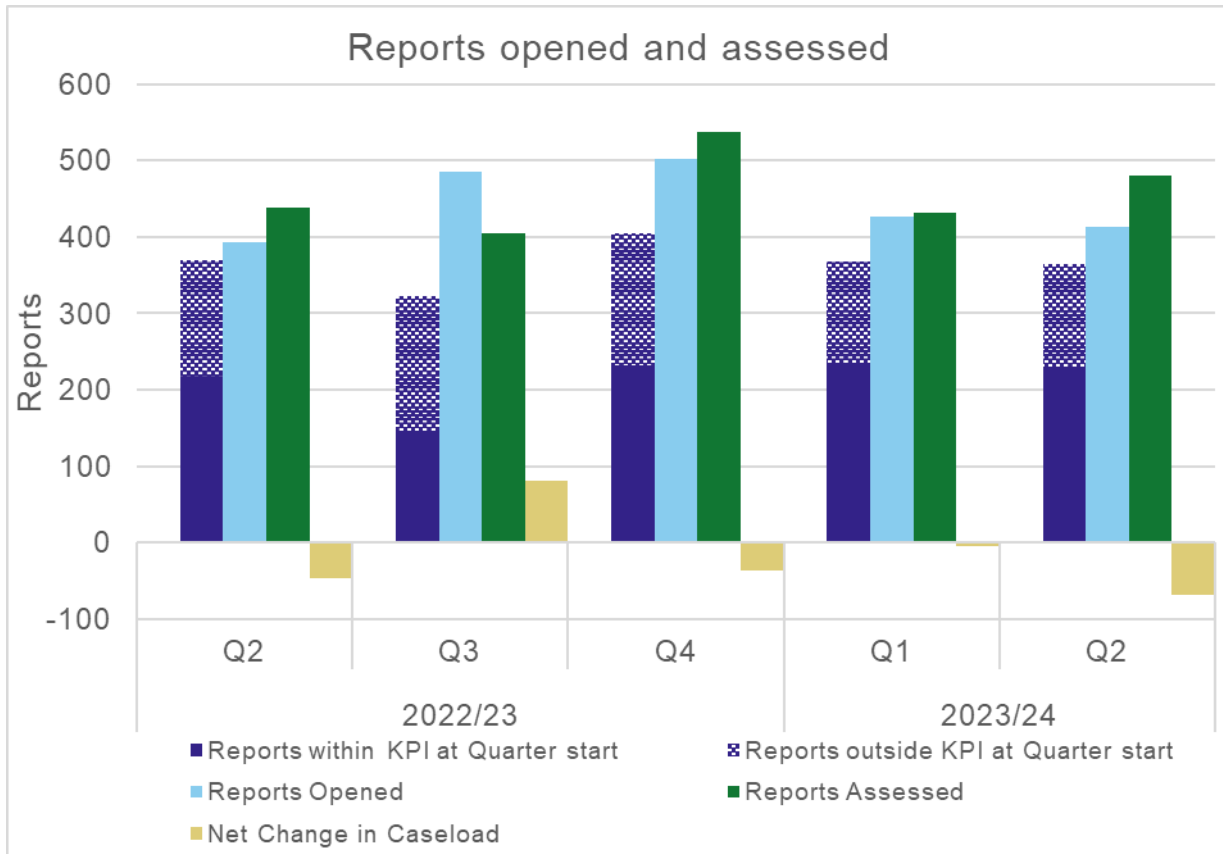
2. The team has improved initial assessment throughput this quarter and maintained a stable level of performance over the past 12 months, albeit below KPI.

**General Enquiries**



- Since August 2023, the CAT Assessment Assistants have been handling the vast majority of general queries, which was not the case previously. This has created additional capacity for the Assessment Officers to focus on reports. However, this quarter the team received an increased volume of enquiries at a level not seen since the same quarter of 2022/23, resulting in a slight net increase in caseload.

**Reports**



- There has been a sizeable net reduction in reports workload in quarter 2, this is almost entirely attributable to increased output in September which coincided with a relatively slow month for new cases coming in (129 opened, compared to 179 closed in September). We will monitor whether this increased output can be sustained over quarter 3. Total caseload by month.

**Live cases**

**Snapshot at the close of Q2 of 2023-24**

Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
<b>General Enquiries</b>			
General enquiries addressed (5 days)	5	0	0%
General enquiries referred (3 days)	1	0	0%
<b>Initial Assessment</b>			
Concluded or referred (8 weeks)	300	139	46%
<b>Total</b>	<b>306</b>	<b>139</b>	<b>45%</b>

5. While the percentage of over-running cases has increased slightly this quarter (from 37% to 45%), the total number of live cases has decreased by 65.

### **Commentary**

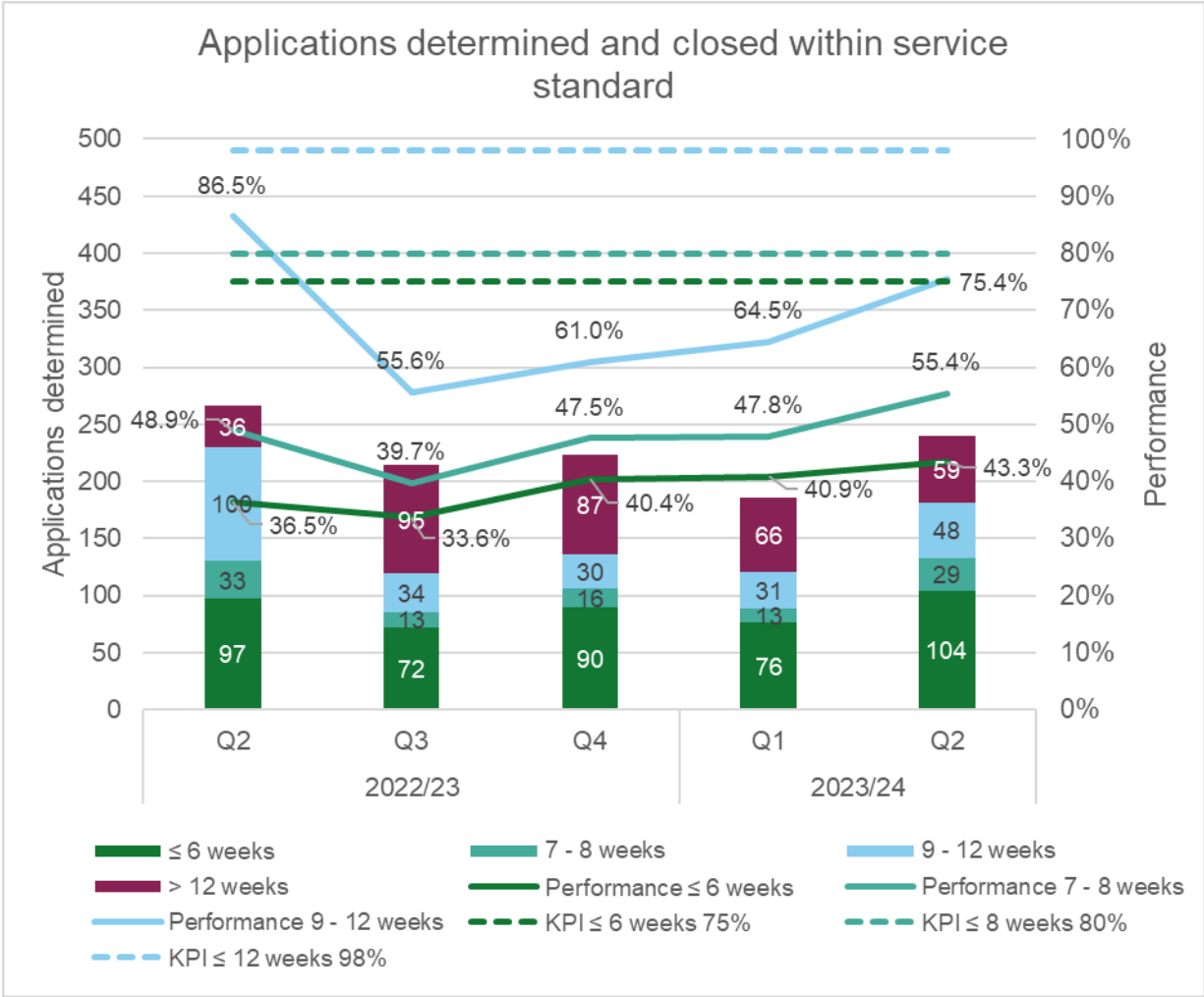
6. This quarter, an additional permanent Assessment Assistant (AA) started in the team. The positive impact of this additional resource is evident in the team's increased productivity and performance against KPI in relation to general enquiries. In addition to dealing with general enquiries, AAs have also been dealing with lower risk reports, to support the team with progressing casework.
7. The team is currently recruiting further resources in the form of a qualified lawyer, on a part-time basis. This post will replace a vacant Assessment Officer post. We decided to recruit this as a legally qualified role instead of a like-for-like replacement, as there is currently just one 'legal' role in the team, and we took the view that additional legal support would be beneficial. We expect to see the impact of this increase in resources in early 2024.
8. This quarter four Customer Satisfaction surveys were returned, all relating to reports. For the ease of access questions, 7 of 8 (88%) had positive responses. For quality of communication questions, 5 of 15 (33%) had positive responses. Finally, for timeliness questions, 1 of 7 (14%) had positive responses.

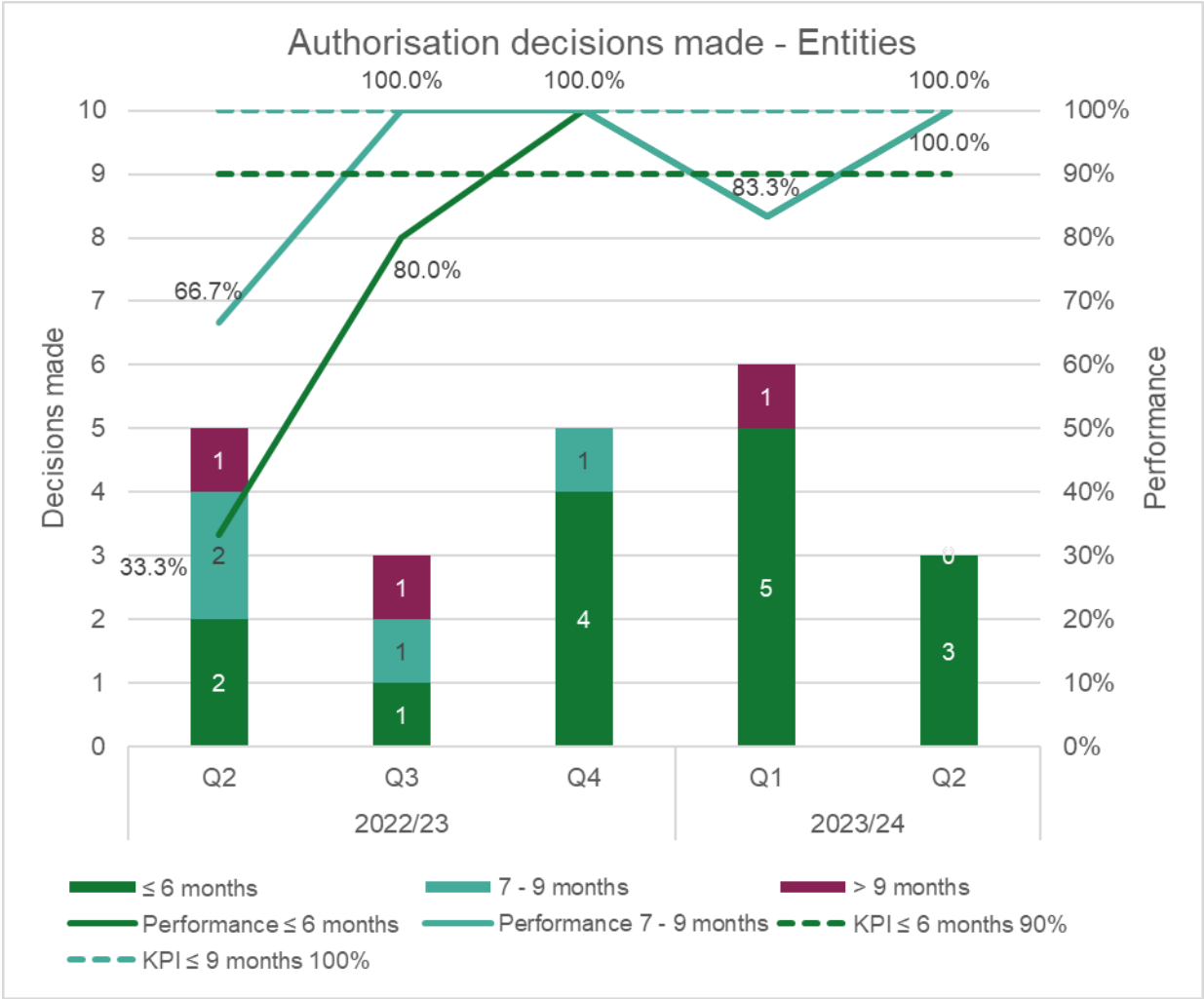
### **Authorisations**

#### **Key points**

- There have been small improvements in the three performance measures over the last four quarters.
- Similarly, more applications were decided in quarter 2 2023/24 than in the previous three quarters.

KPIs and performance data





9. Despite the increased numbers of decisions, the team has yet to return to performance levels seen in quarter 4 of 2021/22 (i.e., the last quarter before the cyber-attack). In 2020/21 and 2021/22 the team regularly approached or exceeded 300 decisions in a quarter (peaking at 370 decisions in quarter 2 2021/22).

**Live cases**

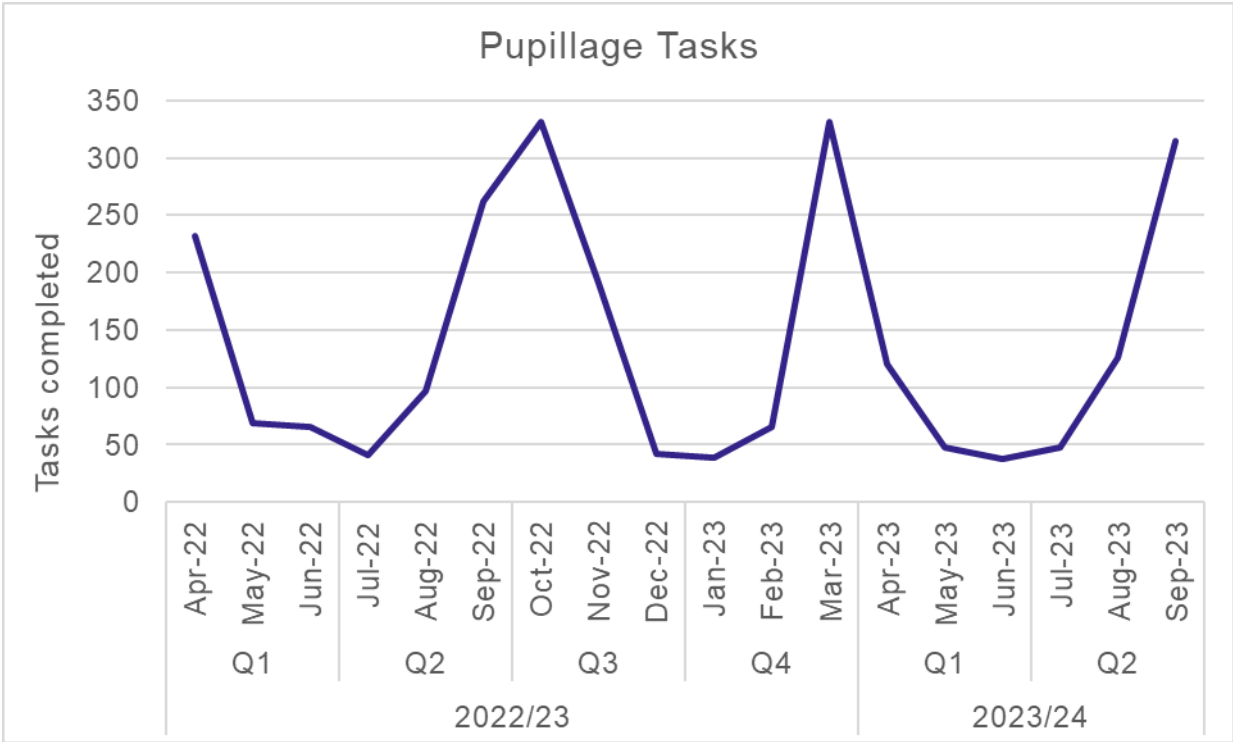
Snapshot at the close of Q2 of 2023-24

Operational Indicator	Total Open Applications	Over-running Applications	Percentage Over-running
<b>Waiver applications</b>			
Decisions made (12 weeks)	650	415	64%
<b>Total</b>	<b>650</b>	<b>415</b>	<b>64%</b>

10. The percentage of over-running and open applications have increased from 51% and 580 respectively from quarter 1 2023/24. Almost 60% of this live workload is Transferring Qualified Lawyer (TQL) applications. See paragraph 29 for further analysis of this aspect.

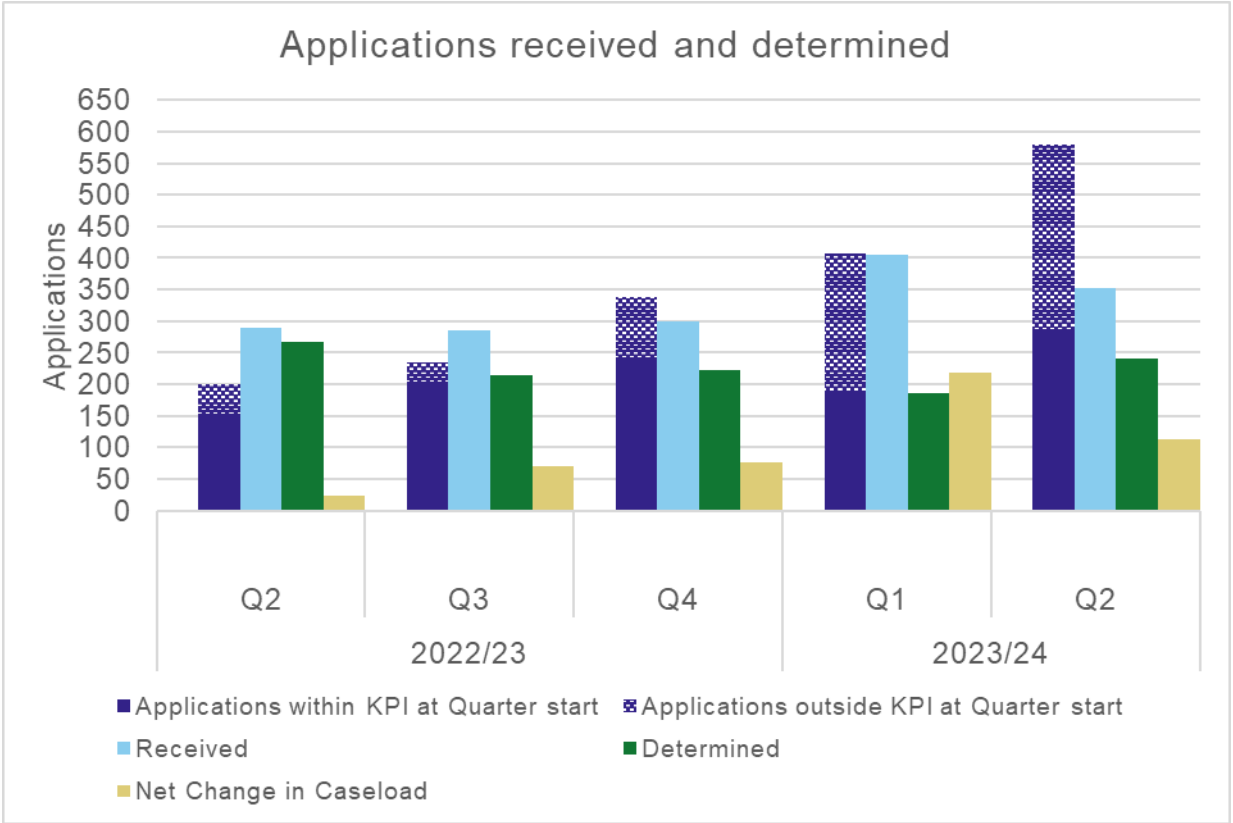


**Pupillage Tasks**



11. Pupillage tasks typically peak between August and October with both completions of pupillages registered the previous year and registrations of new pupillages. Over 45 pupillage reduction applications were received from Bar students.

**Applications received and determined**



12. Numbers of applications decided have not kept pace with numbers received, with the result that the backlog (including volumes open at quarter start, outside KPI and net change in caseload) has increased.

Application decided type	2022/23			2023/24	
	Q2	Q3	Q4	Q1	Q2
TQL	77 (29%)	87 (41%)	87 (39%)	60 (32%)	54 (23%)
Other applications	189 (71%)	127 (59%)	136 (61%)	126 (68%)	186 (78%)
<b>Total</b>	<b>266</b>	<b>214</b>	<b>223</b>	<b>186</b>	<b>240</b>

Proportion of Total Opens that are TQL applications by Quarter				
Fiscal Year	Q1	Q2	Q3	Q4
2021/22	24%	19%	30%	35%
2022/23	30%	30%	41%	54%
2023/24	43%	43%	-	-

Total Opens that are TQL applications by Fiscal Year and average per month		
Fiscal Year	TQL opened	Monthly average
2021/22	280	23
2022/23	433	36
2023/24 <sup>1</sup>	326	54

13. We have included in the three tables above some additional information on the impact of TQL applications as a proportion of overall caseload. We have analysed the KPI breakdown for decisions on TQLs (e.g., how many took less than six weeks, how many took more than 12). In general, the age distribution of TQL decisions was in line with the age distribution for other application types and there is no suggestion that they make up the bulk of the older decisions.
14. However, the overall number of TQL decisions has dropped over the last two quarters, both in terms of absolute numbers and as a proportion of the total number of decisions across the team. This is shown in the first of the new tables added. This may be attributable to time-sensitive application types received at this time of year, including academic component applications (e.g., Certificates of Academic Standing, Reactivation of Stale Qualifications), Pupillage Funding and Advertising Waivers. TQLs continue to make up the largest proportion of the caseload as an application type.

### Commentary

15. During this quarter the team experienced an increase in both Certificate of academic standing applications (for courses starting in September/October 2023) and AETO decisions. Also, during this quarter, there has been a rise in review requests which have required referral to the Independent Decision-Making Body. There is no identifiable trend here, with the requests being made up of reviews of ICC decisions, TQL applications and pupillage reductions.

<sup>1</sup> April – September 2023.

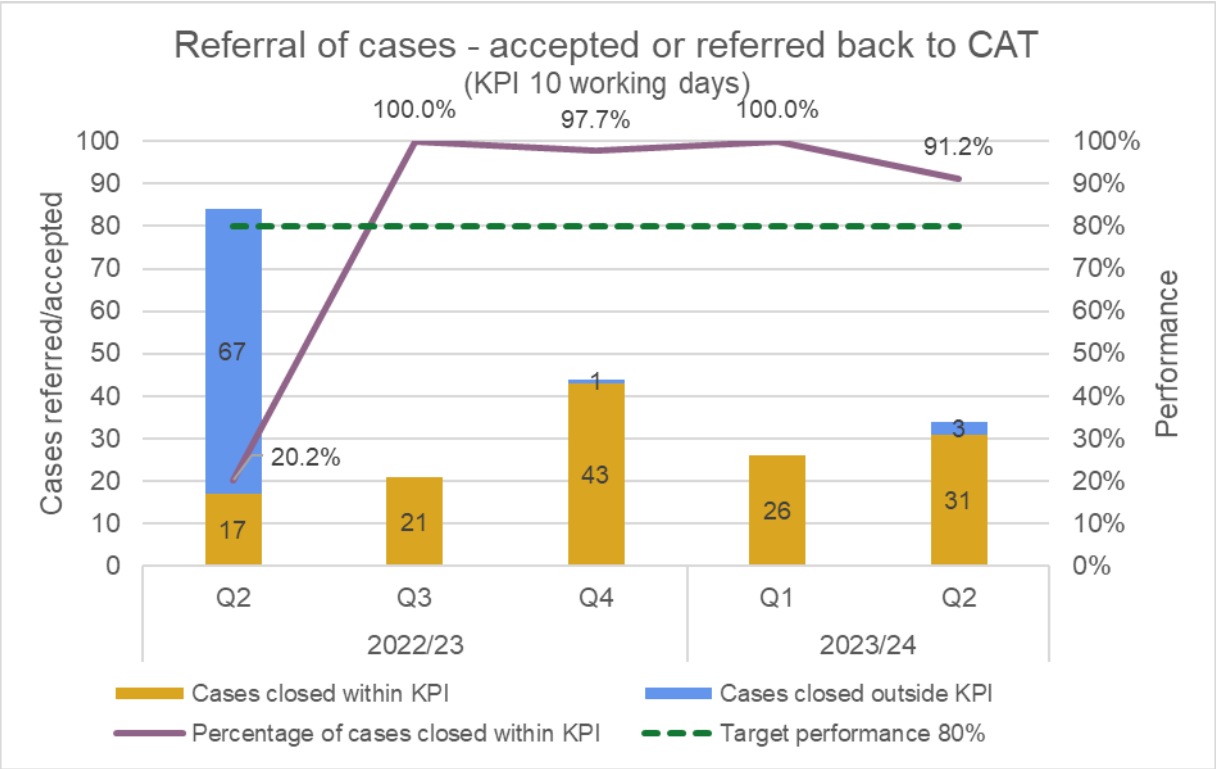
- 16. Despite the slight reduction in TQL applications received in quarter 2, and due to high volumes received in previous quarters, there are still around 400 of these in the backlog which are awaiting assessment. We are continuing to analyse the data (including the originating jurisdiction, quality of supporting evidence, and applicants' professional backgrounds, among other information) to identify trends and learning.
- 17. The team has also been recruiting to fill the two additional posts identified as necessary through a resourcing review, as well as backfilling one vacancy and filling another permanent vacancy at Assistant level. We anticipate that the impact on productivity and performance will be evident from quarter 3 onwards. We intend to target most of this additional resource on TQLs to address the backlog.
- 18. Application fees for all of the Authorisations application types will be increased in 2024/25, in line with inflationary increases since the fees were last reviewed. As this has been a period of several years, some of the fee increases will be quite substantial. This may prove to be a disincentive to some applicants, which may lead to a reduction in application numbers; however, it is not possible to predict exactly what the outcome of the increased fees is likely to be, at this stage.

**Investigations and Enforcement**

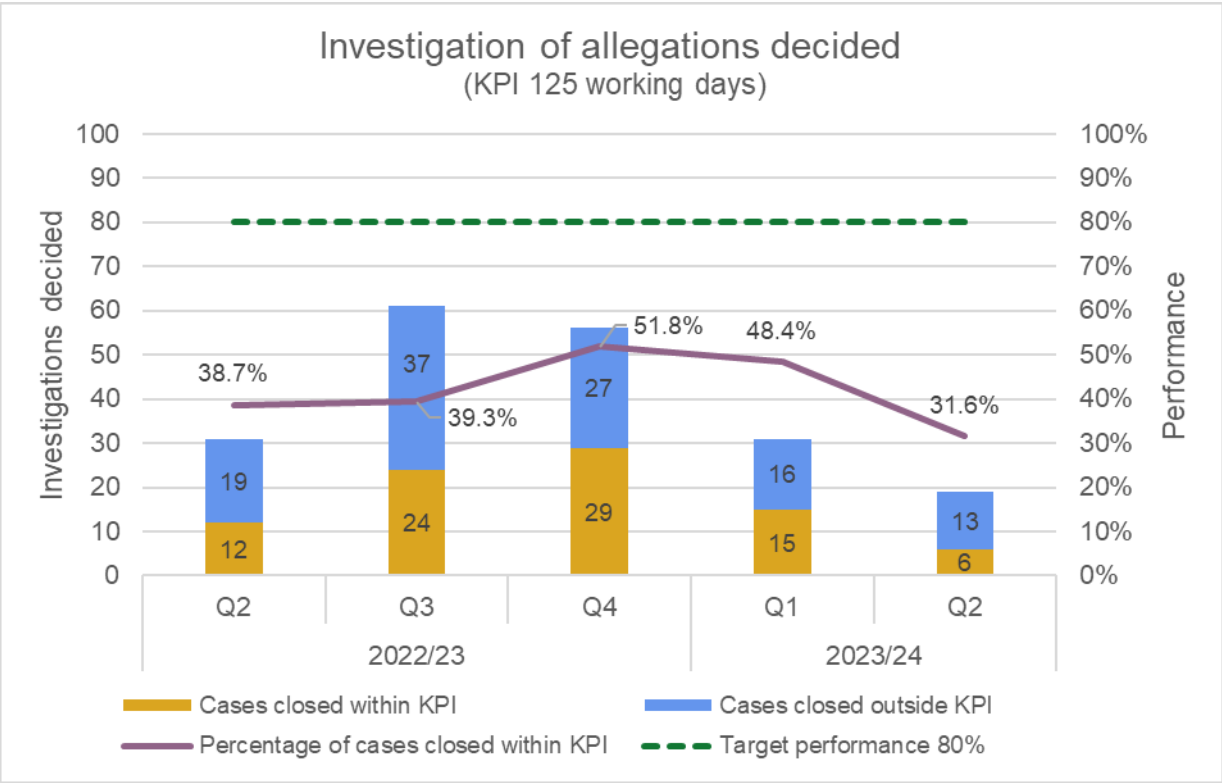
**Key points**

- Performance against timeliness KPIs has dipped, as have numbers of investigations closed.
- Numbers of cases referred by CAT have increased.
- KPIs for quality indicators have all been met and there have been no appeals of Disciplinary Tribunal decisions this quarter.

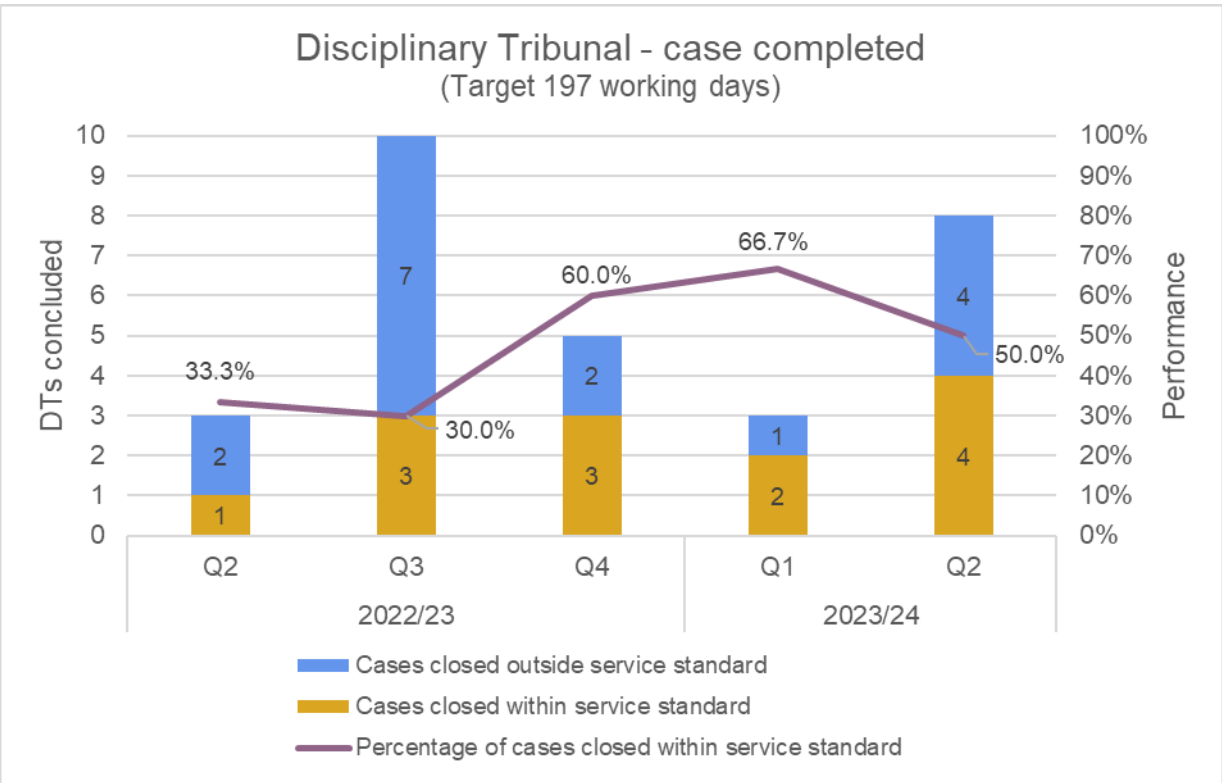
**KPIs and performance data**



19. The team continues to keep pace with referrals from CAT, despite increased numbers this quarter and performance has exceeded this KPI in every quarter for the last 12 months.



20. This quarter has seen the lowest number of investigation decisions since the beginning of 2022/23 and is a considerable reduction on the number of investigations concluded in the two previous quarters under the Accelerated Investigations plan. The reasons for this are outlined at paragraph 26 below.



21. The number of cases concluded at Disciplinary Tribunal increased this quarter and reflects the increased throughput of cases under the Accelerated Investigations plan.

### Live cases

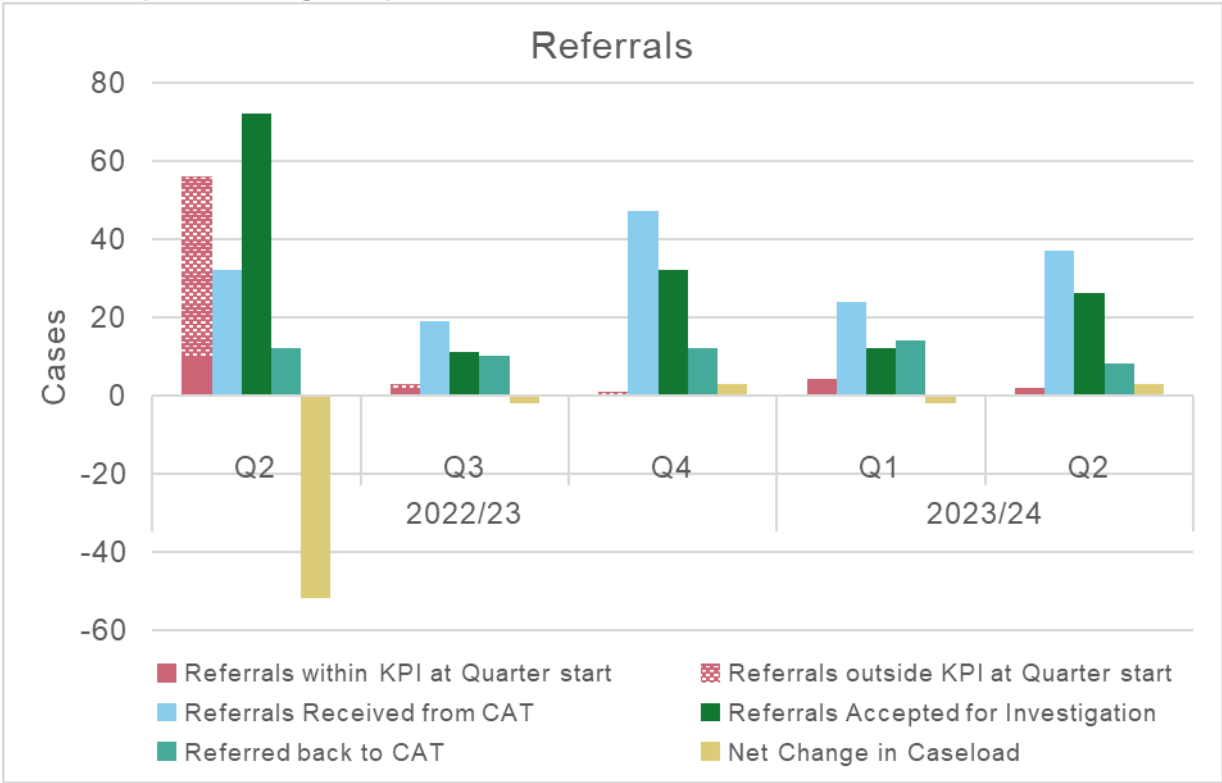
Snapshot at the close of Q2 of 2023-24

Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
<b>Referral of cases</b>			
Accepted or referred back (2 weeks)	5	1	20%
<b>Investigation</b>			
Decision on disposal (25 weeks)	88	28	32%
<b>Total</b>	<b>93</b>	<b>29</b>	<b>31%</b>

Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
<b>Determination by Consent</b>			
Process completed (93 working days)	1	0	0%
<b>Disciplinary Tribunal</b>			
Cases concluded (197 working days)	57	20	35%
<b>Total</b>	<b>58</b>	<b>20</b>	<b>34%</b>

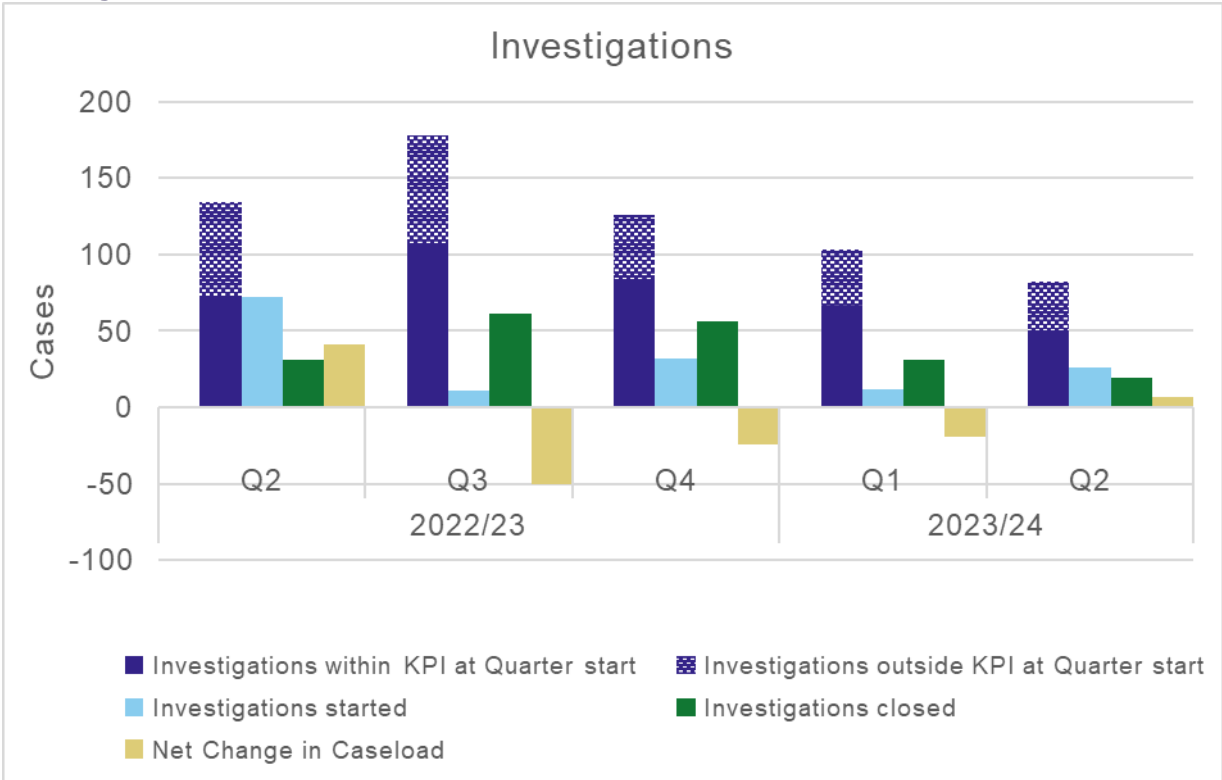
22. The percentage of cases over-running at referral stage is within tolerance (KPI being 80%). For investigations, 24 of these 88 cases were on hold at the end of quarter 2 (27%) thus reducing the active pool of investigations cases to 64. The percentage of over-running cases at the investigation stage has reduced from 40% last quarter to 32% with the overall number of cases at this stage increasing from 82 to 88.

**Referrals (Pre-investigation)**



23. In quarter 2, 24% of cases were referred back to CAT (8 out of 34 cases). This is a lower percentage than in the previous three quarters but still a high number that needs to be reduced.

**Investigation cases**



24. Investigation workload started to increase again in August and September 2023, after an overall decrease since Q3 of 2022/23 as a result of the accelerated investigations plan.

### **Commentary**

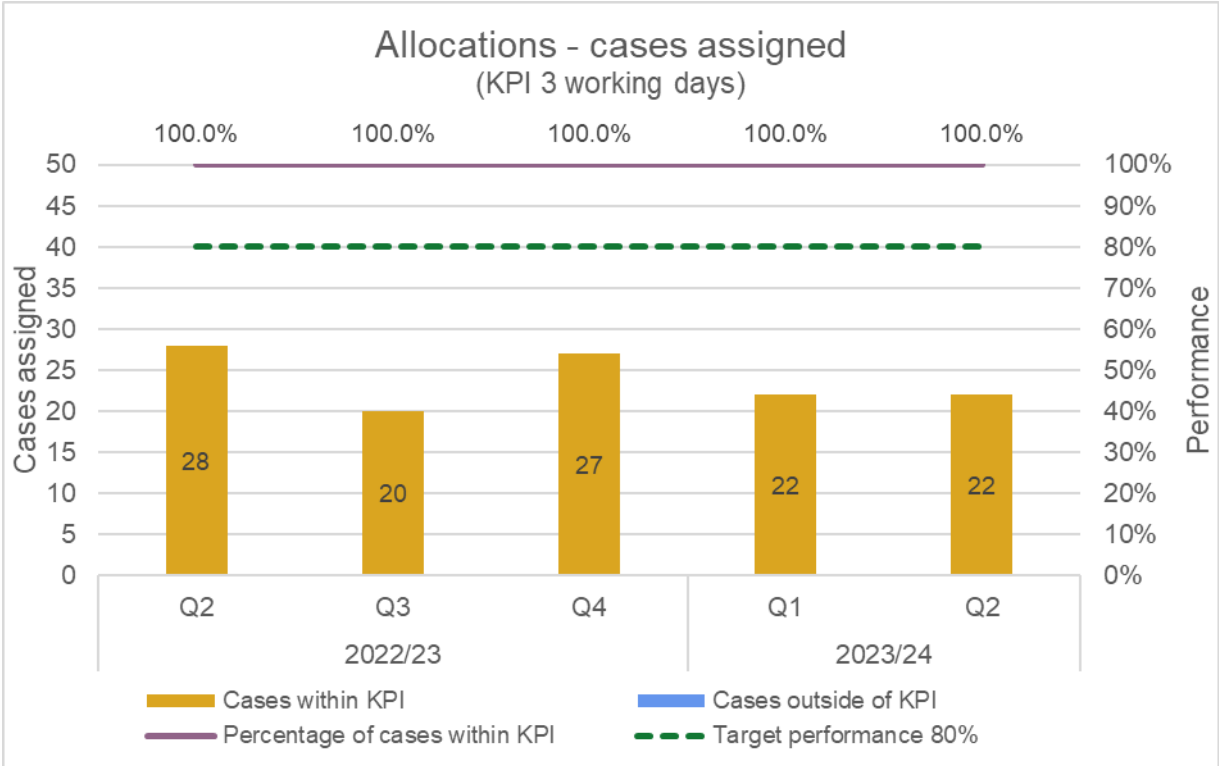
25. The statistics above demonstrate that the composition of the enforcement caseload has changed substantially since last year. The team continues to accept referrals made by CAT within the KPI target and therefore, because such referrals move through the system quickly, they form a very low proportion of the live caseload. There are still issues with the number of cases that are being referred back to CAT as not suitable for investigation albeit that the number has reduced. The teams continue to work on reducing this number by improving communications between the teams prior to referral. This part of the process has been identified in the Enforcement Review as an area of weakness.
26. It is noticeable that the number of investigation cases closed has reduced significantly this quarter, representing a substantial slowdown in throughput. Managers are keeping a close eye on the progress of cases to ensure they are closed as swiftly as possible. The slowdown is due to the current composition of the caseload:
- a. The overall investigations caseload is lower than it has been since the beginning of 2022/23 and this, combined with the high number of cases that are on hold (24 of 88 at the end of the quarter) means there has been a contraction in the number of investigation cases available for closure.
  - b. The investigations caseload is getting younger with around 68% of the live investigations sitting within the KPI target and therefore fewer cases in the quarter reached the stage where they were ready to be closed.
  - c. In Q2 only 3 cases out of the 19 closed (16%) were the subject of a staff decision as compared to 17 staff decisions in the same quarter last year out of 31 closed (54%). This is a reflection of the complexity of the caseload and the low number of straightforward cases within the caseload that can be closed swiftly (see also paragraph 29 below).
27. The reduction in investigation cases closed is in contrast to the increase in Disciplinary Tribunal cases concluded in the quarter. Eight Tribunals were concluded - the same number as the combined total of the previous two quarters. Tribunal cases now form nearly 40% of the caseload as compared to 16% at the end of Q2 last year. Such cases can require intense work and take up considerable resources. The balance between the resource devoted to progressing investigations and Tribunal cases is an issue that is being considered in the Enforcement Review.
28. The team recently introduced a system of rating all cases in terms of complexity as a means to determine whether performance is related to the nature of the cases within the caseload. The system has been running for two quarters and is still bedding in. The complexity rating for a case runs from 1-5 with 1 representing simple cases that have very limited investigation and 5 being the most complex cases involving voluminous documentation, multiple witnesses and complex issues.
29. The position at the end of the quarter was that 60% of the active investigation cases were classed at 3 or above in terms of complexity (with 25% rated 5) and only 15% rated as 1. The caseload therefore is weighted towards the higher end of complexity and there are relatively few straightforward cases in the system that can be closed quickly and/or by staff decision.

Supervision

Key points

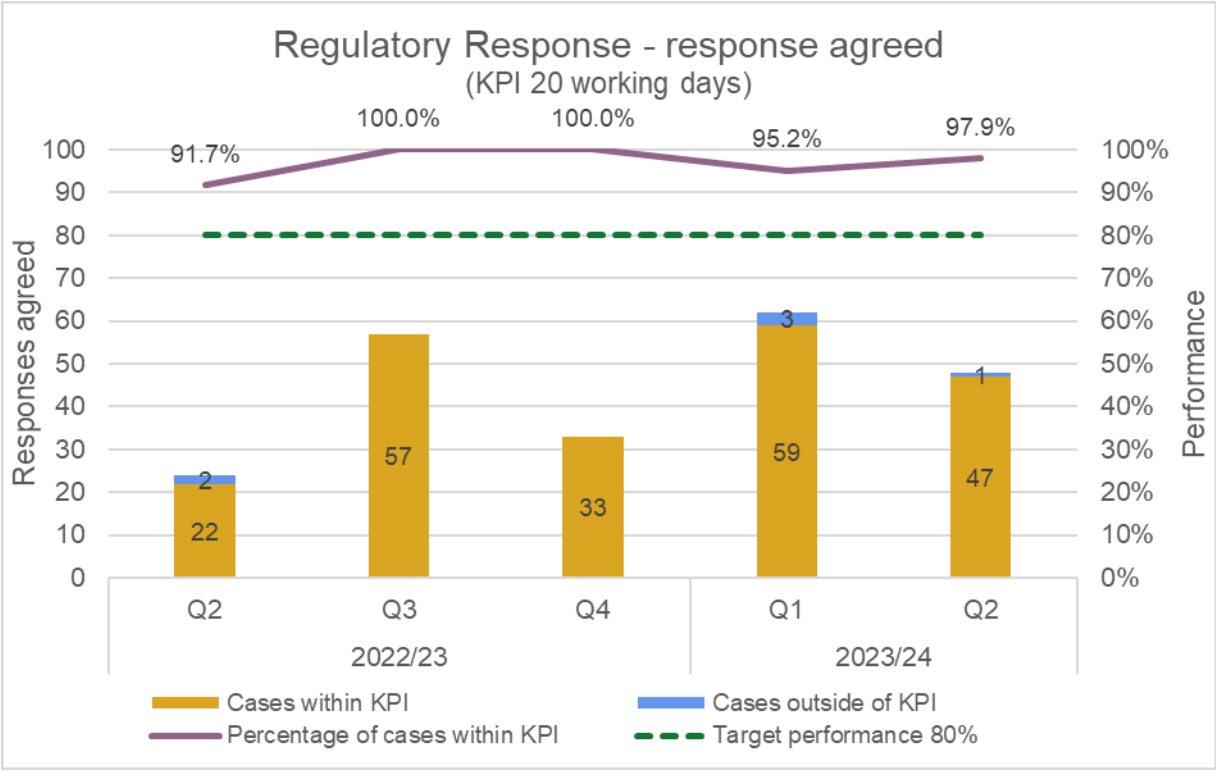
- KPIs for allocations and Regulatory Responses have again been exceeded.
- The KPI for visit report letters has not been met but there was only one such case within the quarter.
- The productivity of the team is almost double what it was last year.

KPIs and performance data

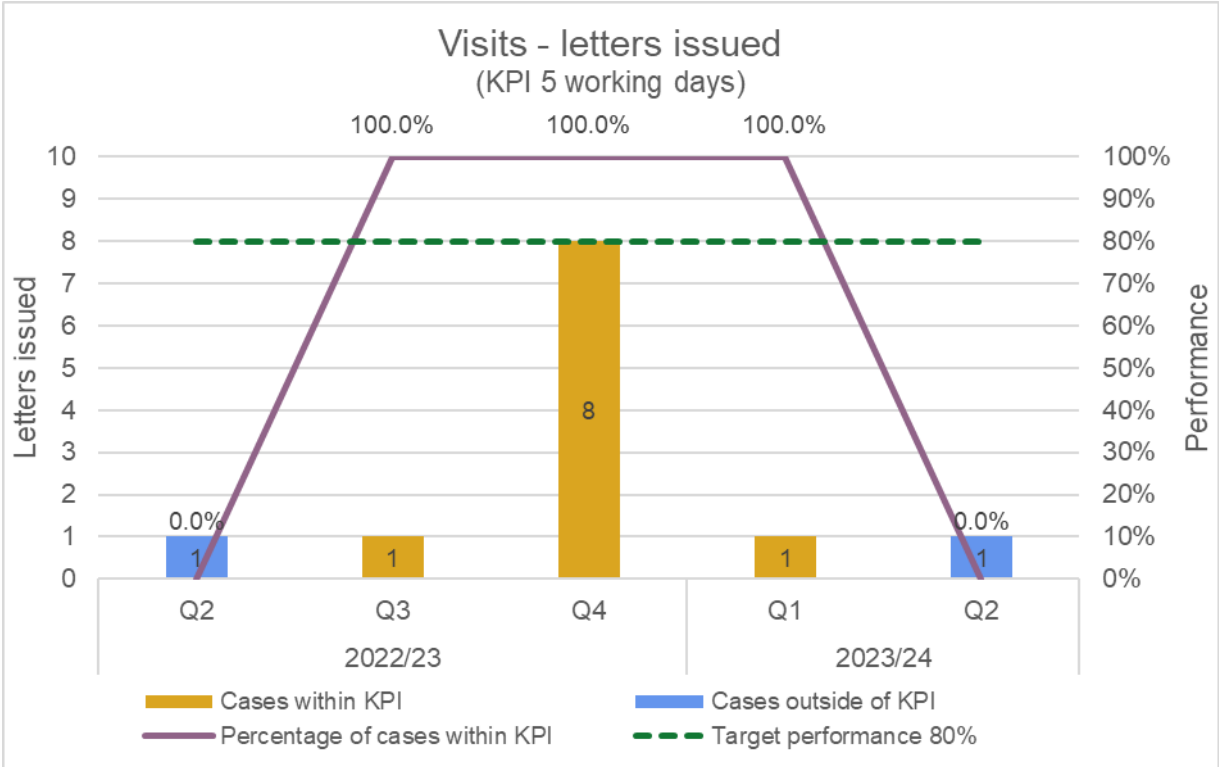


30. Numbers of new cases has been broadly consistent over the past 12 months.





31. The number of regulatory responses agreed outside KPI fell from 3 last quarter to 1 this quarter, meaning that performance against the target improved.



**Live cases**

Snapshot at the close of Q2 of 2023-24

Case Type	Total Open
<b>All Excluding Regulatory Reports</b>	
All cases	90
Of which have 'Hold – I&E' status	16
<b>Regulatory Returns</b>	
All cases	26

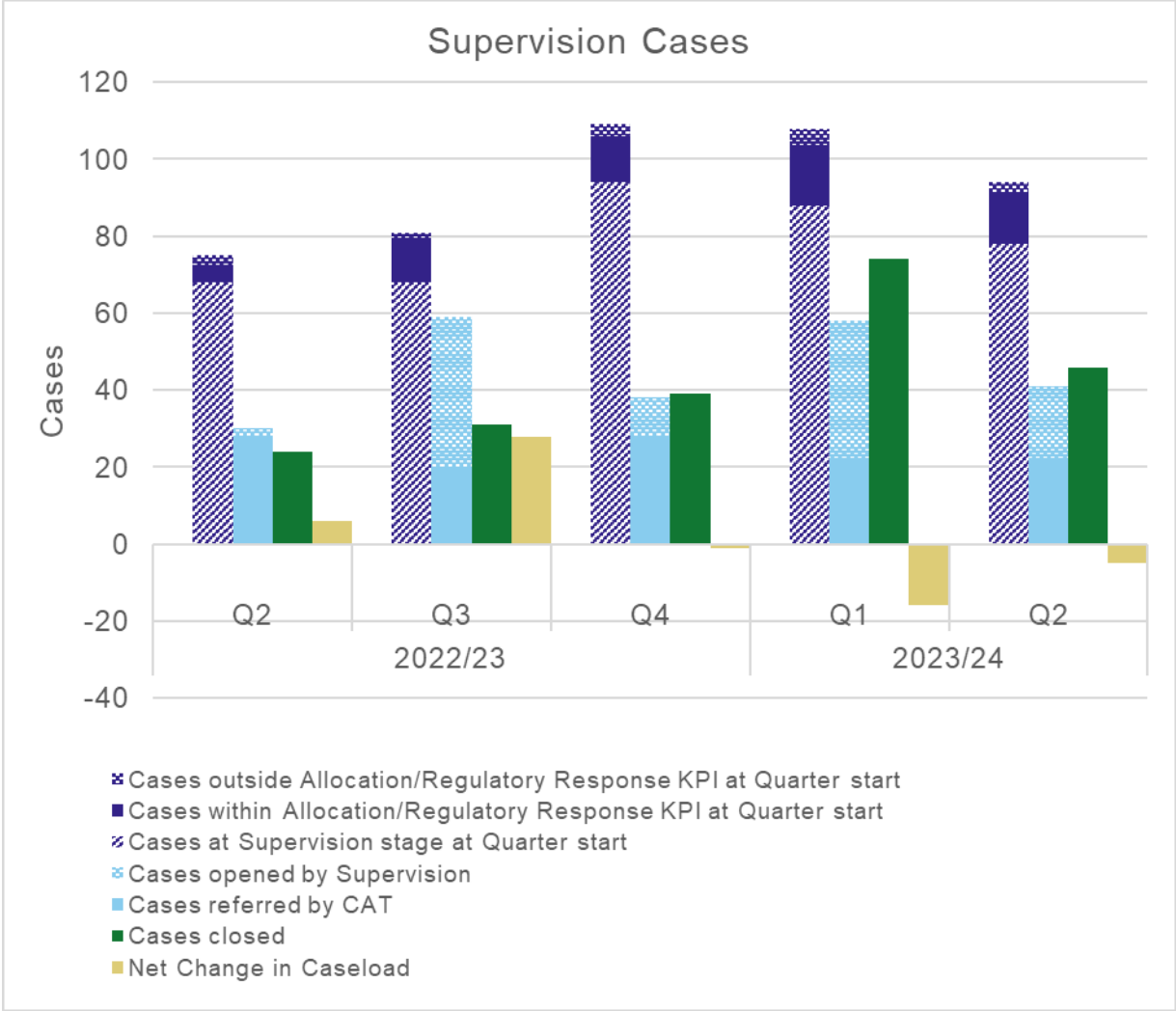
32. Live cases have reduced in all categories, for the second quarter in a row, meaning that overall caseload has dropped from 154 to 132.

**Snapshot of open actions agreed with barristers, chambers, entities and AETOs**

Year	Quarter	Actions open at close of quarter	Actions Outside Due Date	Actions where due dates were revised	Total cases with open actions
<b>Cases opened by Supervision or referred from CAT</b>					
2023/24	Q2	35	34	8 (22.9%)	10
<b>Regulatory Returns</b>					
2023/24	Q2	30	30	13 (43.3%)	6

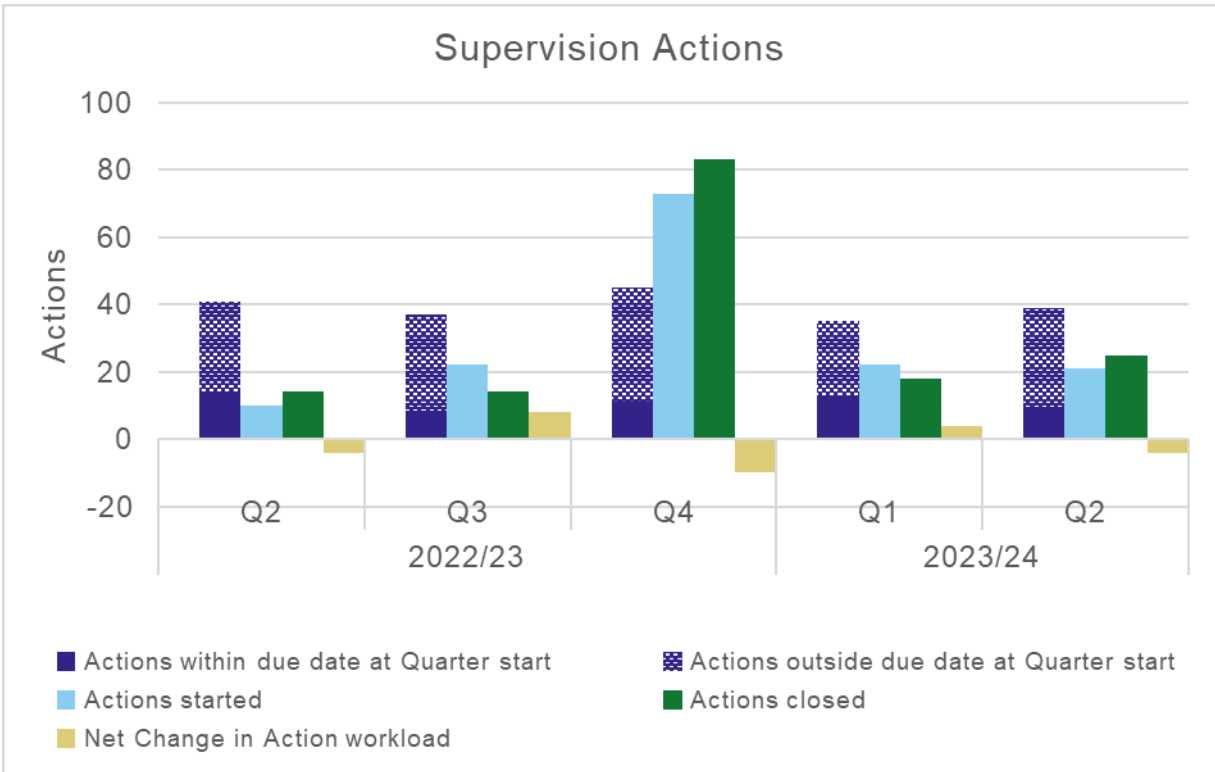
33. Open actions outside due date have decreased marginally for those cases opened by Supervision or referred from CAT (from 40 last quarter). However, the sharpest drop has been in the Regulatory Return category, which has fallen from 89 last quarter to 30 in quarter 2.

Supervision open case volumes excluding Regulatory Returns

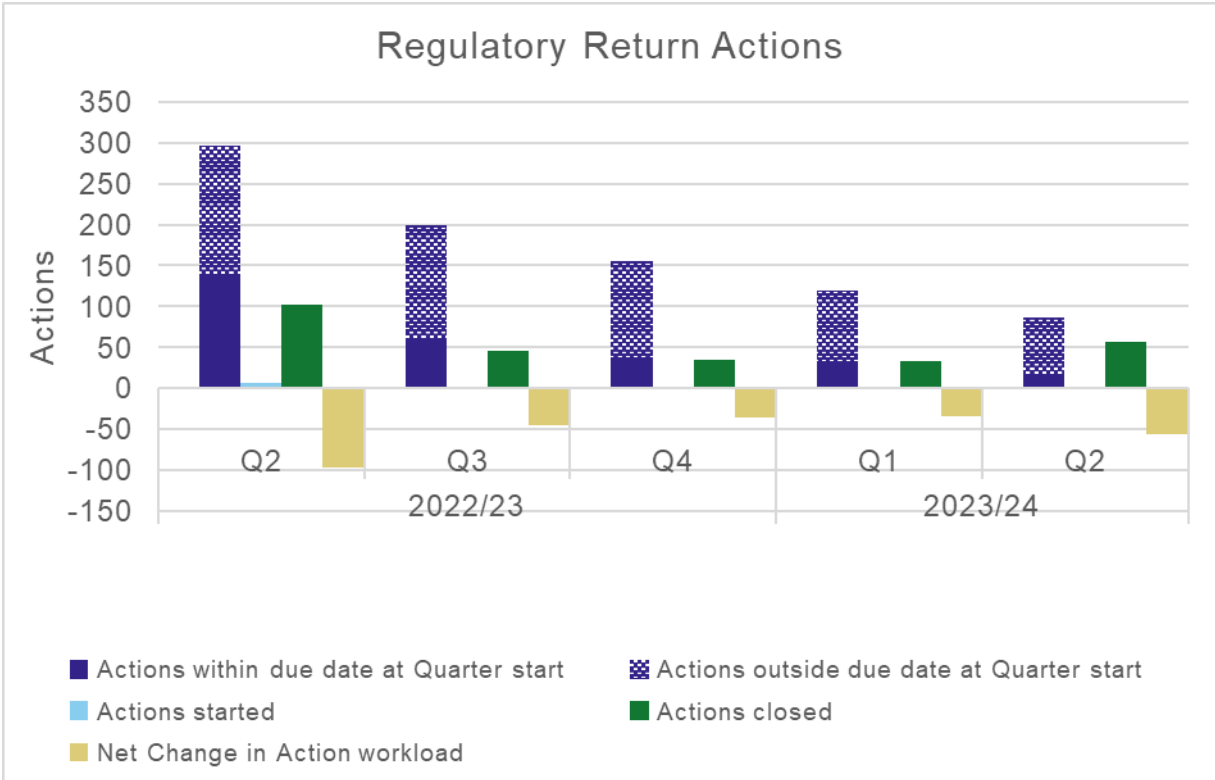


34. The team has continued to close more cases than were opened for the third quarter in a row, resulting in a corresponding net reduction in caseload and cases outside KPI.

Throughput of actions agreed with barristers, chambers, entities and AETOs



35. The team have closed more actions than were opened this quarter, resulting in a small net reduction in caseload.



36. Due to the focus on closing Regulatory Return actions, this workstream has experienced a dramatic decrease in workload (over 50). Most of the actions remaining are outside KPI, but this piece of work is nearing conclusion.

## Commentary

37. Transparency spot check and Regulatory Return cases have reduced substantially on last quarter, although thematic work on Anti-Money Laundering cases continues.
38. Referrals from CAT are stable and there are fewer Hold I&E cases than previously. Knowledge has been shared within the team, for example on money laundering and pupillage, which has increased capacity and flexibility.
39. Across Reports and thematic reviews, the team has closed more cases in quarters 1 and 2 than in the whole of last year (120 vs 118). The bulk of the work on the Regulatory Return open cases is complete, although some thematic reports still need to be written, and this has freed up Officer time to focus on closing other cases. There has not been a reporting period to date in which the Regulatory Return has not had an impact, so we will continue to monitor the effect on the team's workload.



Business Plan Summary		
Aim	Activity	Status
1. Efficiency	End-to-end review of enforcement	
	Conclude authorisations review and begin implementation	
	Review processes followed by the Independent Reviewers.	Complete
	Implementing recommendations from Deloitte operating systems review	
	Developing a balanced scorecard (to report on performance)	
	Review of our risk framework	
	Ensure Handbook is easily navigable and easily understood	
2. Standards	Reviewing regulatory requirements during early years of practice and for CPD	
	Strengthening our intelligence gathering and sharing	
	Assessment of advocacy and negotiation skills during pupillage	
	Thematic review of admission arrangements of AETOs, how standards are maintained	
	Concluding review of regulation of conduct in non-professional life	Complete
	Clarify expectations of chambers - partic. in promoting high standards, access and equality	
3. Equality	Reviewing the Equality Rules	
	Research into pupillage recruitment	
4. Access	Public legal education strategy	
	Compliance with our transparency rules	
	Examining the role of new technology in the legal services market	
	Researching online Digital Comparison Tools	
	Reviewing role of intermediaries and our association rules	
5. Independence	Periodic IGR review	
	Governance reforms in our Well led action plan and LSB action plan	
	Promoting engagement and collaboration	
	Putting our values into action	
	Reforming reward and recognition	
Note/s		RAG
1 Index is a calculation of the actual versus budget, multiplied by 100 - showing how far above or below budget the actuals are. For example, index 120 means 20% above budget and index 80 means 20% below budget.		On Track
		Delayed
		Delayed > 6 months
		On hold / deferred
		Closed

KPI Summary		C&A - General Enquiries		C&A - Initial Assessment
On target	9	General enquiries addressed (5 days) - 80%	General enquiries referred (3 days) - 80%	Concluded or referred (8 weeks) - 80%
<10% below target	0	96%	83%	59%
>10% below target	7			
I&E - Referral of Cases	I&E - Investigation	I&E - Quality Indicators		
Accepted or referred back (2 weeks) - 80%	Decision on disposal (25 weeks) - 80%	Original decision upheld by IR following review - 95%	Successful appeals against admin. Sanctions - 0%	Successful appeals of DT where BSB is responsible - 0%
91%	32%	100%	100%	0%
Authorisation - Authorisation, Exemptions & Waivers			Authorisation - Entity Authorisation	
Applications determined (6 weeks) - 75%	Applications determined (8 weeks) - 80%	Applications determined (12 weeks) - 98%	Authorisation decisions made (6 months) - 100%	Authorisation decisions made (9 months) - 100%
43%	55%	75%	100%	100%
	Supervision - Allocations	Supervision - Reg. Response	Supervision - Visits	
	Cases assigned after referral from CAT (3 days) - 80%	Regulatory response agreed (20 days) - 80%	Visit report letters issued (5 days) - 80%	
	100%	98%	0%	

Financial Summary				
Category	Q2 YTD Actual (k)	Q2 YTD Budget (k)	Variance (k)	Index <sup>1</sup>
Income	6,576	6,649	-73	99
Expenditure	7,013	7,556	544	93
Category	FY Forecast (k)	FY Budget (k)	Variance (k)	Index <sup>1</sup>
Income	15,147	14,657	490	103
Expenditure	15,755	15,269	-486	103

Corporate Risk Summary (Action Priority)				
Period	High	Medium-High	Medium	Low
Q1 23/24	5	6	11	3
Q2 23/24	6	5	12	3

Directorates		% of occupied posts
CPE	Communications and Public Engagement	75%
G&CS	Governance & Corporate Services	100%
LED	Legal & Enforcement	96%
ROD	Regulatory Operations	81%
S&P	Strategy & Policy	75%

Service Complaints Summary				
Q2 Received	14	YTD Received / Upheld (fully or partly)	24	16 (14 fully and 2 partly)





<b>Meeting:</b>	BSB Board meeting	<b>Date:</b>	Thursday 30 November 2023
<b>Title:</b>	Annual Report to the Board on Bar Training		
<b>Authors:</b>	<b>Multiple authors:</b> Dr Victoria Stec, Natasha Ribeiro, Charlie Higgs, Julia Witting, Julie Carruth, Hayley Langan, Laura Gray, Sophie Maddison, Oliver Jackling, Ben Margerison		
<b>Post:</b>	Head of Qualifications, Assessment Lead, Examinations Manager, Head of Supervision, Supervision Managers, Senior Regulatory Officer (Supervision), Head of Authorisation (Operations), Research and Evaluation Manager, Research and Evaluation Officer.		

<b>Paper for:</b>	Decision: <input type="checkbox"/>	Discussion: <input checked="" type="checkbox"/>	Noting: <input type="checkbox"/>	Other: <input type="checkbox"/> (enter text)
-------------------	------------------------------------	---	----------------------------------	--

<b>Paper relates to the Regulatory Objective (s) highlighted in bold below</b>	
(a)	<b>protecting and promoting the public interest</b>
(b)	supporting the constitutional principle of the rule of law
(c)	improving access to justice
(d)	<b>protecting and promoting the interests of consumers</b>
(e)	promoting competition in the provision of services
(f)	<b>encouraging an independent, strong, diverse and effective legal profession</b>
(g)	increasing public understanding of citizens' legal rights and duties
(h)	<b>promoting and maintaining adherence to the professional principles</b>
<input type="checkbox"/>	Paper does not principally relate to Regulatory Objectives

### Purpose of Report

1. To provide the Board with strategic oversight of the operation and outcomes of Bar Training. The report draws together the work of teams from across the organisation.

### Executive Summary

2. The report (Annex 1) offers an overview of Bar training covering the period from September 2022 to November 2023. It offers the Board insight into how standards in Bar training during both the vocational and pupillage components have continued to be set, met, and assured specifically in the following ways:
  - (a) how the four key principles of Bar training (flexibility, accessibility, affordability and high standards) continue to be sustained in the delivery of Bar training and in our decision-making and further developments;
  - (b) how the processes for authorising, assessing, monitoring and evaluating Bar training are working now that training reforms have become 'business as usual';
  - (c) how we have dealt with issues that have arisen during the year.
3. The report overall indicates a range and variety of measures of assurance that are in place to give the Board confidence that regulatory oversight of Bar training is being managed in a way that ensures the integrity of delivery by the training providers. Where relevant we indicate where further detail can be found should any Board members wish to explore a particular topic in more depth.

4. Key points of note since September 2022 and considered in more detail in the report are:
- (a) the decision to vary the authorisation of the University of Hertfordshire to deliver vocational Bar training;
  - (b) allegations of cheating in online assessments;
  - (c) commencement of the Thematic Review of vocational AETO admissions arrangements and how they support student progression;
  - (d) the impact of the resit policy on diversity;
  - (e) the impact on prospective vocational Bar training students of the University and College Union (UCU) marking boycott;
  - (f) the development of a barrister apprenticeship;
  - (g) the possibility of authorising a work-based learning (pupillage) provider outside of England and Wales;
  - (h) the development of advocacy and negotiation courses during pupillage; and
  - (i) commencement of research into barriers to diversity in pupillage recruitment.

### Equality, diversity and inclusion

5. The BSB believes that the Bar should be inclusive and reflect the diversity of society across all levels of the profession. Our equality objectives are to:
- (a) clarify the BSB's expectations of the Bar concerning equality, diversity and inclusion and to highlight opportunities for change;
  - (b) hold the Bar to account for reducing racial and other inequalities across the profession;
  - (c) promote a culture of inclusion at the Bar and in legal services more generally; and
  - (d) build a diverse and inclusive workforce ensuring that the BSB is itself an example of the approach the BSB is promoting.
6. Our equality strategy sets out how we aim to meet those objectives which include: encouraging an independent, strong, diverse and effective legal profession; eliminating discrimination; advancing equality of opportunity; and fostering good relations between people who share a protected characteristic and those who do not.
7. Further information about the way we are advancing equality of opportunity and therefore enabling the Bar to reflect society can be found at:

Para 40-47      The impact of the resit policy on diversity Annex 4

Our analysis shows that if opportunities to resit assessments are limited, this directly impacts on students from an ethnic minority background, particularly Black students.

Para 101      Evidence of issues raised during pupillage that may affect access to a suitable learning environment.

Para 104-106      Commencement of research into barriers to diversity in pupillage recruitment.

This will provide additional evidence to help improve the BSB's knowledge of factors contributing to issues highlighted in previous research ie that prior academic attainment is the most common criteria for sifting pupillage applicants, which may favour those from more privileged backgrounds.

**Recommendation**

8. The Board is invited to discuss the report.

**Resource implications / Impacts on other teams / departments or projects**

9. The production of the annual report to the Board is now scheduled into the work plans of all teams concerned. There remains a question as to the optimum time of year for the report to be produced so that we have as much data on which to draw as possible, but without the data being too out of date. We will discuss this further and take any proposed changes for the timing of the report to SLT.

**Equality and Diversity**

10. Any significant changes or developments to Bar training are subject to Equality Impact Assessments.

**Risk implications**

11. Risk is embedded in everything we do and is reflected in this report where relevant.

**Communications and Stakeholder Engagement**

12. We strive to have an open and constructive dialogue with our key stakeholders. We are currently working with the Communications and Public Engagement team on the development of a stakeholder engagement strategy with all relevant stakeholders.

**Annex**

13. Annex 1 - Annual Report on Bar Training 2023



BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS



# Annual Report on Bar Training 2023

Produced by the Exams, Supervision, Authorisations and Research teams co-ordinated by the Head of Qualifications. If you would like this report in an alternative format, please contact the BSB Communications Team at [communications@barstandardsboard.org.uk](mailto:communications@barstandardsboard.org.uk)

# Contents

<b>Purpose of Report</b>	<b>1</b>
<b>Executive Summary</b>	<b>1</b>
<b>Equality, diversity and inclusion</b>	<b>2</b>
<b>Background</b>	<b>2</b>
<b>Vocational Component</b>	<b>3</b>
High Standards	4
Flexibility and Accessibility	8
Affordability	14
<b>Role of the Inns of Court during the Vocational Component</b>	<b>15</b>
High Standards	15
Flexibility, Accessibility and Affordability	15
<b>Pupillage Component</b>	<b>16</b>
High Standards	17
Flexibility	21
Accessibility	22
Affordability	24
<b>Annex 1</b>	<b>25</b>
<b>Annex 2</b>	<b>30</b>
<b>Annex 3</b>	<b>33</b>
<b>Annex 4</b>	<b>35</b>

# Purpose of Report

1. To provide the Board with strategic oversight of the operation and outcomes of Bar Training. The report draws together the work of teams from across the organisation.

## Executive Summary

2. The report offers an overview of Bar training covering the period from September 2022 to November 2023. It offers the Board insight into how standards in Bar training during both the vocational and pupillage components have continued to be set, met, and assured specifically in the following ways:
  - (a) how the four key principles of Bar training (Flexibility, Accessibility, Affordability and High Standards) continue to be sustained in the delivery of Bar Training and in our decision-making and further developments;
  - (b) how the processes for authorising, assessing, monitoring and evaluating Bar training are working now that training reforms have become 'business as usual';
  - (c) how we have dealt with issues that have arisen during the year.
3. The paper overall indicates a range and variety of measures of assurance that are in place to give the Board confidence that regulatory oversight of Bar training is being managed in a way that ensures the integrity of delivery by the training providers. Where relevant we indicate where further detail can be found should any Board members wish to explore a particular topic in more depth.
4. Key points of note since September 2022 and considered in more detail below are:
  - (a) the decision to vary the authorisation of the University of Hertfordshire to deliver vocational Bar training;
  - (b) allegations of cheating in online assessments;
  - (c) commencement of the Thematic Review of vocational AETO admissions arrangements and how they support student progression;
  - (d) the impact of the resit policy on diversity;
  - (e) the impact on prospective vocational Bar training students of the University and College Union (UCU) marking boycott;
  - (f) the development of a barrister apprenticeship;
  - (g) the possibility of authorising a work-based learning (pupillage) provider outside of England and Wales;
  - (h) the development of advocacy and negotiation courses during pupillage; and
  - (i) commencement of research into barriers to diversity in pupillage recruitment.

## Equality, diversity and inclusion

5. The BSB believes that the Bar should be inclusive and reflect the diversity of society across all levels of the profession. Our equality objectives are to:
  - (a) clarify the BSB's expectations of the Bar concerning equality, diversity and inclusion and to highlight opportunities for change;
  - (b) hold the Bar to account for reducing racial and other inequalities across the profession;
  - (c) promote a culture of inclusion at the Bar and in legal services more generally; and
  - (d) build a diverse and inclusive workforce ensuring that the BSB is itself an example of the approach the BSB is promoting.
6. Our equality strategy sets out how we aim to meet those objectives which include: encouraging an independent, strong, diverse and effective legal profession; eliminating discrimination; advancing equality of opportunity; and fostering good relations between people who share a protected characteristic and those who do not.
7. Further information about the way we are advancing equality of opportunity and therefore enabling the Bar to reflect society can be found at:

Para 40-47      The impact of the resit policy on diversity Annex 4

Our analysis shows that if opportunities to resit assessments are limited, this directly impacts on students from an ethnic minority background, particularly Black students.

Para 101      Evidence of issues raised during pupillage that may affect access to a suitable learning environment.

Para 104-106      Commencement of research into barriers to diversity in pupillage recruitment.

This will provide additional evidence to help improve the BSB's knowledge of factors contributing to issues highlighted in previous research ie that prior academic attainment is the most common criteria for sifting pupillage applicants, which may favour those from more privileged backgrounds.

## Background

8. Last year the Board received a report on Bar training covering the period from the start of the new Bar training courses in September 2020 to September 2022. The reforms to Bar training resulting from the Future Bar Training programme have almost all now been implemented and are subject to an ongoing programme of evaluation. The four key principles of reform were flexibility, accessibility, affordability and sustaining high standards and these principles continue to inform our approach to our ongoing work. Authorised Education and Training Organisations (AETOs) are authorised on the basis that they can assure us that they can meet the indicators of compliance relating to these principles, as set out in the Authorisation Framework. Last year's report on Bar training was the first opportunity to reflect on how well these principles had been implemented and were being realised through Bar training between 2020 and 2022. This year's report is therefore the first 'business as usual' report and covers just the period from September 2022 to November 2023. The series of annual reports will develop a longitudinal view of the operation of Bar training supported by research and by the activities of all teams involved in the authorisation, and monitoring of, and the assessments taken during Bar training.



## Vocational Component

9. Since the implementation of our training reforms, we have authorised [ten providers across 21 locations](#).
10. No new providers have been authorised in the past year; however, in May 2022 the University of Law was granted authorisation to run their Bar Practice Course from Newcastle University, with whom the University has a partnership arrangement. This was the second such application from the University of Law; an application in relation to their partnership arrangement with the University of Liverpool was approved in March 2021.
11. The University of Hertfordshire was granted authorisation by the Bar Standards Board in November 2021 to deliver vocational Bar training and the University went on to commence its first Bar course in September 2022. This year, we took the decision to vary its authorisation, meaning that its intended September 2023 intake was deferred to January 2024. This is discussed in further detail below.
12. We continue to engage closely and regularly with vocational AETOs through our quarterly Bar Training Forum and at the annual Bar Training Conference. These fora provide opportunities for sharing of best practice, for ensuring that there is a common understanding of our requirements, and therefore help to promote consistency of student experience across AETOs. In the period covered by this report, subjects for discussion have included:
  - Security of assessments
  - Resit policy
  - Ensuring consistency of assessment standards
  - Artificial Intelligence (AI).
13. Where workstreams across the BSB are likely either to be of interest to or to impact on AETOs, we ensure that they are aware of them. For instance, at the recent Bar Training Conference, colleagues from Strategy and Policy who are leading on Technology and Innovation at the Bar spoke to AETOs about their work; we also invited an external expert, Dr Kryss Macleod from Manchester Metropolitan University, who gave an overview of 'Exploring ethics and regulation in an age of AI'.
14. A project to review the decision-making framework in Authorisations has now reached a point where the first phase of its proposals is nearing readiness for consultation. Since these proposals may involve new ways of thinking about completion of the academic component of training, we took the opportunity of the conference to workshop some ideas with the vocational AETOs with the lead consultant for the project, Professor Mike Molan, running the session. This approach of workshopping ideas with AETOs at an early stage was very successful in the Future Bar Training programme and resulted both in better buy-in of AETOs and more operationally workable proposals.

## High Standards

### University of Hertfordshire

15. The University of Hertfordshire was granted authorisation by the Bar Standards Board in November 2021 to deliver vocational Bar training and the University went on to commence its first Bar course in September 2022. Our Supervision monitoring activity of vocational AETOs led to the identification of risk to the standard of delivery of the Bar course at the University. We were initially alerted to risks by our External Examiners during the course of their review of the standard of the assessments drafted by the University.
16. Following a period of engagement with the law school leadership team, a decision was made, in the interests of students, to vary the University of Hertfordshire's authorisation to deliver vocational Bar training. The BSB's decision meant that the University had to defer its next Bar course intake to January 2024, subject to satisfying us that sufficient remedial action has been taken.
17. As part of this decision, we sought assurance from the University that alternative arrangements and support for the students due to start their Bar course in the autumn was in place (including pastoral support, support to transfer to other courses or defer their entry to 2024, and financial compensation where relevant). We have continued to monitor this, as well as how the University is supporting students from the 2022/23 cohort to successfully complete their qualification, given the [low pass rates](#).
18. The University has cooperated with us and put a plan in place to strengthen a number of aspects of its course delivery to ensure that it is complying with the mandatory requirements in the Authorisation Framework. The actions that the University is taking are being monitored by the Supervision team. A final decision on recommencing the Bar course in January 2024 will be made this month.

### Authorisation

19. While we did not receive any authorisation applications from new providers this year, we have continued to consider requests from vocational AETOs for material changes to individual assessments of their authorised Bar courses and to their modes of delivery.

### Assessments

20. In April, we received allegations of cheating (supported by clear evidence) in computer-based exams taken at home. We immediately suspended delivery of online exams in Bangladesh and Pakistan, where we believed the risk to be. In May, we received further evidence and took the interim decision to suspend delivery of all online exams due to the threat to the security of any online assessment in any location.
21. Since that time, we have commissioned a comprehensive cyber security investigation, consulted with stakeholders and completed an Equality Impact Assessment. We were concerned at the potential impact of a decision to prioritise high standards over flexibility and accessibility. However, our Equality Impact Assessment produced following consultation with relevant stakeholders concluded that this was a proportionate action to take given the risks that needed to be managed. Stakeholders were clear that what was important to them was the availability of the adjustments that they might need to do the exams, rather than the platform on which the exam was delivered. The ability of AETOs to provide adjustments is not affected by this decision. The Supervision team also liaised with the AETOs which were affected and monitored the actions that the AETOs took.

22. In November, we confirmed our position not to allow online assessments; all written exams will now be pen and paper exams taken in invigilated examination halls unless authorised otherwise. This applies equally to the centralised assessments and to the provider-set ones. It is important to note that online assessments are not the same as taking an examination on a computer. Therefore, if an assessment such as Drafting is delivered as a timed, invigilated exam, students may use a computer to write their answers as long as they are given a hard copy of the examination paper, and their work is submitted via a plagiarism detection system. Students who have a learning agreement stating that they require the use of a computer for their assessment because of their disabilities may still use one. The decision does not impact on the ability of AETOs to provide reasonable adjustments for those who need them.

### Centralised assessments

23. We have now had nine sittings of the new format of the centralised assessment in Civil Litigation – the first was in December 2020. (The format of the centralised assessment in Criminal Litigation did not change in the Future Bar Training reforms.) We have assessed 8,753 candidates in total, and 3,489 candidates in the academic year 2022/2023. During this time, the passing rates have varied from 65.6% for Criminal Litigation in April 2023 to 39.9% for the same subject in August 2023. We have continued to publish [a Chair's report](#) after each sitting of the Litigation assessments which details the quality assurance processes undertaken, as well as how the passing standard has been set. The report notes the performance of the cohorts at each course provider. The report also sets out the role of the exam board and the operation of the assessment. The independent observer for centralised exams and the independent psychometrician attend final exam boards and have approved our processes and methodologies. The independent observer also attends subject boards.

24. December 2022 saw the first cohort of candidates entered by the University of Hertfordshire, and April 2023 saw the first cohort of candidates entered by the University of Law Newcastle; this brought the total number of AETO assessment centres to 21.

25. The whole cohort passing rates for each of the two litigation subjects across the last three sittings held to date are as set out in table 1 below:

Table 1.

	August 2023	April 2023	December 2022
<b>Civil Litigation</b>			
No. of candidates	889	1,671	929
Passing rate	45.1%	59.8%	56.4%
<b>Criminal Litigation</b>			
No. of candidates	840	1,583	596
Passing rate	39.9%	65.6%	49.8%

26. Variations in overall passing rates are to be expected as the mix of candidates will depend on the structure of AETO courses and whether the first sit offered is December or April, and the balance between those sitting for the first time and those resitting following a previously failed attempt. However, a pattern is starting to emerge whereby the August sits have a preponderance of candidates resitting (in August 2022, 59% of candidates were resitting; in August 2023, 59% of candidates were resitting). A marked difference in the passing rates between candidates sitting for the first time and those resitting can be clearly seen and this results in a lower overall passing rate; for example, the passing rate for Civil Litigation first sitters in August 2023 was 57%, for resitters it was 38%.

## Locally set assessments

27. In addition to the centralised assessments, students take assessments that are set and marked by the AETOs (Advocacy, Professional Ethics, Opinion Writing and Legal Research, Drafting, and Conference Skills). We appoint External Examiners (EEs) to provide us with assurance on the consistency of standards of the assessments set by the vocational AETOs. They assess whether:
- the assessment process measures student achievement rigorously and fairly in line with our Curriculum and Assessment Strategy; and
  - the standards and the achievements of students are consistent between AETOs.
28. The overall themes reported by the EEs during the last academic year reflect that the vocational AETOs have now settled into the delivery of the new Bar courses after the very challenging environment in which they were launched (during the COVID-19 pandemic).
29. The EEs equally have evolved their role, reaping the benefits of working in subject teams, with subject leads co-ordinating with each other and the Supervision team to ensure a consistent approach to decision making.
30. The Supervision team holds regular subject lead meetings, drop-in sessions and other training events for EEs, and issues regular newsletters throughout the year to ensure that EEs can raise any questions or concerns promptly and to ensure consistent standards and sharing of information. With the support of one of the subject leads who stepped down this year, the team has developed a mentoring programme in addition to the induction training for new recruits to the pool of EEs. Periodic newsletters are also issued to AETOs to keep them up to date with any changes or developments.
31. In August, we issued subject reports to AETOs. The themes clearly indicated that, generally, assessments were of high quality, appropriately challenging and in line with the Curriculum and Assessment Strategy and the Professional Statement. EEs also reported that there was improved communication between them and AETO staff, with their recommendations being incorporated without difficulty. Where issues persisted, Supervision visits were conducted.
32. A 'quality collaboration' event is planned for the new year to discuss some common themes in relation to marking and moderation processes, bringing together AETOs and EEs.

## Risk assessment and monitoring of standards in the delivery of courses

33. In the Supervision team, our assessment of risk is formed using information we gather to determine whether a regulatory response (such as a visit) is needed. The information we gather is taken from a variety of sources, including:
- Reflective reviews submitted by AETOs.
  - Reports from External Examiners.
  - Data that we collect, such as those reported in the key statistics reports.
  - Reports from students and other stakeholders who have a concern about an AETO.
34. Now that several cycles of assessments in the new Bar courses have taken place, we are also starting to monitor trends in results of both centralised and local assessments.

35. This information is gathered into each AETO's risk profile, which we monitor on an ongoing basis. At specific times in the year, each profile is thoroughly reviewed. Throughout the year to September 2023, two vocational AETOs previously rated as High Risk were re-assessed as Medium Risk, as a result of their response to actions that we set to improve internal controls in their Bar Course delivery. We will continue to monitor these AETOs closely until their internal systems and procedures satisfy our regulatory requirements. Of the ten authorised vocational AETOs, seven are rated as Low Risk, two as Medium Risk and one as High Risk.
36. AETOs submitted their reflective reviews in March 2023. These provided information regarding their reflection on the delivery of the Bar course, lessons learnt and how the AETOs have responded to student feedback. We also gathered reflections on students' performances at the centralised assessments and consequent adjustments made to course delivery. This, together with students' performances in the locally set assessments, will continue to be a focus of future reflective reviews.

### **Thematic Review of vocational AETO admissions arrangements and how they support student progression**

37. We have commenced a thematic review of vocational AETOs' admissions arrangements and how they support student progression. The aims are:
- To review AETOs' admissions policies and processes to obtain assurance that they meet the standards required in the Authorisation Framework.
  - To review AETOs' policies and processes to obtain assurance that they enable standards to be maintained once a student is admitted and that systems are in place to ensure that each student develops to their full potential, whatever their starting point.
38. This follows discussion at the Board last year and is being conducted against a complex backdrop:
- The new courses are now into the third year of operation and some emerging trends are evident, captured in a number of reports:
    - o data on results and student progress at each AETO;
    - o research (by both the BSB and, separately, the Solicitors Regulation Authority (SRA) in relation to their courses) that indicates that ethnicity and socio-economic status have a significant impact on students' performance on the course and their ability to obtain pupillage;
    - o evaluation of the Bar training reforms;
    - o research and data reports published by the BSB about AETO approaches to equality and diversity policies and student experiences of these.
  - Removal of the Bar Course Aptitude Test (BCAT) as a condition of enrolment and concerns about this expressed by some.
  - The greater flexibility introduced as a fundamental part of the Bar training reforms in how courses are designed and implemented.
39. We are currently conducting desk-based research, including information provided at authorisation, and will be conducting visits to AETOs and liaising with other stakeholders. We expect to finish the review in August 2024.

## Flexibility and Accessibility

### Resit policy

40. The new vocational Bar training courses that commenced from September 2020 allow a student a maximum of five years in which to successfully complete the course so that they can be Called to the Bar. Each training provider has its own sets of regulations relating to the university academic awards, such as Postgraduate Diploma, LLM etc, within which Bar training is embedded. These local regulations determine the number of re-sits permitted for each assessment as the BSB does not regulate the academic awards of the training providers, only the elements which are required to be passed for Call to the Bar. As far as the BSB is concerned, there is no limit to the number of times those elements can be retaken within five years.
41. In practice the AETOs have not made the conceptual separation between their own academic awards (in which we take no regulatory interest) and the elements required for Call to the Bar. Therefore, once students have reached the maximum permitted number of resits for the academic award, they fail the academic award and leave the AETO. Only one AETO permits unlimited resits within 5 years for their academic award.
42. We have therefore discussed with training providers the best way to enable students to continue to take further re-sits once they have reached the maximum number permitted under the regulations of their academic awards. All providers were invited to propose solutions and BPP came forward to offer a solution which is being trialled with a pilot in December 2023.
43. These arrangements for further sits would be on a non-award basis. That means that although students may be Called to the Bar if they successfully complete all the elements of vocational Bar training prescribed by the BSB, they will not receive any academic award such as a Postgraduate Diploma or LLM either from their original training provider or from BPP (if BPP is not their original provider).
44. If the December 2023 pilot is successful, all students who have undertaken Bar training at other providers since September 2020 and who are deemed to have reached the maximum number of resits under the regulations of their academic award will be invited to apply to take further re-sits of any outstanding assessments. These may be taken with BPP from Spring 2024.
45. The rationale for the original policy position and for seeking to find a solution for those students whose AETOs do not permit additional sits within the five-year period is to align with the key principles of Bar training reform of accessibility and flexibility. This solution does not compromise on the principle of high standards, since the same level of competence must be met whichever route to qualification has been taken. Furthermore, completion of the vocational component is not the final hurdle before practising as a barrister as pupillage must also be completed and competence to the threshold standard of the Professional Statement must be demonstrated before a full practising certificate is issued.
46. The Exams team has undertaken research which shows that there is a compelling case for enabling students to access multiple resit opportunities as there is evidence that restricting the number of attempts has a marked adverse impact on some groups with protected characteristics.
47. The key findings of the research are that:
- The percentage of candidates who eventually pass is higher than the average of single-assessment pass rates, thus demonstrating the importance of resits to eventual overall results;

- The gap between the highest and lowest ranking AETOs closes over time;
- Students continue to pass when they are given opportunities beyond the 2-3 attempts permitted at all providers other than the one that permits multiple sittings;
- Where attempts are limited to 2-3, this disproportionately affects students from a minority ethnic background.

This emerging data indicates that our existing policy of permitting unlimited attempts within five years, when applied in the way we originally intended, does promote diversity. Fuller information and data can be found at **Annex 4**.

### **Bar course applicants affected by University and College Union marking boycott**

48. In July, we published guidance for students affected by the University and College Union (UCU) marking boycott who wished to commence training for the Bar from September 2023. We gave discretion to vocational AETOs to allow students to enrol who had results pending from an undergraduate law degree or a Graduate Diploma in Law, on the understanding that (1) providers will satisfy themselves that students are likely to meet the normal admissions criteria, and (2) that both sides understand the risks and the consequences of the student failing the degree or the Graduate Diploma in Law.

49. A student cannot be either Called to the Bar or progress to pupillage unless they have successfully completed both the academic and vocational components of training.

### **Outcomes**

50. The BSB has a statutory duty to encourage an independent, strong, diverse, and effective legal profession and accessibility was one of the four key principles of training reform. Previous BSB research has identified that ethnicity and socio-economic status have a significant impact on students' performance on the vocational Bar training courses and their ability to obtain pupillage.<sup>1</sup>

51. The new course does not appear to correlate with any standout changes in the proportions enrolling by demographic (see **Annex 2**). For the variables we have good data on, there is a continuation of longer-term trends seen throughout the years of the Bar Professional Training Course (BPTC), and little substantive change this year from earlier cohorts on the new course.

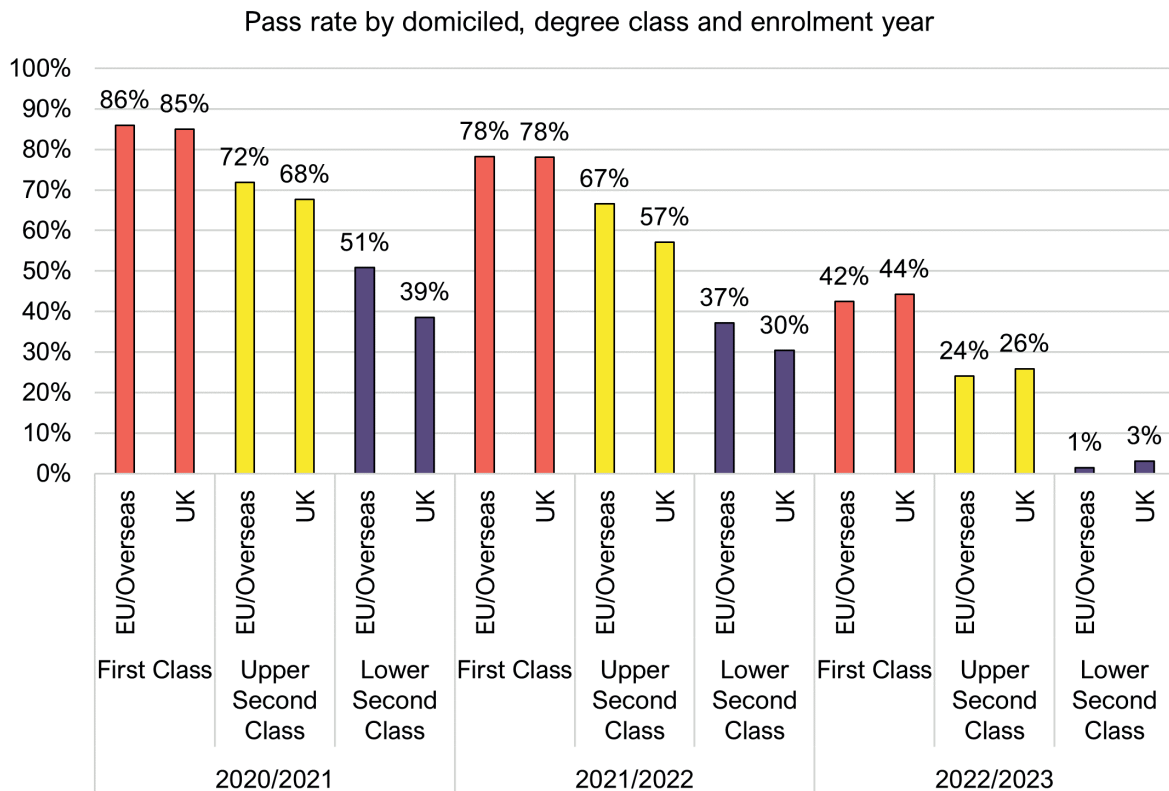
52. Each year, we publish a report on [key statistics](#) relating to vocational Bar training and progression to pupillage. These reports contain a lot of data about student demographics and performance. Last year we decided to restructure the reports, in particular to provide more accessible information for prospective students that they can use to help inform them about their choice of AETO and their chances of success in obtaining pupillage. There are now two reports, [one focussing on results by provider](#), and one covering [enrolment, results, and student progression across the course as a whole](#). We are in the process of finalising the latest edition of the report on results by provider and will be publishing it later this year.

---

<sup>1</sup> See our research on differential outcomes published in 2022, and 2017, found on our website here: <https://www.barstandardsboard.org.uk/news-publications/research-and-statistics/bsb-research-reports.html>

53. The chart below shows pass rates by enrolment cohort, domicile and degree class as of 15 November 2023. Its accuracy depends upon providers having provided us with the most up to date results data. Note – domicile is inferred based on nationality in some cases in the below charts, as for the 2020/21 cohort there is a substantial amount of domicile data missing.

**Chart 1.**

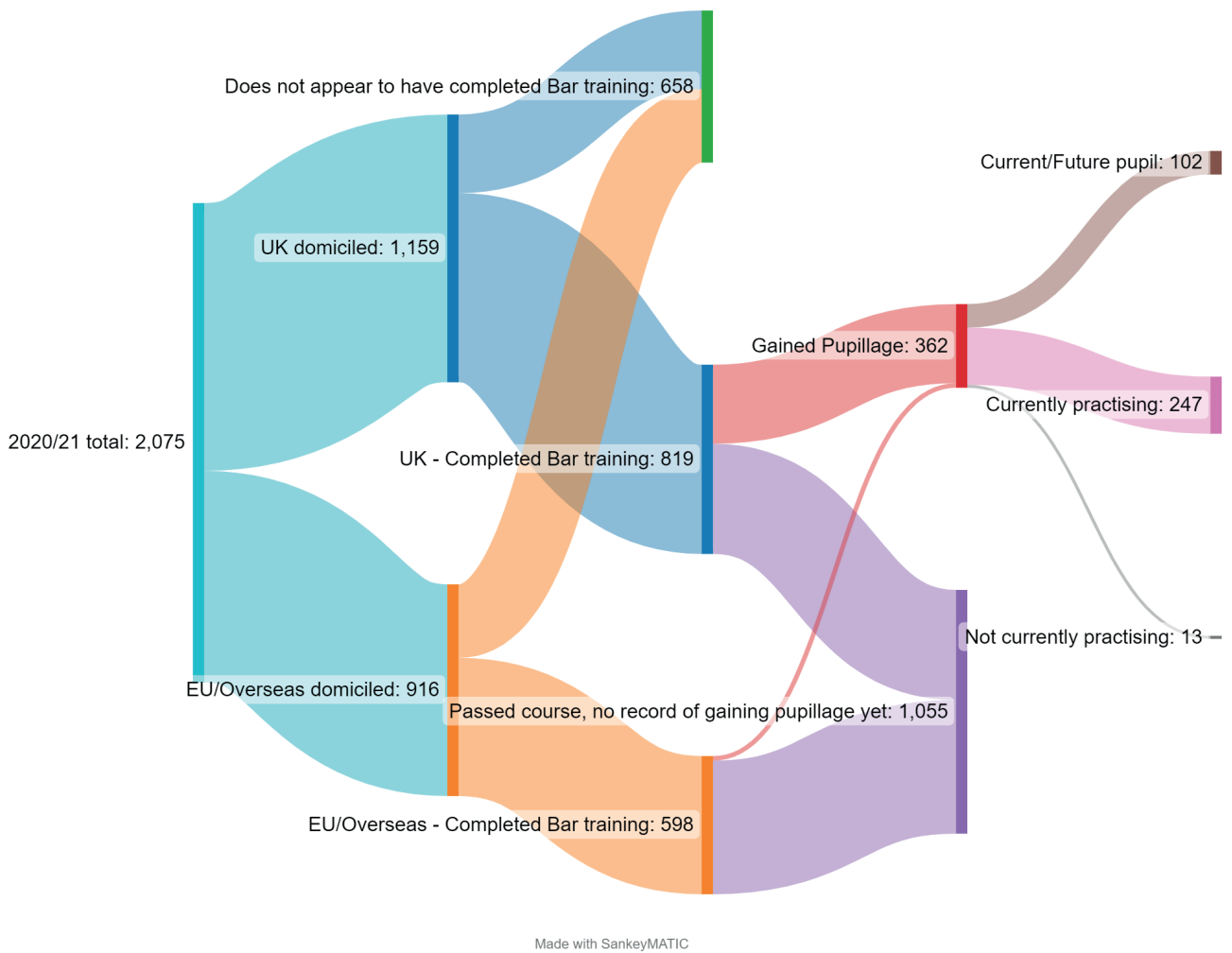


54. As of 15 November 2023, overall pass rates by cohort stand at 68% for 2020/21 enrolled students, 61% for 2021/22 enrolled students, and 22% for 2022/23 enrolled students (results data for the 2022/23 cohort is not yet complete, and those enrolled in January 2023 and after would not yet have been able to pass the course at the time of writing).

55. Generally, pass rates appear to be quite similar for overseas and UK students. UK and overseas students differ quite markedly in the proportion that go on to pupillage in England and Wales however. For example, only 2% of overseas domiciled students enrolled in 2020/21 had gained pupillage in England and Wales as of 15 November 2023, compared to around 30% of UK domiciled bar training graduates who enrolled in the same year, though this may reflect the fact that some overseas domiciled students have no intention of practising at the Bar of England and Wales. For those in the same cohort who had completed Bar training, the pupillage rate is 3% and 42% respectively. The diagram below aims to give an idea of the flow of the progression of Bar training students by domicile. It shows this for the 2020/21 cohorts as of 15 November 2023.



Figure 1.



56. In addition to differing by domicile, the proportion of a cohort gaining pupillage also differs quite markedly by first degree classification, and university attended. This can be seen in the three charts below. Chart 2 shows the current status for those that gained pupillage out of the entire cohort of UK domiciled students (including those who have not yet completed vocational training), and Chart 3 shows the current status of UK domiciled students who have completed vocational Bar training only. In Charts 2, 3 and 4 a group is only represented where there were 15 or more students in it. So, for example, in Chart 4 only in the “Other UK university” grouping were there more than 15 UK domiciled Bar training graduates with a Lower Second Class degree who enrolled in 2020/21 and 2021/22 respectively. And in Charts 2, 3 and 4 for 2022-23 we so far have data for fewer than 15 students with a Lower Second Class degree.

Chart 2.

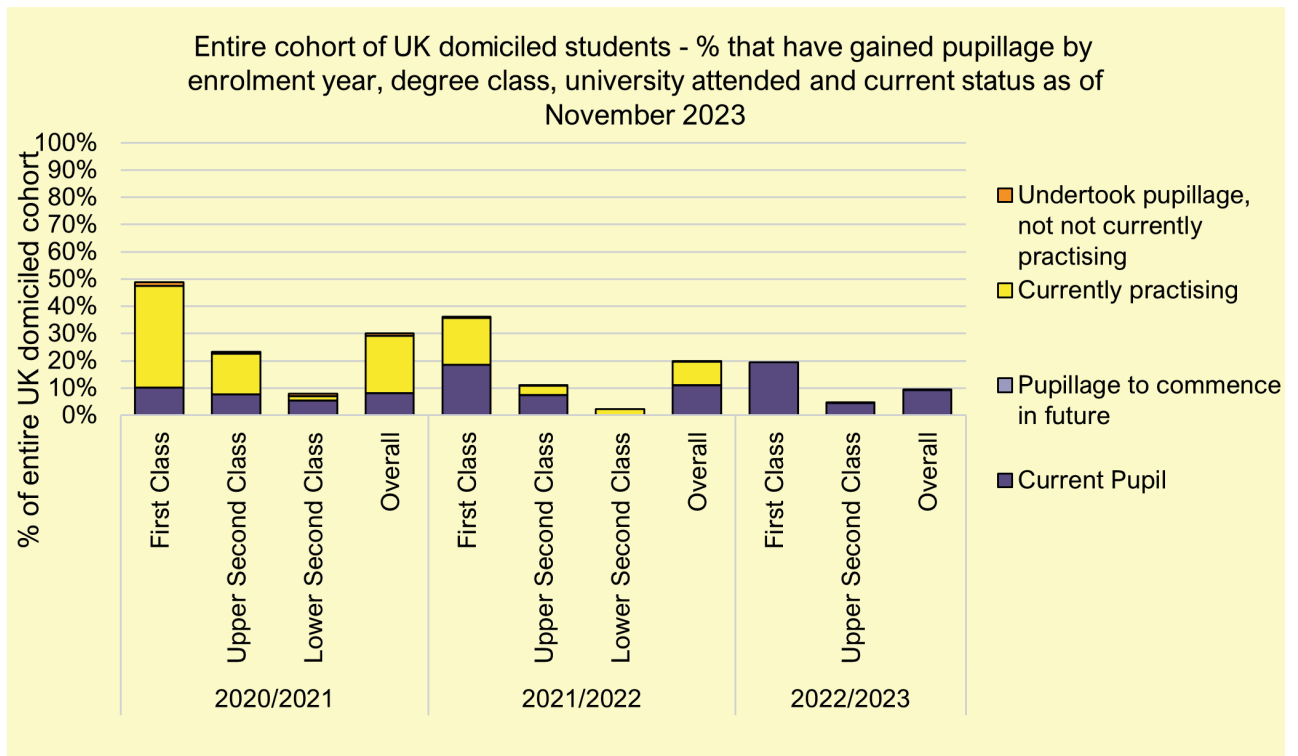
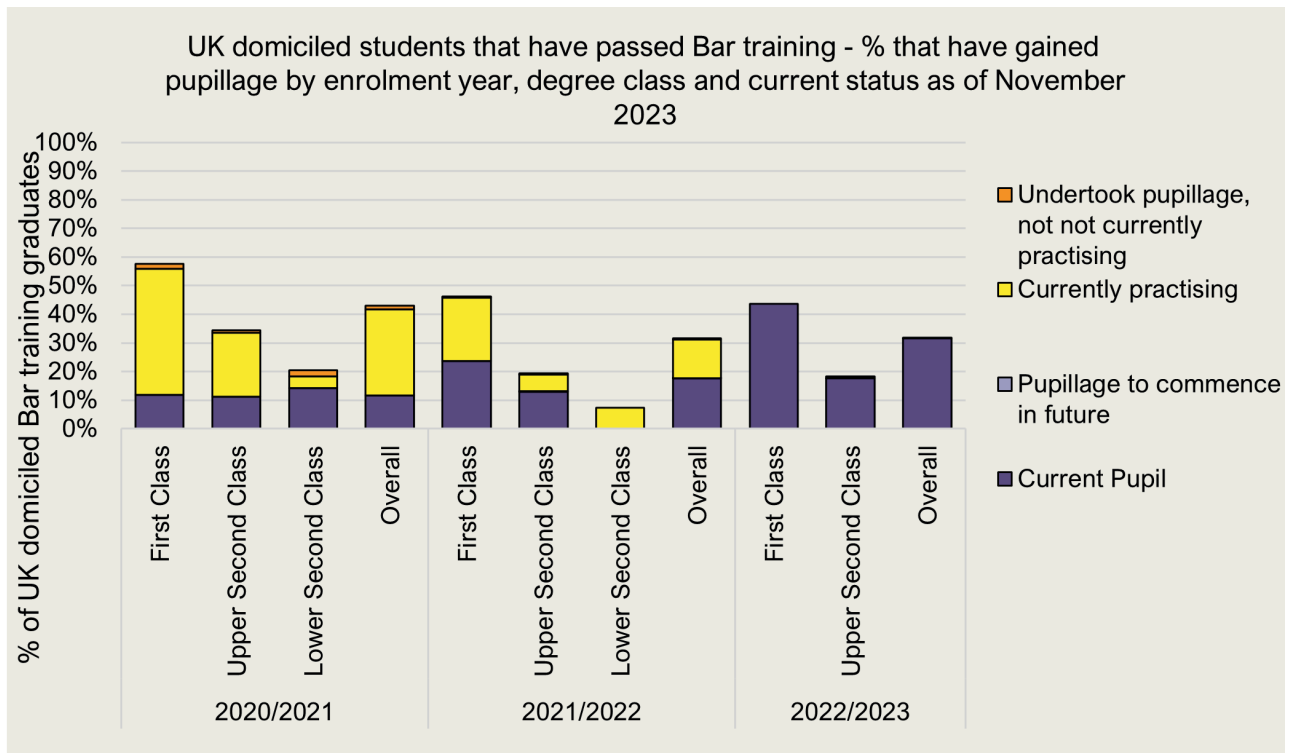


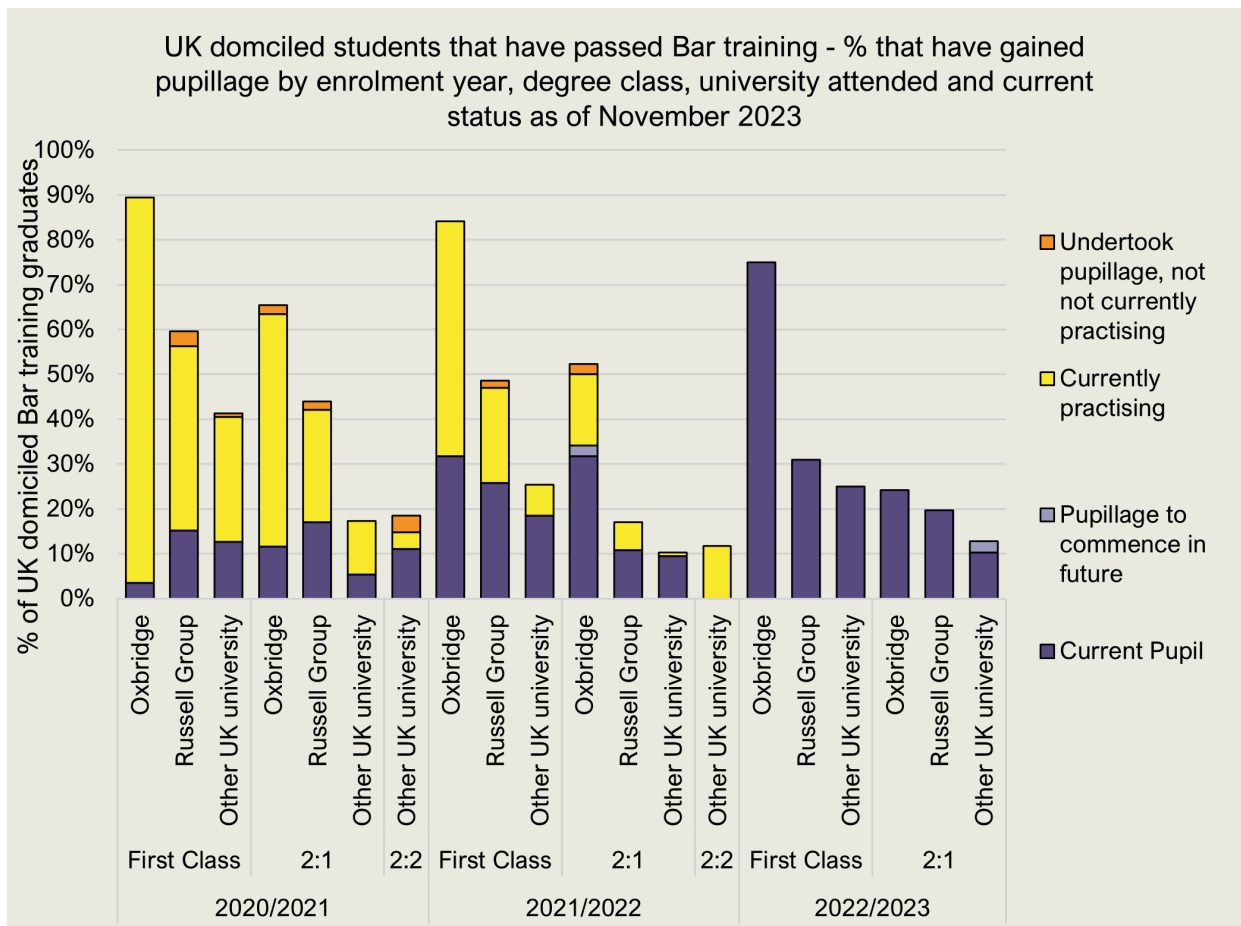
Chart 3.



57. Most of those that have completed pupillage are currently practising. There are relatively few barristers that have completed pupillage from these cohorts who are not currently registered.

58. Also worth noting is the continuation of a trend seen for those completing the Bar Professional Training Course which presented for the last time in 2019/20 whereby the university attended for undergraduate study shows a strong relationship with the proportion going on to pupillage. This is shown in the chart below, which relates to UK domiciled vocational Bar training graduates only.

Chart 4.



## Apprenticeships

59. When the Authorisation Framework was published, among the four permitted pathways was provision for an apprenticeship route. The requirements for apprenticeships are governed by the Institute for Apprenticeships and Technical Education (IfATE). One of these requirements is that the apprenticeship standard must be developed by a “trailblazer group” that is led by potential employers of apprentices under the new pathway. Professional and regulatory bodies can be part of this group but are not permitted to lead it. A trailblazer group has been set up and is chaired by Tim Coulson of the Law Incubator. The group includes representatives from:

- vocational AETOs, some of whom already deliver solicitor apprentice training;
- the employed Bar, including the Government Legal Department and Crown Prosecution Service;
- chambers;
- the Council of the Inns of Court; and
- the Bar Council.

60. We have been working with the trailblazer group and IfATE over the last year to develop the documents required under IfATE's processes. We have agreed an occupational proposal for barristers with IfATE and are now developing an occupational standard which sets out the knowledge, skills and behaviours expected of a barrister and is heavily based on our Professional Statement. The next phase of development includes agreeing an end-point assessment plan, which details the independent assessment that apprentices must take after their training, and an application to the Secretary of State for Education for funding for the apprenticeship. In the meantime, we will be working with the trailblazer group to discuss how an apprenticeship route would work in practice, ensuring that any proposals align with our regulatory requirements, since potential providers will need to apply to the BSB for authorisation under the Authorisation Framework.

## Affordability

### Fees

61. The BSB collects a per capita fee from all AETOs in line with full cost recovery principles. The original fee of £870 was reduced to £705 in 2021 when it became clear that enrolment figures had been underestimated and remained buoyant despite the impact of the pandemic. We expect AETOs to pass any saving on to students, though apparent savings may be taken up by increases in costs of salaries and overheads. We undertook not to change the fee more frequently than necessary, but we will review it again in 2024.
62. AETOs charge different fees for their Bar training courses. Several differentiate between fees for UK domiciled students and overseas students. The University of Law also has different fees for students attending their London and regional centres. Current fees information can be found on our [AETO factsheet](#).
63. The cost of courses for the three-step pathway for UK domiciled students in the 2023/24 academic year ranges from £11,900 at Nottingham Trent University, to £18,950 at Cardiff University. For overseas students on the three-step pathway, the course fees range from £11,900 at Nottingham Trent University (the same as their UK fee) to £22,700 at Cardiff University. Of the AETOs offering the four-step pathway, the fees for Part 1 range from £3,075 at Northumbria University to £6,500 at the University of Hertfordshire (currently, suspended from delivery, see above). The fees for Part 2, excluding the University of Hertfordshire which has the same fees for Parts 1 and 2, range from £9,225 at Northumbria University to £11,801 at the Inns of Court College of Advocacy (ICCA).
64. With one or two exceptions, course fees have increased from those of the 2022/23 academic year, with increases ranging from £200-300 to approximately £2,000. The highest of these increases is at the ICCA, with their Part 1 course fee rising from £1,895 to £3,934, although the Part 2 fee reduced slightly from £12,095 to £11,801.

# Role of the Inns of Court during the Vocational Component

65. The role of the Inns of Court is set out in a [Memorandum of Understanding](#) (MoU) and data share agreement. Anyone starting a vocational Bar training course must become a Student Member of an Inn. The Inns are responsible for student conduct prior to Call and for conducting 'fit and proper person' checks to make sure that only suitable individuals become Student Members and, ultimately, practising barristers. This includes conducting a criminal record check prior to Call (which is conducted through an accredited 'umbrella body'). The Inns also provide Qualifying Sessions for those undertaking the vocational component of Bar training, in line with the framework set out in the MoU.
66. The Inns Call students to the Bar once the vocational component has been successfully completed. Only those Called to the Bar may call themselves 'barristers' (although only those who successfully complete the pupillage component may apply to us to become practising barristers).

## High Standards

67. We continued to strengthen our relationship with the Inns of Court. In March 2023, the Inns of Court submitted their annual Self Evaluation reports, as required by our MoU. These reports provide insight into the trends of a growing membership, risk mitigation and management and consistent evidence of high standards, demonstrated in the delivery of Qualifying Sessions as evidenced in External Observer reports.
68. Under the data sharing arrangements, the Inns receive data about enrolments (needed to plan for Qualifying Sessions and criminal record checks) and results (needed to plan for Call). Some challenges were highlighted in respect of data transfer between the Inns, vocational AETOs and the BSB. The BSB hosted a collaborative meeting with all three parties in September, where examples of approach and process were shared and discussed. We look forward to continuing to work together to improve these processes in the coming year.
69. The Inns continue to question the proportionality of the criminal record checks for so many non-domiciled, unregistered barristers who do not plan to practise in England and Wales. We have requested data about this from the Inns so that we can evaluate this policy. However, it is related to a wider and more fundamental question increasingly being raised by the Inns and Bar Council about the timing of Call. If they press for early consideration of this principle, it will need to be factored into our business plans as it is a potentially extensive piece of work.

## Flexibility, Accessibility and Affordability

70. As a result of the COVID-19 pandemic, some international students, or those currently practising overseas who were looking to transfer to the Bar of England and Wales, were unable to comply with the identification requirements necessary for the criminal record checks to be undertaken prior to their Call to the Bar ceremony. The BSB provided a waiver from the requirement to have criminal record checks undertaken for candidates for Call to the Bar in certain circumstances. This waiver did not remove the requirement for candidates for Call to disclose relevant criminal records on the Call Declaration.

71. This waiver was introduced on a one-off basis specifically for any student member applying for Call in 2023. It will also apply for those who may need to resit exams later in 2023 or in 2024, should they not be able to comply with identification requirements closer to these dates. The waiver will not, however, apply to students or transferring qualified lawyers taking first sittings in 2024. The waiver eligibility criteria were for circumstances where it is unlawful for candidates to send the original identification documentation from the country where they are residing and/or where a candidate's circumstances were such that sending their original documents would represent a threat to their personal safety or freedom.

## Pupillage Component

72. Pupillage numbers have fluctuated over recent years as a result of the pandemic in 2020 and the knock-on effect in 2021. Numbers of pupillages and numbers of AETOs providing pupillages are now relatively consistent. We continue to believe that there is greater scope for more pupillages in the larger organisations at the employed Bar and will continue to support BACFI (the Specialised Bar Association for employed barristers) in promoting this. We have now published [dedicated guidance](#) for prospective pupillage providers in the employed Bar to support them in preparing their applications and to address some frequently asked questions.

**Table 2.**

Calendar year	Total number of pupillages	Pupillages in chambers	Number of chambers	Pupils in employed Bar	Number of employers
2018	522				
2019	504	452	210	52	19
2020	400	327	157	73	18
2021	577	526	214	51	19
2022	538	483	213	55	18
2023 (registered up to to 3 November)	544	479	204	65	18

73. This year we have seen some innovative ideas being presented and we are currently considering an application from a potential AETO that wishes to offer a pupillage overseas. This application has raised questions as to whether it is possible for a chambers or other organisation based wholly outside of this jurisdiction to offer a pupillage which meets the requirements of the Authorisation Framework and discussion of these points is ongoing. The essential resourcing and training requirements remain the same, regardless of the location of the prospective AETO. It is less certain however, if a pupillage provider based outside of England and Wales (particularly, if the jurisdiction is not based mainly or entirely in Common Law) will be able to offer appropriate and wholly equivalent experience to its pupils. We will also need to determine whether there are appropriate safeguards and contingency arrangements in place in the event that pupils are unable to complete their pupillage in an overseas AETO (eg whether their experience would be directly transferrable to an AETO in this jurisdiction).

## High Standards

### Strengthening standards through the new Authorisation Framework

74. There have been considerable challenges for the Authorisations team in keeping this project on track given changes in resourcing and management of the team and very high volumes of 'business as usual' applications. We remain conscious of the critical importance of ensuring that all AETOs meet the expected standards consistently at the point of authorisation and are held to account against the requirements through our supervision activity.
75. The process of authorising chambers and organisations previously granted Pupillage Training Organisation (PTO) status in line with the Authorisation Framework is ongoing, but we expect to draw this to a close at the end of 2023. By that date, we intend to issue decisions to all transitional PTOs that have submitted a completed AETO application. The decision may be to authorise (with or without conditions) or, in the rare instances where we have serious concerns about suitability, to continue to engage with them until we are either satisfied that they are suitable to become an AETO, or we decide that they are not suitable to progress to AETO status at this time. To date, we have only refused AETO status outright on one occasion: this was in respect of a proposal for a new structure of pupillage provider which did not ultimately satisfy the mandatory indicators of the Authorisation Framework, despite engagement from the Authorisations and Supervision teams to support the applicant in reaching the required standard.
76. We have authorised 246 pupillage provider AETOs, with a further 40 applications in some stage of processing (eg initial assessment, awaiting outstanding information, pending a decision, etc). Existing PTOs have been advised that they will only be able to continue offering pupillages if they apply for, and are granted, AETO status. Any existing PTO that does not submit an application before 31 December 2023 and does not have current pupillages at that time will have their pupillage provider status terminated from 1 January 2024. The Authorisations Team is continuing to engage with existing PTOs on a regular basis to support them in submitting their applications and to ensure that they can comply with the Authorisation Framework.
77. Whatever stage of authorisation a pupillage provider is currently at, all are already expected to deliver pupillage in accordance with the Professional Statement, the Curriculum and Assessment Strategy, and Part 4 of the Bar Qualification Manual.

### Supervision of standards

78. In the year to September 2023, Supervision responded to fourteen reports made to the BSB relating to pupillage. This compares to eight in the previous year. This covered a range of topics. Half included aspects relating to standards of training, provision of reasonable adjustments and allegations of bullying, harassment, or discrimination – in some cases these issues were interlinked. This is further described in the section on the accessibility principle below. In most cases, AETOs co-operated well with engagement by Supervision and actions were set to ensure improvement to pupillage arrangements.
79. Other cases involved a range of issues, including provision of written agreements, managing pupillages as a result of chambers closure, and practising without authorisation. Often these were self-reported by AETOs.

## Professional Ethics assessments

80. We have now had six sittings of the assessment (April, July and October 2022, and January, April and July 2023), and have assessed 469 candidates in total (this includes re-sitters). 421 candidates have passed, of whom seven are not currently deemed competent. We assessed 146 candidates in 2022, and 323 candidates in 2023. The numbers taking the assessment will increase again in 2024; we currently have 238 pupils eligible to sit for the first time in January (not all pupillages will have been registered at the time of writing).

81. This year, six candidates have required a third sit, and one has required a fourth attempt. Candidates requiring a third sit are given personalised feedback on their previous attempts to help them (and their pupil supervisor) better prepare for their next attempt.

82. The outcomes of the 2023 sittings were:

**Table 3.**

	July 2023	April 2023	January 2023
Total no. of candidates	51	59	213
No. passing	46	42	196
Passing rate (%)	90.2%	71.2%	92.0%

The January 2023 sitting involved the largest cohort to date; the April 2023 sitting had the lowest passing rate to date.

83. Trend data on candidate performance

**Table 4.**

	Candidate Journey					
	Apr-22	Jul-22	Oct-22	Jan-23	Apr-23	Jul-23
Candidates First Sitting	112	21	7	212	44	36
Candidates Resitting	0	4	2	1	15	15
Total No. of Candidates Sitting	112	25	9	213	59	51
First Sitting Candidates Passing	107	19	5	196	33	33
Resitting Candidates Passing	N/A	4	2	0	9	13
First Sitting Candidates Failing	5	2	2	16	11	3
Resitting Candidates Failing	N/A	0	0	1	6	2
Failing Candidates who had Accepted Extenuating Circumstances	1	0	1	0	1	0
Total No. of Candidates to Date	112	132	139	351	394	427
Total No. of Candidates Passing to Date	107	130	137	333	375	420
Candidates not yet deemed Competent	5	2	2	18	19	7



84. The table above shows that, across the six sittings to date, there have been 432 first sit candidates, 393 passing on their first attempt – a first sit passing rate of 91%. There have been 37 resit candidate attempts, with 28 passing, giving a cumulative resit pass rate of 76% (note that some candidates may have had more than one resit attempt; and some candidates may have been registered as ‘first sitters’ more than once due to earlier attempts being set aside). In total there have been 469 individual candidate attempts at the Professional Ethics assessment (either first sit or resit) producing 421 ‘Competent’ grades, a passing rate of 89.8% for all candidates across all sittings. Following the July 2023 sitting, there will be 7 candidates still in the system needing to achieve a ‘Competent’ grade in the January 2024 sitting.
85. In instances where pupils have failed their exam for the second or third time, the Supervision team has liaised with pupils and, in some cases, the AETOs concerned, all of which have been chambers. The aim was to identify whether they felt that the pupils had been given adequate support to prepare for the exam. Each of the pupils told us that they were receiving sufficient support from their AETO, with regards to assistance and time in preparing for the exam. Some said that they had struggled to complete their responses within the allocated times and needed to practise their technique. In some cases, the pupils felt that they had not prepared sufficiently, but took personal responsibility for that.
86. AETOs are being signposted to the detailed guidance on the BSB website, with emphasis on the importance of ensuring that their written pupillage agreements include information on the exam and the approach they intend to take should pupils fail. All AETOs should check their written pupillage agreements to ensure that they address what happens if a pupil fails to pass their ethics exam within the usual period of pupillage. In particular, will the pupillage be extended and, if so for how long, and will the pupillage continue to be funded?
87. We have had one case of academic misconduct; the finding of the Misconduct Panel was upheld by the Appeal Panel.
88. All 2023 assessment sessions have run smoothly and to plan; we have trusted teams of markers and standard setters who were fully trained in the new systems before we went live; direct communications with pupils has been helpful as we have been able to assist with queries and allay any concerns.
89. We continue to publish a [Chair’s report](#) after each sitting of the assessment which details the quality assurance processes undertaken, as well as how the passing standard has been set. The report also sets out the marking processes, the role of the exam board and the operation of the assessment. The independent observer for centralised exams and the independent psychometrician attend each exam board and have approved our processes and methodologies.
90. After consultation with the Legal Services Board, in July we publicised the new requirement that Bar Professional Training Course (BPTC ie the previous iteration of the vocational component) graduates must take the Ethics exam in pupillage; BPTC providers were asked to inform their students, the details were published on our website and in the Regulatory Update and Counsel Magazine. Previously, as BPTC graduates had passed a centralised Professional Ethics exam as part of their vocational component, they were not required to take the Ethics exam during their pupillage. Now BPTC graduates who start pupillage in May 2024 or after that date will need to take the pupillage Ethics exam; their first opportunity to do so is July 2024. The requirement supports the principle of high standards; as graduates have five years to take up pupillage, their ethical knowledge becomes increasingly stale. The requirement to pass the Ethics exam also supports our stated aim to ensure a strong, ethical profession, and to safeguard the public.

## Curriculum and Assessment Strategy: competence in advocacy and negotiation skills

91. As part of our Bar training reforms, our Board agreed a series of recommendations on all aspects of barrister training put forward by our Curriculum and Assessment Review (CAR) group, comprising legal education experts. The vast majority of these recommendations have been implemented. The two remaining are to review the requirements for the current compulsory course in advocacy skills during pupillage, and to introduce a compulsory course in negotiation skills during pupillage. The Board agreed that provision of this training should be opened up beyond the Inns and Circuits to encourage innovation, opportunity and wider provision for pupils. We have made significant progress with these recommendations.

### Advocacy

92. The current advocacy training during pupillage is delivered by the Inns and Circuits and we expect this to continue though we will be open to proposals for delivery from others who may wish to come forward. Reforms will not be radical. The aim is to ensure a consistent and reliable outcome for pupils no matter which training course they undertake. Currently, the BSB does not have any oversight over these courses. The CAR group reviewed course materials supplied by the course providers and attended some sessions delivered the Inns and Circuits. The findings of this review were:

- Courses differ in length, content, feedback methodology and quality and mode of delivery amongst the different providers. There is clear potential for differing learning experiences and outcomes depending on which training course pupils attend.
- There is no identifiable element of individual assessment across many of the providers.

93. The recommendations put forward by the CAR group were that:

- the BSB should provide outcomes for the courses, which must all be met in order for the pupil to be considered competent;
- the grading for the courses will be Competent/Not Competent; and
- there must be an explicit element of individual assessment.

94. Training providers will design their courses around the prescribed outcomes and assessment criteria, subject to a proportionate accreditation process that takes into account the four principles of the Authorisation Framework. Pupils may retake the courses, if required, in order to achieve a Competent grading, which is required before a pupil can apply for their Provisional Practising Certificate.

95. The CAR group has drafted the outcomes for the advocacy course. A series of workshops were run over the summer to engage with key stakeholders, including representatives from the Council of the Inns of Court and all four Inns, the Circuits, representatives from both pupillage and vocational AETOs, recent pupils, advocacy trainers and legal academics. We are now finalising the criteria for the courses and the assessment criteria for accreditation, reflecting the feedback from the workshops. These will be published shortly. The requirement for pupils to undertake the new advocacy course during pupillage will not come in before September 2024.

## Negotiation skills

96. There is currently no provision of a course in negotiation during pupillage, nor is there any teaching or other formal instruction relating to negotiation skills at any point in the curriculum for Bar training. This is despite the Professional Statement including competences in negotiation (1.7). The CAR group recommended that a course be introduced during pupillage as this is the most appropriate stage in a prospective barrister's career to learn, consolidate and demonstrate the required competences to the Threshold Standard. As with the advocacy course, there should also be a consistent and reliable outcome for pupils undertaking the course.
97. The CAR group has drafted the outcome criteria for negotiation courses. A further series of workshops were run over the summer to engage with key stakeholders listed above, as well as negotiation experts. We are pleased with the creative ideas that these stakeholders have brought about how the courses should be delivered and assessed. We will be publishing further information as we refine the feedback from the workshops. The requirement for pupils to undertake the new negotiation course will not come in before September 2025.
98. In addition to the above workshops, we have also engaged with a range of people from our race, disability and religion and belief taskforce groups in order to develop our Equality Impact Assessment of the above changes. This has been particularly helpful in developing the assessment criteria for accrediting course providers in relation to the accessibility, affordability and flexibility principles, and ensuring that an inclusive approach to training is embedded. In our guidance to training providers we will give particular thought to reasonable adjustments and ensuring that course providers consider how to provide these for all participants who need them.

## Pupil Supervisor training

99. We regularly present at the pupil supervisor training delivered by some of the Inns and Circuits to ensure that pupil supervisors understand the regulatory requirements and would welcome the opportunity to do so at others. These forums provide an opportunity for us to meet pupil supervisors and share examples of good practice, as well as the common themes seen by the Supervision team, as set out above.

# Flexibility

## Centralised exams

100. We continue to offer pupils three opportunities to take the Professional Ethics exam. The examination calendar has now been established with sittings in January, April and July.

# Accessibility

## Bullying, harassment and discrimination

101. We know that it can be very difficult for pupils to come forward in circumstances where there have been bullying, harassment or discrimination. However, it is important that they feel able to do so to access work-based training in a suitable learning environment. This year, six cases concerning bullying, discrimination or harassment have been referred to the Supervision team. The most serious cases have also been referred for investigation for possible disciplinary action. The following themes have emerged, and we would encourage all AETOs to consider how they might respond if an incident or concern were to be reported:

- We have found that whilst policies are in place, the practical processes for responding to complaints is unclear – victims are unclear who they can turn to and AETOs are unclear what the process is for dealing with allegations. This can cause a situation to escalate quickly due to disagreement and delay.
- Policies do not give enough weight to how victims should be treated, particularly while an internal investigation is in progress. For example, how is the victim communicated with? Who is responsible for keeping the victim informed? Might a victim and the harasser end up booked as opponents in court because the clerks do not know about the allegations?
- The policies and processes do not always empower the Equality and Diversity Officer (EDO) in chambers to take a lead. The EDO is often not a senior member of chambers, so is at an immediate disadvantage in internal discussions about how to respond. Often, they do not play a discernible role in pupillage.

## Reasonable adjustments

102. There has been a small increase in reports being made by both pupils and AETOs regarding reasonable adjustments. Some of the reports have been from AETOs requesting guidance on how to handle these matters, which we regard as a positive indication that AETOs are considering their obligations. More often, they have been from pupils who have had concerns about the approach taken by their AETO in implementing the necessary adjustments or in reaching an agreement about breaks being taken from training.

103. We do not specify what the arrangements should be when a pupil needs to take a break from pupillage, other than that they should be covered in the mandatory written pupillage agreement. It is best to be clear about this in advance rather than chambers/employers trying to work it out when the scenario arises. For example, they should consider:

- What happens to the duration of pupillage? Is it extended and, if so, for how long?
- How will the chambers/employer communicate with the pupil during any extended periods of absence?
- What adjustments might be needed to transition them back to their pupillage?
- What are the funding arrangements?

- Is the EDO routinely involved in pupillages, for example as part of the induction process?
- Do pupils have an opportunity to tell their chambers/employer about any reasonable adjustments that they might need?

## Barriers to diversity in recruitment

104. We have published research reports<sup>2</sup> which show that both ethnicity and socio-economic status are strongly linked with success at obtaining pupillage. Qualitative research with students<sup>3</sup> also shows that students view the Bar as largely the preserve of an elite, privileged group and that a number of barriers disadvantage certain groups. Prior academic attainment was identified as the most common criteria for sifting applicants, which has the potential to favour those from more privileged backgrounds.<sup>4</sup> Our annual Key Statistics reports have also shown that students from minority ethnic backgrounds are less successful than white students at obtaining pupillage.
105. We will be publishing two further pieces of research looking at pupillage recruitment – a quantitative study that looks at recruitment outcomes by organisational characteristics and approaches to recruitment, and qualitative research with pupillage providers looking at the experiences of AETOs using different approaches to recruitment of pupils. These two pieces of research will give us further evidence around approaches to the recruitment of pupils and how they can promote more diverse outcomes.
106. The drivers behind differential outcomes in professional training are likely to be wide-ranging, covering early life experience, primary/secondary education and higher education, as well as the vocational and work-based components of training for the Bar. As such, research into approaches to pupillage recruitment will not be able to provide a complete picture of the reasons for the outcomes observed in previous research. However, it will provide additional evidence to help improve the knowledge of the BSB around factors contributing to the issues highlighted in previous research and statistics and to enable us to share good practice that meets the Equality priority in our strategic plan – promoting diversity and inclusion at the Bar and the BSB and the profession’s ability to serve diverse customers.

## Centralised exams

107. All pupils taking the Professional Ethics exam do so using computer-based testing (CBT) (either at a test centre or at home) with our CBT supplier, Surpass. We continue to manage the adjustments that pupils need during the exam. We have agreed and have given every adjustment that has been asked for.

---

<sup>2</sup> [Bar Training 2023 - Statistics on enrolment, results, and student progression](#) (BSB 2023); [Differential Attainment at BPTC and Pupillage](#) (BSB 2017)

<sup>3</sup> [Barriers to Training for the Bar](#) (BSB 2017)

<sup>4</sup> [Review of Pupillage Advertising and Selection Criteria](#) (BSB 2019)

# Affordability

## Pupillage funding award

108. The UK has experienced a prolonged period of high inflation, which will have had the most impact on pupils receiving funding at the minimum level that we specify for pupils in chambers. The minimum award is set having regard to the Living Wage Foundation's hourly rate recommendation, rather than the statutory minimum wage to reflect the real cost of living. The annual increase in the pupillage award applies from January each year, regardless of when pupils started pupillage.
109. We recently announced that the rate for the minimum pupillage award that will apply from 1 January 2024 will be £23,078 for 12-month pupillages in London and £21,060 per annum for pupillages outside London. This is an increase of over 11% compared to 2023. The increase in the funding rate in 2022 was 8% for pupillages in London and 10% for pupillages outside London. This has the potential to affect the affordability of pupillage in parts of the Bar most likely to recruit diversely, because these represent practice areas that are funded by legal aid or where earnings are generally lower. Criminal law practices have higher proportions of pupils who are women, are from minority ethnic backgrounds, and who attended state school. Family law practices have a considerably higher proportion of female pupils. Immigration law practices have a considerably higher proportion from minority ethnic backgrounds, than other areas of practice. However, the statistics shown above do not indicate any reduction in pupillage numbers, but we will continue to keep this under review.

# Annex I

Table 5: Bar training pathways offered across AETOs from 2020/21-2022/23

Provider	2020/21				2022/23				2023/24			
	3-step	4-step	LLM	Part Time	3-step	4-step	LLM	Part Time	3-step	4-step	LLM	Part Time
BPP Birmingham	X	X	X		X		X		X		X	
BPP Bristol	X	X	X		X		X		X		X	
BPP Leeds	X	X	X		X		X		X		X	
BPP London	X	X	X	X	X		X	X	X		X	X
BPP Manchester	X	X	X		X		X		X		X	
Cardiff	X		X		X		X		X		X	
City Law School	X		X	X	X		X	X	X		X	X
Hertfordshire					X		X		X		X	
The Inns of Court College of Advocacy	X	X			X	X			X	X		
Manchester Metropolitan University	X			X	X		X	X	X		X	X
Nottingham Trent	X				X		X		X		X	
University of Law Birmingham	X	X	X	X	X		X	X	X		X	X
University of Law Bristol	X	X	X		X		X		X		X	
University of Law Leeds	X	X	X	X	X		X	X	X		X	X
University of Law Liverpool	X	X	X		X		X		X		X	
University of Law London	X	X	X	X	X		X	X	X		X	X
University of Law Manchester	X	X	X		X		X		X		X	
University of Law Nottingham	X	X	X		X		X		X		X	
University of Northumbria at Newcastle	X			X	X	X	X	X	X	X	X	X
University of the West of England	X	X	X		X	X	X		X	X	X	

The three-step pathway includes the vocational Bar training being taken as a one-part course, and the four-step pathway includes the two-part vocational Bar training course. The number of providers offering the four-step pathway over time has decreased, and this appears to be due to demand. Relatively few students appear to be taking the course in this way, although the number has increased in 2022/23 and 2023/24 compared to 2021/22.

This has been driven by an increase in enrolments at ICCA, who appear to be the only provider enrolling students on the four-step pathway currently. City Law School ceased to offer the course in the four-step format from 2021/22 onwards, and BPP no longer appear to offer the course in this format as of 2022/23 onwards. UNN and UWE have the four-step pathway listed on their website, so it could be the case that they are not sending through the correct pathway data for each student through to us.

Table 6 below gives a summary of enrolment at providers that have offered pathways other than the three-step one by year.

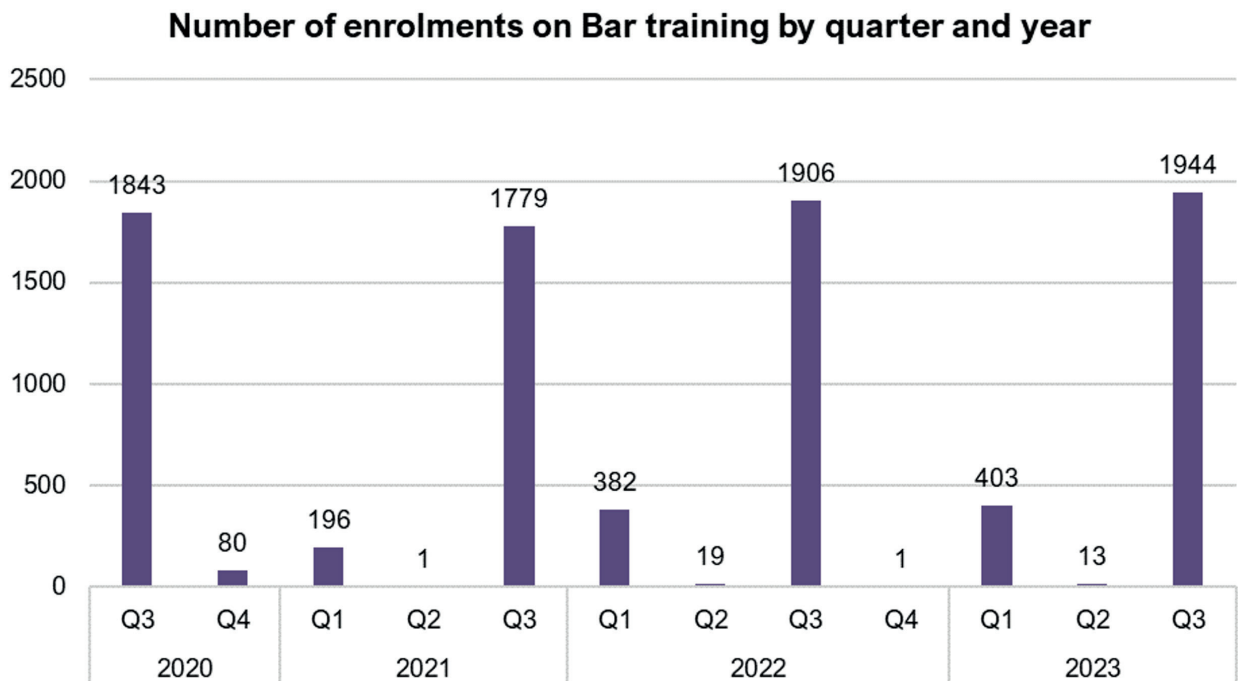
**Table 6. Number of students enrolling by pathway at providers offering pathways other than the three-step one.**

Enrolment year	Training provider	Three-step pathway	Four-step pathway	Integrated academic and vocational pathway	Grand Total
2020/2021	<b>Total - all providers</b>	<b>1920</b>	<b>159</b>	<b>41</b>	<b>2120</b>
	BPP Bristol	39	1		40
	BPP London	486	12		498
	BPP Manchester	137	3		140
	CLS	326	56		382
	ICCA		86		86
	UNN	47		41	88
2021/2022	<b>Total - all providers</b>	<b>2028</b>	<b>134</b>	<b>18</b>	<b>2180</b>
	BPP Birmingham	82	1		83
	BPP Leeds	34	3		37
	BPP London	433	8		441
	BPP Manchester	126	2		128
	ICCA		119		119
	UNN	42	1	18	61
2022/2023	<b>Total - all providers</b>	<b>2174</b>	<b>137</b>	<b>12</b>	<b>2323</b>
2023/2024 (note-enrolment year is not yet over)	ICCA		137		137
	UNN	58		12	70
	<b>Total - all providers</b>	<b>1762</b>	<b>174</b>	<b>8</b>	<b>1944</b>
	ICCA		174		174
	UNN	74		8	82



Enrolment figures have increased compared to the numbers enrolled on the former Bar Professional Training Courses (BPTC). In 2022/23 almost 500 more students enrolled on Bar training courses than in the year of the BPTC with the greatest number of students (2018/19).

**Chart 5. Enrolments by year**



While students on the new Bar training courses appear to start the course most frequently in and around September, there are many students who have enrolled in and around January, and this number has increased each year since 2021. This is shown in chart 6 below.

**Chart 6. Enrolments on Bar training by quarter and year**

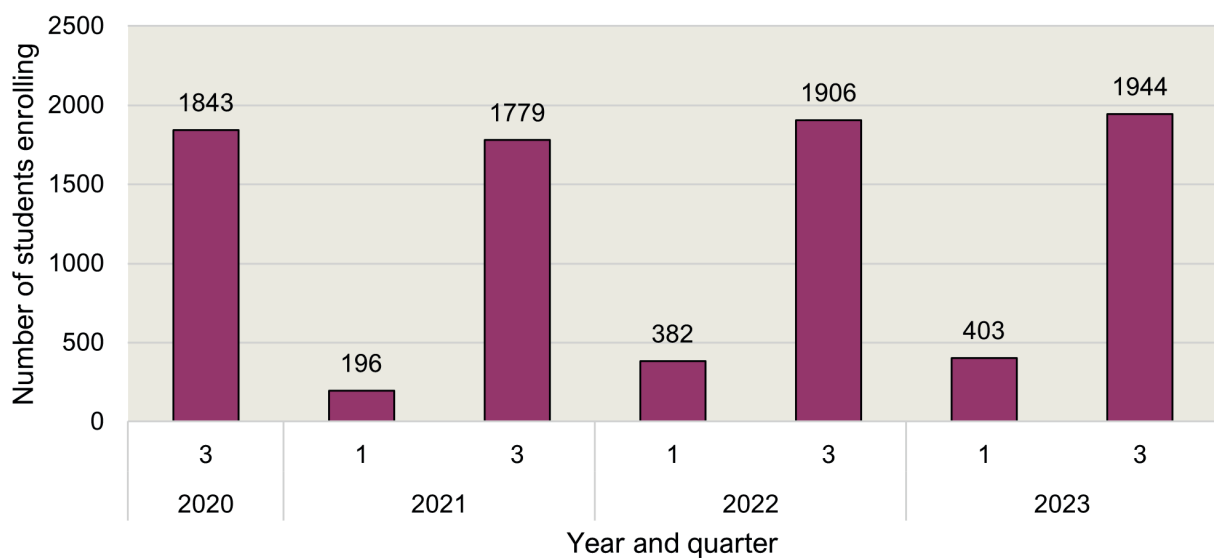


Chart 7 shows the number of students enrolling from 2020/21 to 2022/23 by the type of training pathway they were on.

**Chart 7. Enrolment on different pathways on Bar training courses for 2020/21 - 2022/23**

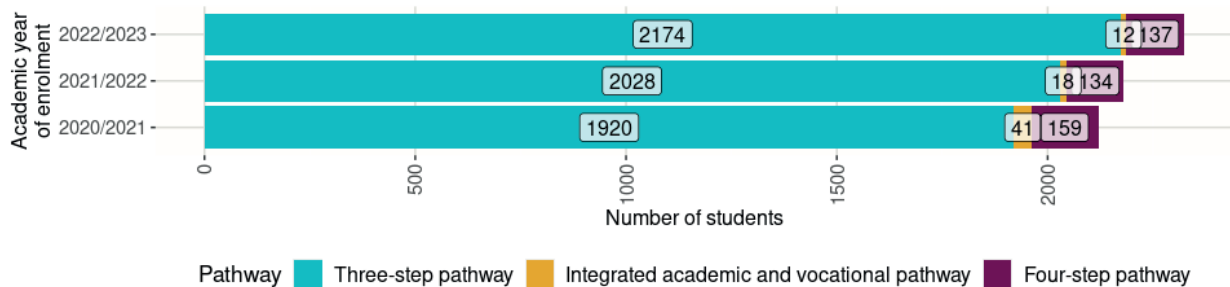
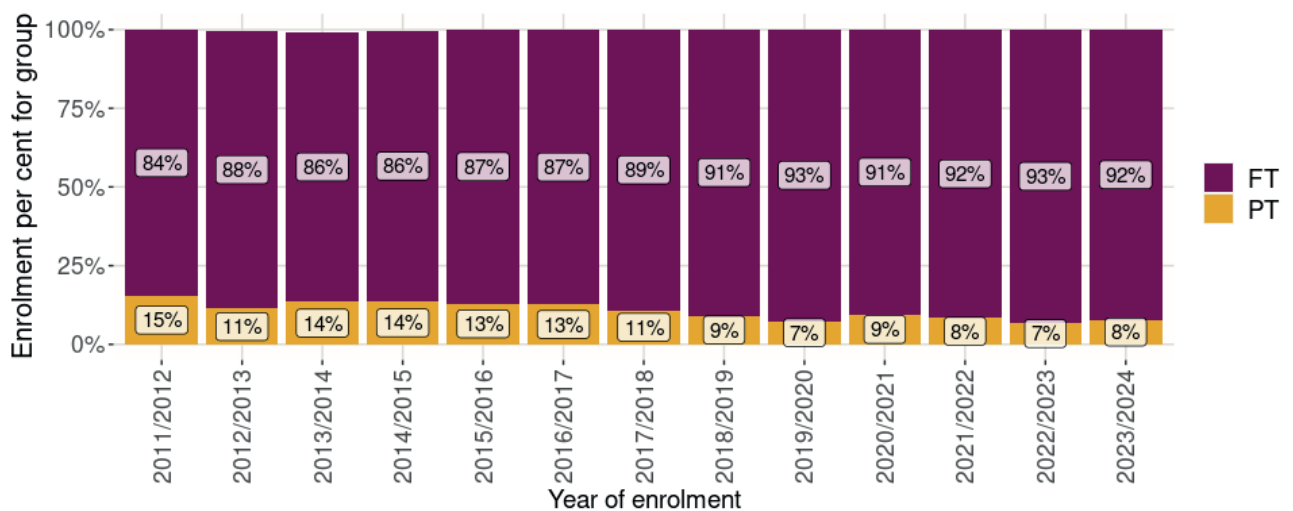


Chart 8 shows enrolments for each academic year by study mode (whether a student was full-time or part-time). The proportion of part-time students has decreased over time from 15.5% in 2011/12 to 7% in 2022/23, although the number of part-time students has not changed as markedly (for example, there were 208 part-time students enrolling in 2013/14, 160 in 2018/19, and 160 in 2022/23).

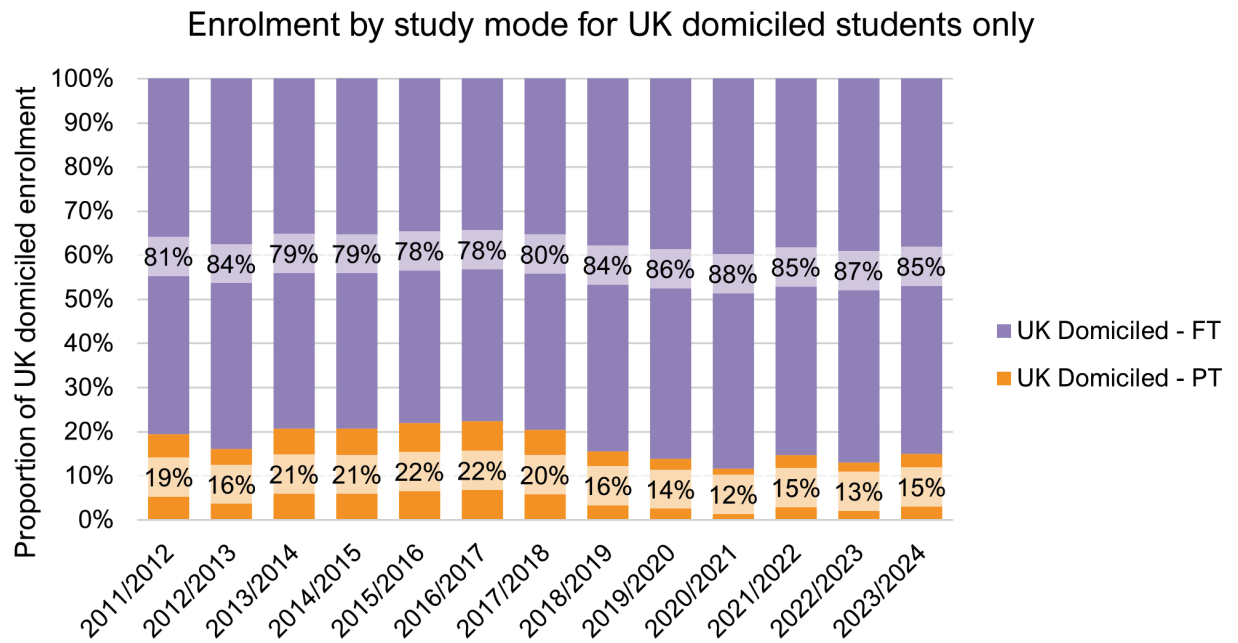
**Chart 8. Proportion of all students by study mode and year of enrolment**



The trend is related to an increase in the number of overseas students, who are more likely to study the course full-time than UK domiciled students.

The proportions of UK-domiciled students studying part-time showed less of a reduction, as can be seen in Chart 9 below.

**Chart 9. Part-time students**



# Annex 2

## Demographic data

- Age** - the age profile of those on the new course is similar to that seen on the BPTC. In 2022/23, around 77 per cent of those that enrolled were aged under 25, 16 per cent were age 25-34 and the rest were aged over 35. This is very similar to that seen from 2015/16-2019/20 on the BPTC.
- Disability** - Overall, the proportion of those with a declared disability has remained relatively stable over time, fluctuating at around 10% of students.
- Domicile** - The proportion students who are ordinarily domiciled overseas prior to enrolment was around 45 per cent in 2020/21 and 2021/22. This is a similar figure to that seen in latter years of the BPTC (around 48% in 2018/19 and 2019/20).
- Ethnicity** - The majority of overseas domiciled students who enrolled throughout the BPTC, and on the new course, have been from Asian ethnic backgrounds (around 80-90% of overseas students when excluding those that have not provided information).
- For UK domiciled students, the new course has seen a consolidation of a trend seen throughout the years of the BPTC, which was an increase in the proportion of students from minority ethnic backgrounds over time. Throughout the years of the BPTC the proportion of UK domiciled students from a minority ethnic background increased from around 25 per cent to around 40 per cent (when excluding those not providing ethnicity information). The proportion of such students seen on the new course has increased further to around 48 per cent for 2022/23 enrolled UK domiciled students. Particular increases on the new course have been seen for those from Asian/Asian British backgrounds, and those from Mixed/Multiple ethnic backgrounds. The proportion of those from Black/Black British backgrounds has decreased on the new course, although the absolute number for 2022/23 enrolled students from such backgrounds is similar to that seen in 2020/21 (99 compared to 95). Trends over time are shown in the table below, which shows a snapshot of years from 2011/12 onwards.

**Table 7. Ethnicity of UK domiciled Bar training students over time**

Course and enrolment year	Percentage of UK domiciled enrolment - excluding those that did not provide information on ethnicity					
	Asian/ Asian British	Black/ Black British	Mixed/ Multiple ethnic groups	Other ethnic group	Minority ethnic background total	White
BPTC_2011/2012	12.1%	7.7%	3.3%	1.4%	24.5%	75.5%
BPTC_2015/2016	20.7%	8.7%	4.9%	2.6%	36.8%	63.2%
BPTC_2019/2020	18.6%	10.3%	5.2%	1.7%	35.7%	64.3%
New course_2020/2021	18.4%	13.4%	5.9%	2.5%	40.3%	59.7%
New course_2021/2022	22.2%	10.3%	7.0%	2.6%	42.1%	57.9%
New course_2022/2023	27.6%	9.2%	7.4%	3.5%	47.8%	52.2%

6. **Gender** - The proportion of students enrolling by gender appears to be in line with that seen in the latter years of the BPTC, with females representing just over half of all students enrolling each year.
7. **Type of school attended** - The proportions of those attending fee-paying schools does not appear to have changed markedly on the new course compared to the BPTC. The proportions involved are still substantially higher than that seen in the UK population. The underlying rate for undergraduate degree entrants in the UK is around 10 per cent<sup>5</sup>, which compares to around 39 per cent of bar training students enrolling in 2021/22, when excluding those not providing information. A greater proportion of overseas domiciled students have attended a fee-paying school in comparison to UK domiciled students (in 2020/21 around 52% vs 29% when excluding those not providing information). ***Data for this principally came from the BCAT. We have no information on this indicator for students from 2022/23 onwards.***

## Academic history

8. **Degree institution attended** - The proportion of students who attended Oxbridge, and the proportion who attended a Russell Group university enrolling on the new Bar training courses appears to be broadly in line with that seen on the BPTC. The proportion of both together is around 50 per cent of UK domiciled students.
9. **First degree classification** - Enrolment by first degree classification on the new Bar training course has shown a continuation of trends seen on the BPTC, with a reduction in the proportion of those with a lower second class degree seen over time (particularly for overseas students), and an increase in the proportion of those enrolling with a first class degree. Both of these trends are seen in the table below. These trends could be suggestive of trends seen in awarding of degrees, student selection by AETOs, or a belief amongst prospective students that having higher degree classifications is necessary to enter into a career at the Bar – it is difficult to infer exactly what the causes of these trends may be. It is worth noting that the proportion of students with a lower second class degree increased for those enrolling in 2022/23 compared to 2021/22.

---

<sup>5</sup> Higher Education Statistics Agency: Widening participation summary: UK Performance Indicators. <https://www.hesa.ac.uk/data-and-analysis/performance-indicators/widening-participation-summary> (accessed 16 September 2022)

**Table 8. Domicile and degree class of Bar training students over time**

<b>Domicile</b>	<b>Course and enrolment year</b>	<b>A: First class</b>	<b>B: Upper second class</b>	<b>C: Lower second class</b>	<b>D: Other</b>	<b>E: Third</b>
<b>Overseas</b>	BPTC_2011/2012	2.4%	42.0%	47.0%	8.7%	0.0%
	BPTC_2019/2020	12.1%	59.5%	26.4%	2.0%	0.0%
	New course_2020/2021	11.1%	48.8%	40.1%	0.0%	0.0%
	New course_2021/2022	13.4%	54.7%	31.9%	0.0%	0.0%
	New course_2022/2023	13.9%	49.9%	36.2%	0.0%	0.0%
<b>UK</b>	BPTC_2011/2012	20.8%	59.9%	16.0%	3.2%	0.0%
	BPTC_2019/2020	31.7%	57.7%	7.1%	3.5%	0.0%
	New course_2020/2021	35.6%	52.3%	12.1%	0.0%	0.0%
	New course_2021/2022	38.1%	54.2%	7.8%	0.0%	0.0%
	New course_2022/2023	35.5%	52.8%	11.7%	0.0%	0.0%

# Annex 3

## Fees

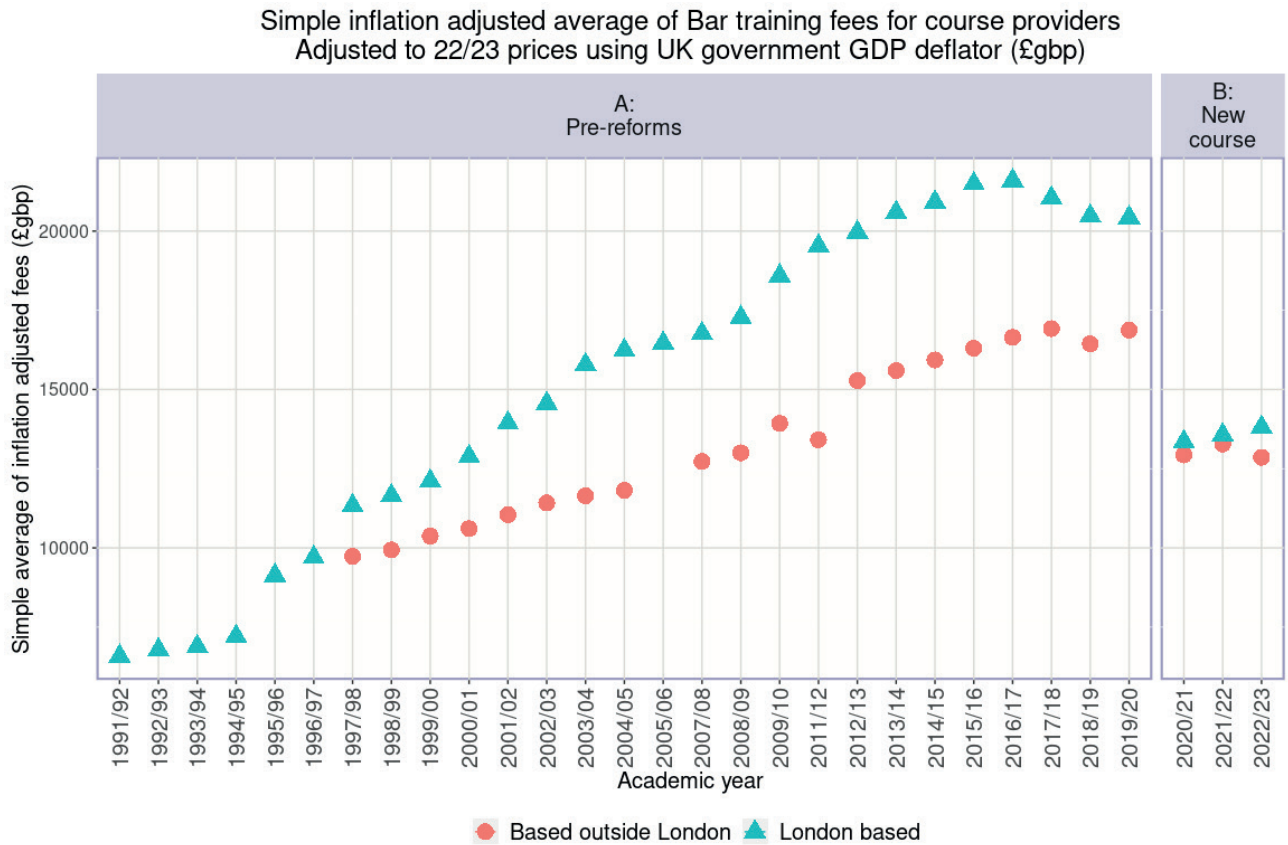
Table 9 below details the cost of training for the 2022/23 academic year taken from the websites of the AETOs. Part 1 and Part 2 relate to the costs for training where students undertake vocational training in two separate parts, with both parts needing to be passed to complete the course.

**Table 9. Cost of Bar training on provider websites as of November 2023 – inclusive of BSB fee**

Provider	Domicile	3-step pathway	4-step pathway		% Increase compared to 2022/23 entry for 3-step pathway	Final Year of BPTC (2019/20) – non inflation adjusted
		Bar training	Bar training (part 1)	Bar training (part 2)		
BPP London (23/24 entry)	Overseas	£17,000			5.3%	£19,070
	UK	£15,900			4.9%	£19,070
BPP Non-London (23/24 entry)	Overseas	£15,900			5.2%	£15,680
	UK	£14,800			4.8%	£15,680
Cardiff University (2024 entry)	Overseas	£22,700			9.7%	£16,650
	UK	£18,950			1.3%	£16,650
City Law School (24/25 entry)	All	£17,090			4.6%	£18,500
Inns of Court College of Advocacy (24/25 entry)	All	£15,735	£3,934	£11,081	12.5%	-
Manchester Metropolitan University	All	Not available			N/A	£15,500
Nottingham Trent University (2024 entry)	All	£12,650			3.7%	£15,200
University of Northumbria (24/25 entry)	All	£12,300	£3,075	£9,225	0.0%	£15,000
ULaw London (23/24 entry)	All	£15,560			11.1%	£18,735
ULaw Non-London (not inc. Newcastle) (23/24 entry)	All	£14,200			11.8%	£15,485
ULaw Newcastle (23/24 entry)		£12,200			N/A	
University of the West of England (24/25 entry)	All	£13,750	Not available	Not available	1.9%	£15,000

The chart below shows the average fees charged at London vs non-London providers from 1990/91 onwards. It is clear to see that the course from 2020/21 onwards is less expensive than the BPTC was, after adjusting for inflation to 2022/23 prices. Prices for Bar training across AETOs in London are now more in line with those last seen around 2000/01, and are more in line with those seen around 2011/12 for AETOs based outside of London, after adjusting for inflation for both.

**Chart 10. Inflation adjusted cost of vocational Bar training courses over time – average for London and non-London training providers**





# Annex 4

## Unlimited Resits Within Five Years

### Background

1. The [Curriculum and Assessment Strategy states](#): “The BSB stipulates only that completion must be within five years; we do not stipulate the maximum number of attempts [at a Bar Training Assessment] that a candidate may be allowed within those five years” (p.34). However, to date, only one AETO – Nottingham Trent University (NTU) - has enabled candidates to make unlimited attempts at the assessments within five years. Other AETOs have limited the number of attempts available to their candidates in line with their internal academic regulations (a maximum of two attempts at ICCA, and a maximum of three attempts at all other AETOs, excluding NTU). The BSB does not regulate these resit limitations as they pertain to the AETOs’ academic awards (LLM, PgDip, etc.). However, from the BSB’s perspective, candidates within the five-year time limit are still eligible to make attempts at Bar Training Assessments and be called to the Bar.
2. We have therefore discussed with AETOs the best way to enable students to continue to take further re-sits once they have reached the maximum number permitted under the regulations of their academic awards. All AETOs were invited to propose solutions and [BPP has come forward to offer a solution](#) which will begin with a trial in December 2023. During the trial, the programme will only be available to former BPP candidates who have exhausted all resit attempts allowed for the academic award. If the December 2023 pilot is successful, all students who have undertaken Bar training at other providers since September 2020 and who are deemed to have reached the maximum number of resits under the regulations of their academic award will be invited to apply to take further re-sits of any outstanding assessments. These will be taken with BPP in Spring 2024.
3. These arrangements would be on a non-award basis. That means that although students may be Called to the Bar if they successfully complete all the elements of vocational Bar training prescribed by the BSB, they will not receive any academic award either from their original training provider or from BPP (if BPP is not their original provider).
4. In conversations with vocational AETOs and other stakeholders, three concerns about allowing unlimited resits within five years have been raised, we have provided further details and data here in response to these concerns:
  - That candidates who are unsuccessful within three attempts are not likely to be successful if given further attempts;
  - That there is no evidence that allowing unlimited attempts at the assessments will advance diversity at the Bar; and,
  - That candidates who are permitted unlimited attempts within five years have failed to meet the same standards as those who have completed with fewer attempts.

## Success Rates of Candidates with Resits Taken into Account

5. Table 10 below shows the total number of unique candidates entered by each AETO Centre for the Criminal Litigation exam since December 2020 (the first Bar Training Exam); the number of whom have passed Criminal Litigation by August 2023 (the most recent exam); and the resulting *overall pass rate*. For comparison, the final column shows each AETO's average of single-assessment pass rates for Criminal Litigation. AETOs are sorted in order of their overall pass rate. It is worth noting that the gap between the highest-ranking AETO and the lowest-ranking AETO is lower when comparing overall pass rates than it is when comparing average single-assessment pass rates—gaps of 71% vs. 80%, respectively. If we exclude Hertfordshire (which is a notable outlier) from the analysis, then the difference between the highest-ranking and lowest-ranking AETO shrinks from a gap of 59% to one of 36%. This demonstrates that, although some AETO cohorts may perform worse than others on their first attempt, they are able to 'catch-up' somewhat given further opportunities to take the exam.

**Table 10.**

AETO	Total Number of Candidates	Total Number Eventually Passing	Overall Pass Rate	Average Single-Assessment Pass Rate
ULaw Newcastle	9	9	100%	94%
ICCA	302	280	93%	90%
ULaw Nottingham	32	29	91%	64%
Cardiff	219	190	87%	55%
ULaw Bristol	64	55	86%	59%
ULaw Leeds	180	154	86%	60%
City	1221	1020	84%	56%
Northumbria	178	148	83%	46%
ULaw London	719	597	83%	55%
ULaw Manchester	134	109	81%	47%
BPP Leeds	108	87	81%	52%
BPP Manchester	337	271	80%	55%
ULaw Birmingham	264	208	79%	48%
BPP Birmingham	189	141	75%	43%
NTU	166	120	72%	35%
BPP London	1168	837	72%	48%
BPP Bristol	68	48	71%	50%
MMU	70	49	70%	36%
UWE	393	273	69%	41%
ULaw Liverpool	76	49	64%	42%
Hertfordshire	17	5	29%	14%

6. Table 11 below tracks the progress of candidates who first attempted the Criminal Litigation exam in April 2021 (which was the first time the majority of AETOs entered candidates). AETOs are sorted by the percentage of candidates first entered in April 2021 who have *eventually* passed Criminal Litigation. As above, the range of outcomes across AETOs, when taking resits into account, is much narrower than the range of outcomes in the initial first-sit pass rate. It is also worth noting that 90 candidates from April 2021 have now exhausted all available resit attempts with regard to Criminal Litigation at AETOs which limit resits.

Table 11.

AETO	Candidates whose first attempt was April 2021	Of which passing at the time	April 2021 first sit pass rate	Total April 2021 candidates who have passed to date	Eventual April 2021 pass rate	Increase since April 2021	Remaining not yet competent candidates	Of which have sits remaining	Of which exhausted all attempts
ULaw Nottingham	5	4	80%	5	100%	20%	0	0	0
ICCA	31	28	90%	30	97%	6%	1	0	1
ULaw Bristol	15	12	80%	14	93%	13%	1	1	0
City	244	148	61%	225	92%	32%	19	5	14
ULaw Manchester	23	12	52%	21	91%	39%	2	1	1
ULaw Birmingham	46	32	70%	41	89%	20%	5	0	5
ULaw London	107	60	56%	95	89%	33%	12	1	11
NTU	51	21	41%	44	86%	45%	7	7	0
ULaw Leeds	38	26	68%	32	84%	16%	6	2	4
BPP Manchester	49	17	35%	41	84%	49%	8	4	4
BPP London	162	49	30%	129	80%	49%	33	18	15
BPP Bristol	9	3	33%	7	78%	44%	2	2	0
Northumbria	40	16	40%	30	75%	35%	10	4	6
UWE	115	38	33%	84	73%	40%	31	13	18
BPP Birmingham	21	5	24%	15	71%	48%	6	1	5
BPP Leeds	21	4	19%	14	67%	48%	7	2	5
MMU	3	0	0%	2	67%	67%	1	0	1
Cardiff	6	2	33%	3	50%	17%	3	3	0
<b>TOTAL</b>	<b>986</b>	<b>477</b>	<b>48%</b>	<b>832</b>	<b>84%</b>	<b>36%</b>	<b>154</b>	<b>64</b>	<b>90</b>

7. Table 12 below looks only at the 166 unique candidates NTU has entered for Bar Training Criminal Litigation Exams across the eight sittings to date which NTU has participated in. It can be seen that the majority of candidates who were eventually deemed competent passed the exam on their first attempt (65% of all competent candidates or 47% of all candidates). 107 candidates have passed within their first three attempts (89% of all competent candidates or 64% of all candidates). Of the 25 candidates

who have gone beyond the three attempts allowed by the majority of AETOs, 13 have since been deemed competent in regard to Criminal Litigation. Only 1 candidate is yet to be deemed competent on this assessment after attempting all eight opportunities available to them. There was also one candidate who passed on their eighth attempt. This shows that candidates can and do continue to pass Bar Training exams beyond their third attempt.

**Table 12.**

<b>Number of Attempts Made (NTU Only)</b>	<b>Candidates Ultimately Deemed Competent</b>	<b>Candidates Not Yet Deemed Competent</b>
1 Attempt	78	12
2 Attempts	18	19
3 Attempts	11	3
4 Attempts	7	6
5 Attempts	1	5
6 Attempts	4	0
7 Attempts	0	0
8 Attempts	1	1

### **Effect of Limiting Resit Attempts on Diversity**

8. The BSB has a statutory regulatory objective to encourage a diverse legal profession. In our regulation of Bar Training, this is reflected through our promotion of training arrangements which are accessible to candidates of all backgrounds. With that in mind, we have conducted some analysis of the impact of limiting resit opportunities by ethnicity.

9. The tables below look only at Bar Training candidates at AETOs which limit resits (ie all AETOs other than NTU). Candidates are grouped by self-reported ethnicity. The first column is the count of candidates who have ultimately been deemed competent with respect to Criminal Litigation within the allowed number of resit opportunities (2 attempts at ICCA, or 3 attempts elsewhere). The second column is the count of candidates who have exhausted their available resit opportunities without having been deemed competent.

10. The data controls for undergraduate degree classification, which could be a predictor of performance in the vocational component. Only students with an upper-second class undergraduate degree are counted, that being the most common degree classification for Bar Training candidates.

**Table 13.**

<b>Candidates whose undergraduate degree classification was 2:1, at AETOs other than NTU, who have been deemed competent with respect to Criminal Litigation or exhausted all resit attempts without having been deemed competent</b>		
<b>Ethnicity</b>	<b>Number of Candidates Eventually Deemed Competent</b>	<b>Number of Candidates not deemed competent within permitted resit allowance</b>
White (All Groups)	673	30
Asian (All Groups)	1029	64
Black (All Groups)	142	20
Arab	13	1
Mixed (All Groups)	118	4

11. A statistical test<sup>6</sup> was carried out on this data to determine if the rate at which candidates are exhausting all resit attempts varies significantly by ethnicity. The result of the test with regard to ethnicity was that there is only a 0.16% probability that ethnicity is not related to the likelihood of passing within the allowed number of resits. This result is comfortably above the standard benchmark for statistical significance.

12. The statistical model also produces a table of “expected results” which is shown below. This is an estimate of how the data would look if capping resits did not have a differential effect on candidates of different ethnicities. We can see that the effect is particularly pronounced for Black Bar Training candidates who are exhausting all resit attempts without passing the exam at more than two times the rate that the model would predict should happen if ethnicity were not a factor.

**Table 14.**

<b>Expected Values</b>		
<b>Ethnicity</b>	<b>Number of Candidates Eventually Deemed Competent</b>	<b>Number of Candidates not deemed competent within permitted resit allowance</b>
White (All Groups)	663	40
Asian (All Groups)	1031	62
Black (All Groups)	153	9
Arab	13	1
Mixed (All Groups)	115	7

13. The same test was carried out to compare outcomes for students with a declared disability with those for students without a declared disability. The relationship between disability status and outcomes was not found to be statistically significant in this data set; however, earlier analysis had identified a slightly significant relationship. More analysis is needed over a longer time period with a larger dataset to determine the impact on candidates with a declared disability.

14. It is very likely that a number of factors contribute to these differential outcomes, and it cannot be said with complete certainty that greater flexibility for the number of attempts afforded candidates alone would bring parity of outcomes across ethnic groups. However, we can see from NTU's performance that many candidates can and do continue to pass Bar Training exams beyond the third attempt. It can be assumed that, if given the opportunity, a proportion of the candidates from minority ethnic backgrounds who have exhausted their resit allowance under the current regime would go on to be successful at a later attempt. We hope that the data from the upcoming BPP Pilot and from the full programme which may begin in Spring 2024 will allow us to further analyse these effects.

### Unlimited Resits and High Standards

15. Allowing unlimited resits within 5 years is in keeping with two of the BSB's key principles of training reform - accessibility and flexibility - there is, however, a perception that this represents a lessening of our commitment to the further key principle of high standards.
16. Bar Training assessments (both centralised and locally-set) are designed to test a 'threshold standard of competence' as defined by the [Professional Statement](#). On the centralised assessments, this is reflected by our use of standard setting techniques which ensure that, for each exam, the pass mark reflects the competencies displayed by the 'borderline candidate' and that each exam is equally difficult to pass.
17. For the locally-set assessments, the BSB is provided with assurance of quality and standards through its External Examining team managed by the Supervision team; the External Examiners ensure that exams are set in a way which is fair, consistent, and accurately reflecting the threshold standard of competence.
18. We can be confident that any candidate who was deemed competent in respect of a Bar Training assessment met all of the criteria for that subject listed in the Professional Statement and [Curriculum and Assessment Strategy](#) on the day that they sat the exam, regardless of the number of attempts at the assessment they made before reaching that level of competence. They have therefore achieved the same high standard applied to all prospective Barristers.

---

<sup>6</sup> A Chi-Squared Test

## Contacting us

We are committed to providing a high standard of service and dealing with everyone in a way that is fair, transparent, and proportionate. We welcome your feedback on our services, particularly where the level of service has exceeded or fallen below your expectations.

Your comments and suggestions are important to us as they will help us to meet our obligations to you and to improve our performance.

## Write to us

Bar Standards Board  
289-293 High Holborn  
London  
WC1V 7HZ

Tel: 020 7611 1444

Email: [ContactUs@BarStandardsBoard.org.uk](mailto:ContactUs@BarStandardsBoard.org.uk)

Twitter: [@BarStandards](https://twitter.com/BarStandards)

Youtube: [/barstandardsboard](https://www.youtube.com/barstandardsboard)

LinkedIn: [/thebarstandardsboard](https://www.linkedin.com/company/thebarstandardsboard)

In addition, if you would like this report in an alternative format, please contact the BSB Communications Team via [communications@barstandardsboard.org.uk](mailto:communications@barstandardsboard.org.uk)





<b>Meeting:</b>	BSB Board	<b>Date:</b>	30 November 2023
<b>Title:</b>	Interim Suspension – Consultation Response		
<b>Authors:</b>	Ahmet Arikan		
<b>Post:</b>	Senior Policy Officer – Strategy and Policy		

<b>Paper for:</b>	<b>Decision:</b> <input checked="" type="checkbox"/>	<b>Discussion:</b> <input type="checkbox"/>	<b>Noting:</b> <input type="checkbox"/>	<b>Other:</b> <input type="checkbox"/> (enter text)
-------------------	--	---	---	---

<b>Paper relates to the Regulatory Objective (s) highlighted in bold below</b>	
<p><b>(a) protecting and promoting the public interest</b></p> <p>(b) supporting the constitutional principle of the rule of law</p> <p>(c) improving access to justice</p> <p><b>(d) protecting and promoting the interests of consumers</b></p> <p>(e) promoting competition in the provision of services</p> <p><b>(f) encouraging an independent, strong, diverse and effective legal profession</b></p> <p>(g) increasing public understanding of citizens' legal rights and duties</p> <p><b>(h) promoting and maintaining adherence to the professional principles</b></p> <p><input type="checkbox"/> Paper does not principally relate to Regulatory Objectives</p>	

## Purpose of Report

1. In June 2023, the BSB published a consultation<sup>1</sup> proposing to widen the powers of:
  - a. the BSB, to refer barristers to an Interim Suspension Panel on the ground that a suspension is necessary to protect the public or is in the public interest; and
  - b. the Disciplinary Tribunal, to allow it to suspend a barrister following a finding of professional misconduct and before a decision on sanction.
2. The consultation closed on 2 August 2023 – responses have been analysed and a summary of the responses has been drafted.
3. We are seeking the Board's approval to proceed with the changes.

## Recommendations

4. The Board is asked to:
  - a. approve the publication of the consultation response document at Annex A, and
  - b. approve the final proposed changes to Disciplinary Tribunal Regulations and the Interim Suspension and Disqualification Regulations as set out in Annex B.

## Background

5. As a result of a case before the Disciplinary Tribunal last year, we identified gaps in the powers of Disciplinary Tribunals to impose interim restrictions on a barrister's practice following a finding of professional misconduct but before sanction and in the BSB's ability to refer barristers to an independent panel for consideration of an interim suspension.

<sup>1</sup> Available here: <https://www.barstandardsboard.org.uk/static/a227f867-d960-4685-9269d09523cd9a5d/230621-Interim-suspension-Consultation-paper-final-draft-with-Annex-C-pdf.pdf>

6. In the case in question, a Disciplinary Tribunal had found serious charges of professional misconduct proved but deferred the decision on sanction to a later date. The Tribunal was of the view that the barrister posed a risk to the public but had no power under the Disciplinary Tribunals Regulations (Part 5B of the BSB Handbook) to impose interim restrictions pending the hearing on sanction. The BSB was also unable to take any action under the Interim Suspension and Disqualification Regulations (Part 5C of the BSB Handbook) because none of the grounds for referring a case to an interim suspension panel were satisfied.
7. We proposed that these gaps should be addressed by introducing new powers to take interim action by:
  - a. Amending the Disciplinary Tribunals Regulations to introduce new powers for Disciplinary Tribunals to impose interim restrictions on a barrister's ability to practise following a finding of professional misconduct, but pending a decision on sanction, where it is in the public interest to do so.
  - b. Widening the BSB's existing powers to refer a barrister to an interim suspension panel, under the Interim Suspension and Disqualification Regulations, by replacing the current ground that such action is necessary to protect the interests of clients, with a wider ground that it is necessary to protect the public or the public interest.
8. In June 2023, the BSB published a consultation proposing the two changes outlined above.
9. The consultation ran from 22 June 2023 to 2 August 2023: This was a shorter period than the usual 3 months, as we were seeking to close the gap in the powers quickly given the potential harm to the public. We sought views on the two proposals and offered respondents the opportunity to make any comments on our analysis of the impact on the regulatory objectives and our initial Equality Impact Assessment (EIA).

### **Draft Consultation Responses – Summary and Proposed Approach**

#### Responses

10. We received 4 responses, including from the Bar Council, the Legal Services Consumer Panel (LSCP), and two barristers. All respondents were broadly supportive of our two proposals, agreeing with our rationale and the need to bring in the changes quickly.
11. The LSCP suggested that, rather than replacing the current ground in the Interim Suspension and Disqualification Rules allowing referrals to interim action on the basis of protecting the interests of clients, we should retain that ground and add the new ground of protecting the public or the public interest.
12. There were several additional comments which we considered. The LSCP focused on the need for the BSB to consider the wider impacts of these powers, including the impact on clients of a barrister who may be subject to interim suspension. We have carried out further analysis as part of our consideration of the equality impact of our proposal and have included the results in the draft consultation response document. A summary of the additional research is set out below in the equality, diversity and inclusion section.
13. Overall, there was positive support for the proposals, and agreement that the gaps needed to be addressed.

Proposed Approach

14. Following stakeholder feedback, we are proposing that the BSB proceed with the original proposals, subject to one amend ie:
  - a. Including in the Disciplinary Tribunal Regulations new regulations E202A – E202F (see Annex B), which give Disciplinary Tribunals powers to place restrictions or conditions on a barrister’s practice following a finding of misconduct but pending imposition of sanctions and allow for any such orders to be varied, on application, if circumstances change.
  - b. Including an additional ground in regulation E269.1 of the Interim Suspension and Disqualification regulations to allow the BSB to refer a barrister for interim action where a referral is *“necessary to protect the public or is otherwise in the public interest”*. However, we are proposing, based on the LSCP’s suggestion, to retain the current ground allowing for referral to interim action where it *“is necessary to protect the interests of clients (or former or potential clients)”*. This does not change the substance of the original proposal as it was intended that protecting client interests would fall within the scope of protecting the public and the public interest. However, the change avoids any arguments that the public interest does not include client interests.
15. Based on this, we have drafted a consultation response (**Annex A**) confirming our plans to proceed with the above proposals. The final changes to the regulations are set out in **Annex B**.

**Resource implications / impacts on other teams / departments or projects**

16. In relation to the new powers, resource will be needed to train BSB decision-makers involved in the enforcement process (including members of the Independent Decision-Making Body). BTAS will need to ensure that its Tribunal panel members are also trained, and it has the capacity to handle any potential increase in referrals to Interim Panels.
17. In terms of other internal impacts on resource, the Supervision Team currently follow up with chambers and barristers, where an interim suspension or a sanction of suspension/disbarment is imposed to seek assurance that the barrister’s cases are managed appropriately, and clients have continuity of legal representation. The change in the regulations may lead to an increase in the number of interim suspensions/restrictions imposed and therefore create additional work for the Supervision Team. Similarly, the Investigations and Enforcement (I&E) team is likely to need to consider more often whether interim action should be taken in relevant cases.
18. It is difficult to gauge how often the new powers will be used but based on historic interim action cases (10 barristers who have been the subject of Interim Suspension proceedings across 11 cases), the number of cases in which it will be appropriate to exercise the powers is likely to be very low. Any additional work should therefore be capable of being managed within the current team complements. We will however monitor the impacts on resources going forward.

**Equality, diversity, and inclusion**

19. We carried out an initial Equality Impact Assessment prior to the public consultation, and after receiving feedback during the consultation, we conducted a further data analysis and updated the EIA.

20. The initial EIA showed that although “*the internal data sets are very small, and we did not have sufficient data to conduct an analysis for some protected characteristics, we have identified that barristers aged 65+, barristers from minority ethnic backgrounds, and male barristers may be slightly more likely to be subject to these interim measures. However, these are not particularly reliable conclusions to draw from the data because the data pool is very small.*”
21. The findings of the further analysis conducted for the updated EIA were consistent with those identified in initial EIA in relation to Race and Sex. However, the updated analysis showed the following potential new impacts in relation to Age:
- a. Barristers aged 45+ may be more likely to be subject to the new powers for the BSB to refer a barrister to interim suspension proceedings than barristers of other ages; and
  - b. In addition to barristers aged 65+ identified in the initial EIA, barristers aged 35-44 may also be more likely to be subject to the Disciplinary Tribunal’s new powers to suspend a barrister between a finding of professional misconduct and sanction than other barristers of other ages.
22. Having had due regard to the potential equality impacts identified in the initial and updated EIAs, the BSB has decided to proceed with the proposed changes to the BSB Handbook. The new powers are a proportionate means of achieving a legitimate aim (regulation of barristers in the public interest) and will assist the BSB in protecting the interests of consumers and the public by addressing the current gaps in the enforcement regime. These powers are also likely to be used rarely, and only in serious cases, which would reduce the risk of any disproportionate impacts.
23. Separately, the LSCP asked the BSB consider the impact on consumers in their consultation response. We have identified that there could also be a potential impact on the lay clients of barristers who are subject to interim suspension, including those who may be vulnerable or accessing a barrister’s services via public access (i.e., without a professional client), as the continuity of legal representation in their cases may be impacted. The Supervision Team already has processes in place to manage the risks to clients where interim orders are made, or suspensions/ disbarment imposed, and these will continue. In some cases, it may be in clients’ interests that interim action is taken to protect them.
24. We will monitor the impact of the changes on both barristers and consumers going forward.

### **Risk implications**

25. While the frequency of the use of the new powers is likely to be low, they will be used in cases where the conduct of the barrister is serious. There is a clear risk to the public and to the regulatory objectives, if we do not take action to ensure that, within our enforcement processes, we have the ability to protect the public where it is necessary.

### **Regulatory objectives**

26. These proposals will enhance our ability to deliver our key regulatory objectives to protect and promote the public interest and the interests of consumers.

27. By removing a barrister's ability to practice on an interim basis, pending final sanctions, this reduces the risk of further serious misconduct occurring in the professional sphere and will contribute to making the Bar a safer place to work, thereby assisting with encouraging an independent, strong, diverse and effective legal profession as well as compliance with professional standards.
28. The LSCP in their response noted that regulators should make sure to assess all regulatory objectives individually, and not assume that the positive impacts on one objective will necessarily lead to improvement in other objectives. In our response, we thank the LSCP for their feedback, but highlight that we have considered each regulatory objective. To provide reassurance, we have made this position clear in our consultation response document and have noted that we will be more explicit in any future publications.

### **Communications and engagement**

29. If the Board approves the consultation response document, we will publish it on the BSB website, together with a press release shortly after the meeting. An immediate application will also be made to the LSB to approve the Handbook changes, which will come into force as soon as practicable after approval has been received.





BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

## Proposed Amendments to powers to take interim action – BSB Response

### Introduction

1. Between 22 June 2023 and 2 August 2023, the BSB undertook a public consultation on proposed changes to widen the powers of the BSB and its Disciplinary Tribunals in order to protect the public and the public interest.
2. The consultation paper can be found [here](#). This report summarises the responses received, the BSB's response, and next steps.

### The Consultation

3. In performing its functions, the BSB has specific regulatory objectives to protect and promote the public and consumer interest, as well as promoting and maintaining adherence to the professional principles. A key function is therefore taking appropriate enforcement action where there has been a breach of the BSB Handbook, and where this could amount to professional misconduct, to pursue disciplinary action against barristers<sup>1</sup>.
4. As set out in the BSB consultation paper, as a result of a case before the Disciplinary Tribunal last year, we identified gaps in the powers of Disciplinary Tribunals to impose interim restrictions on a barrister's practice following a finding of professional misconduct but before sanction and in the BSB's ability to refer barristers to an independent panel for consideration of an interim suspension.
5. The current Interim Suspension and Disqualification Regulations allow the BSB to refer a barrister to an independent interim suspension panel on a number of bases but do not include where it is necessary for the protection of the public or public interest. This was of a concern to the BSB. As the consultation noted, although it is rare, there will be circumstances where there is a risk to the public of a barrister continuing to practise due to alleged or confirmed misconduct. These can include, for instance, cases of sexual misconduct, discrimination, harassment, and dishonesty.
6. The BSB therefore proposed to address these gaps by introducing new powers to take interim action by:
  - a. Amending the Disciplinary Tribunals Regulations to introduce new powers for Disciplinary Tribunals to impose interim restrictions on a barrister's ability to practise following a finding of professional misconduct, but pending a decision on sanction, where it is in the public interest to do so.

---

<sup>1</sup> By barristers, we refer to authorised persons and entities more broadly.

- b. Widening the BSB's existing powers to refer a barrister to an interim suspension panel, under the Interim Suspension and Disqualification Regulations, by replacing the current ground that such action is necessary to protect the interests of clients, with a wider ground that it is necessary to protect the public or the public interest.
7. The consultation asked two questions on our proposals, sought views and comments on how the proposed changes further the BSB's regulatory objectives, and the BSB's Equality Impact Assessment of the proposals. Additional comments on our proposals were also invited.
8. We received four responses to our consultation. Respondents included the Bar Council, Legal Services Consumer Panel (LSCP), and two barristers. Respondents answered all the questions on our proposals and provided some further comments and views to our additional questions around our regulatory objectives and the consultation stage Equality Impact Assessment.
9. All the respondents were supportive of our proposals to extend the Disciplinary Tribunal powers, and to amend the BSB's powers to refer a barrister to an interim suspension panel, to protect the public and the public interest. However, there was some variance of opinion on drafting proposals to the BSB's Handbook to give effect to our second proposal to give BSB new powers to refer a barrister to the interim suspension panel.
10. Following stakeholder feedback, the BSB has decided to proceed with its proposed changes, albeit with some minor changes to reflect stakeholder suggestions. The changes to the BSB Handbook will be made once the Legal Services Board has approved the proposals.

#### **Summary of responses: Proposed Amendments to powers to take interim action**

##### **Question 1: Do you agree that a Disciplinary Tribunal should be able, in the public interest, to order a suspension of a barrister's practice, or impose conditions on their practice, following a finding of professional misconduct and pending a decision on sanction? Please give reasons for your answer.**

11. All the respondents agreed with the BSB's proposal and rationale for the proposed changes. Respondents agreed that there was a gap in the Disciplinary Tribunal's powers, and that it was important to protect the public – not just the barrister's client – where there could be potential harm.
12. The LSCP highlighted that as it may take time to consider and decide on a particular sanction, that does not mean others should not be protected during that timeframe.
13. Another respondent, a barrister, provided illustrations of when the public needs to be protected, such as parties against whom the barrister is acting in litigation, who are being exposed to inappropriate conduct by the barrister, or professional colleagues of the barrister. The barrister also noted that there may be a need to protect the public, even if the harm cannot be readily identified. Another barrister respondent agreed the proposals were a good idea.
14. The Bar Council agreed that these proposals were proportionate to protect the public, but were also needed in order to protect the reputation of the profession.
15. The LSCP provided further comments around transparency. They noted that consumers and the public should be able to find out when a finding of professional misconduct has been made, and where the circumstances warrant it, that interim action has been taken against the barrister in question.



**BSB's response**

16. Following the positive response from stakeholders, and their agreement with the BSB's rationale for changes, the BSB has decided to proceed with the changes as set out in Annex A of the consultation document. The Disciplinary Tribunal Regulations will be amended to include the new rules E202A to E202F.
17. The BSB notes the LSCP's comments around the publication of information for consumers and the public when interim action has been taken. The BSB currently publishes this information on its website: <https://www.barstandardsboard.org.uk/for-the-public/search-a-barristers-record/interim-suspended-barristers.html>, providing a list of interim suspended barristers. Furthermore, all past disciplinary findings against practising barristers are also available to consumers and the public via an up to date register on the BSB's website: <https://www.barstandardsboard.org.uk/for-the-public/search-a-barristers-record/past-disciplinary-findings.html>.

**Question 2: Do you agree that the BSB should be able to refer a barrister to an interim suspension panel because it is necessary for the protection of the public or in the public interest to do so? Please give reasons for your answer.**

18. Similarly, as with responses to question 1 above, all the respondents agreed with this proposal, although there was variance of opinion on how to achieve the changes.
19. A respondent, a barrister, noted that the rationale for the proposals in relation to amending the Disciplinary Tribunal's powers can also be applicable in cases before the finding of professional misconduct. Furthermore, the barrister was of the view that the BSB's current power to refer a barrister to an interim suspension panel where it is necessary to protect the interests of clients was too narrow, and that the gap should be addressed. The barrister also highlighted examples of risks to the public which would necessitate suspension, for instance, if a barrister has acted dishonestly, and there is a risk of continued dishonesty.
20. The Bar Council were also supportive of extending the criteria for referral, agreeing with the BSB's rationale for change.
21. The LSCP, whilst agreeing with the case for change, had divergent views on the drafting of the criterion in the Interim Suspension and Disqualification Regulations to effect the change. They were of the view that the existing criterion to protect the interest of clients (rE268.1.e) should be left unchanged, and instead, a new criterion added to protect the interest of the wider public as a reason for BSB intervention. The reasoning for this position was that the client interest and wider public interest may not always align.
22. The LSCP also provided further views and comments on this proposal. It noted that it may have been helpful for the BSB's consultation to have included data on how often interim orders are confirmed after a final Disciplinary Tribunal decision has been made.
23. The LSCP also suggested that additional wording is considered to ensure this new power is used when serious harm may occur, and restrictions considered to mitigate any unintended consequences to existing clients in cases of interim suspension.

**BSB's response**

24. As responses to our proposals have been positive, the BSB has decided to amend its Handbook to allow it to refer a barrister to an interim suspension panel where it is necessary for the protection of the public or it is in the public interest.
25. In the light of the consultation responses, we have, however, decided to retain rE268.1.e (for the protection of the interests of clients) of the Interim Suspension and Disqualification Regulations, and introduce a new criterion where a referral is necessary for the protection of the public or where it is in the public interest. This will create a separate basis to refer barristers to an interim suspension panel, whilst retaining the criterion relating to protecting the interests of clients. This reformulation does not alter the substance of the change we consulted on but is a helpful clarification.
26. We note the LSCP's comments regarding inserting additional wording into the rules so that referral is only made in serious misconduct cases. The existing regulations (E269) provide that a referral can only be made where there the relevant grounds of referral would warrant a charge of professional misconduct and referral to a Disciplinary Tribunal. The decision to impose an interim suspension or conditions is then made by an independent panel after a hearing. We consider these are sufficient safeguards to ensure that suspensions are only imposed in serious matters, and it is not necessary to introduce a new concept of "serious misconduct" as threshold for referral.

**Question 3: Do you have any comment to make on our analysis of the regulatory objectives or wish to raise any potential equality impacts of these proposals?**

27. Several comments were made in relation to this question by the respondents.

*Potential equality impacts*

28. The Bar Council noted that the "Equality Impact Assessment (EIA) the BSB was able to identify, "that barristers aged 65+, barristers from minority ethnic backgrounds, and male barristers may be slightly more likely to be subject to these interim measures". As the BSB acknowledges, the data pool we used for the EIA was small. They noted that, however, this trend is one seen across different sectors. The Bar Council indicated that it is important for the BSB to closely monitor data and disparate outcomes of the proposed amendments, particularly given that interim suspension is a severe measure.
29. The LSCP noted that if barristers from ethnic minority backgrounds are more likely to be reported for discipline, then these proposals are likely to impact them at a higher rate. They suggested that the BSB should make it explicit what is being done to mitigate and minimise this risk. Furthermore, the LSCP highlighted consumers with protected characteristics should also be considered in the EIA to ensure they are protected by Disciplinary Tribunals.
30. The Bar Council suggested that the BSB should put in place training for its staff and tribunal members on the new measures and equality and diversity, to ensure that suspensions are applied appropriately and in a non-discriminatory way.

*Regulatory objectives*

31. As regards the regulatory objectives, the LSCP made several comments and observations. They highlighted that they would like to see analysis where each regulatory objective is addressed, rather than the BSB assuming measures that helps the public interest also supports other regulatory objectives.

32. The LSCP stressed that the distinctive objectives should be considered separately, including the consumer interest, access to justice, professional standards, in addition to the public interest. They also suggested there should be amendments to the BSB handbook to reflect this position.
33. A barrister respondent, whilst welcoming the proposals broadly, questioned how these proposals would protect the public interest more generally. They could see these new powers protecting court users encountering relevant persons in a professional setting, but not how it could protect their colleagues, for example because suspension would not stop someone from entering chambers.

### **BSB's response**

34. We welcome the further comments provided by respondents.

#### *Potential equality impacts*

35. The BSB has updated its EIA to take account of the points raised by the respondents to this consultation. Key and relevant updates have been set out below.
36. We have analysed two new data sets as part of the updated EIA. The findings in relation to Race and Sex are consistent with the findings from the initial EIA, such that no new impact has been identified. In relation to Age, it appears that:
- a. Barristers aged 45+ may be more likely to be subject to the new powers for the BSB to refer a barrister to interim suspension proceedings than barristers of other ages; and
  - b. In addition to barristers aged 65+ identified in the initial EIA, barristers aged 35-44 may also be more likely to be subject to the Disciplinary Tribunal's new powers to suspend a barrister between a finding of professional misconduct and sanction than other barristers of other ages.
37. However, we cannot draw reliable conclusions about the significance of the findings as the data pools are very small.
38. Once the new powers are in place, the BSB will monitor their use and impact to identify and mitigate against negative effects on barristers.
39. In response to the LSCP's comment that consumers with protected characteristics should also be considered in the EIA, we do not hold information about the protected characteristics of consumers who access barristers' services (i.e., lay clients) to enable us to conduct such an analysis. We do hold limited protected characteristic information about people who make reports to the BSB (when they choose to disclose this information to us). However, these people are not always consumers who access barristers' services (e.g., the reporter may be a solicitor or member of the public). Nonetheless, we have interrogated the internal data extracted for the initial EIA further and extracted new data sets to attempt to identify potential impacts on consumers, and particularly vulnerable<sup>2</sup> consumers.

---

<sup>2</sup> As a general proposition, consumers could be considered "vulnerable" due to either their personal circumstances, or the situations they have found themselves in, or both.

40. Across the data sets, it appears that employed barristers are less likely to be the subject to the new powers for the BSB to refer a barrister to interim suspension proceedings than other barristers. There are no further observations we can make on the internal data due to the very small numbers making conclusions unreliable.
41. However, the limited data that we do hold has indicated that self-employed barristers who practise in the areas of family law, crime and immigration may have been more likely to be the subject of an interim suspension. We note that consumers accessing the services of self-employed barristers in those practice areas, who may often be vulnerable, and/or via the public access route (i.e., where there is no professional client) may be more likely to be adversely affected by their barrister being the subject of an interim suspension because, in those circumstances, the consumer would lose their legal representation at short notice. These consumers may therefore be negatively affected by the proposed BSB Handbook amendments.
42. The BSB also recognises that clients from practice areas that are not traditionally considered to have “vulnerable” clients may nonetheless become vulnerable (because of, for example, the BSB’s actions in interim suspending their barrister) and could also therefore be negatively affected by the BSB Handbook amendments.
43. To mitigate such potential negative impacts on consumers, the BSB already does and will continue to take appropriate Supervisory activities in relation to a barrister’s practice to ensure that consumers, and particularly vulnerable or public access consumers, are protected. The BSB’s Supervision Team currently have a process in place when a practising barrister is suspended, interim suspended, or disbarred. This includes contacting the barrister to:
- a. get assurance that their cases are being managed appropriately (including requesting a list of their current cases);
  - b. confirm that their clients (both professional and direct access) have been informed of the interim suspension (and where appropriate, have been signposted to a relevant contact and/or supported to find an alternative barrister or solicitor) to ensure continuity of representation; and
  - c. confirm that any websites advertising the barrister’s legal services are changed to reflect the fact of their interim suspension.
44. If the barrister is practising within chambers or employed at a BSB entity, the BSB’s Supervision Team would also contact the barrister’s chambers or the BSB entity to confirm that they are aware of the interim suspension and are not allocating them any further work while they are suspended.
45. However, it is important to note that these consumers could also be positively affected because the BSB may take interim action to prevent the barrister from practising in circumstances where the client may also be at risk (particularly if they are already vulnerable).
46. In response to the Bar Council’s comment regarding the need for training:
- a. BSB decision-makers (including members of the Independent Decision-Making Body) and Panel members who sit on Bar Tribunal and Adjudication Services Disciplinary Tribunals already periodically receive (and will continue to receive) training on equality, diversity, and inclusion issues.

- b. The BSB will ensure that all its decision-makers involved in the enforcement process (including members of the Independent Decision-Making Body) are appropriately trained on the new powers and BTAS will ensure that its Tribunal panel members are similarly trained.

*Regulatory objectives*

47. We note the LSCP's comments on the regulatory objectives. The BSB is committed to promoting the regulatory objectives – we are of the view that our proposals would help us achieve both the protection of consumers and the wider public. These have been considered individually, although we appreciate that further clarity and presentation on how respective objectives are impacted individually would be appropriate in future consultations.
48. We also note the comments on how these proposals would protect the public and the public interest. Whilst we appreciate that the BSB's enforcement action will not prevent all potential harm to the public from the conduct of a barrister, they seek to reduce their exposure to clients, colleagues, and others in a professional setting through suspension.

**Question 4: Do you wish to make any further comment on the proposals?**

49. There were a few further comments provided by respondents.
50. One respondent, a barrister, noted that the proposed changes should be implemented as a matter of urgency and that the BSB should be ready to carefully consider the use of interim suspension powers in appropriate cases. Another barrister was of the view that the proposals have no downside, but that the benefits are marginal as they noted that the powers would only protect other court users.
51. The LSCP reiterated their comments around the BSB considering its regulatory objectives separately, and how each party may be affected by taking interim actions before and after disciplinary proceedings. They also expressed their view that the BSB should consider how these changes affect consumers in relation to the Public Sector Equality Duty.
52. A further suggestion was made by the LSCP, namely that the BSB should consult other legal services regulatory bodies to gain an understanding of lessons learned in the use of interim measures.

***BSB's response***

53. We welcome the additional comments and insights from stakeholders. The BSB will be implementing these changes as soon as possible once the Legal Services Board approves them, in recognition of the gap and potential harm to the public.
54. As part of our ongoing engagement with other legal services regulators, we will share insights and best practice to further our understanding of the use of interim measures for the protection of the public.
55. More broadly, the BSB will monitor the use of these new powers to keep track of the potential impacts on both barristers and consumers. Our monitoring of the impacts of these powers will include barristers and their clients.



## PROPOSED RULE CHANGES

(Changes in red)

### Proposals Part 1: New regulations to be inserted in the Disciplinary Tribunal Regulations

#### Interim suspension/withdrawal of practising rights pending a final decision on sanction

- rE202A** In any case where charge(s) or application(s) have been found proved against the *respondent* and the *Disciplinary Tribunal* have decided to adjourn the hearing before deciding what sanction to impose, or where under rE211 a three-person panel refers a case to a five-person panel for sanction, the *Disciplinary Tribunal* must consider prior to the adjournment taking effect whether it is in the public interest to make an order that:
- .1 requires the *respondent* to suspend their *practice*, in which case the *Bar Standards Board* must suspend that respondent's *practising certificate*; or
  - .2 requires the *Bar Standards Board* to impose such conditions on the *respondent's practice* as the *Disciplinary Tribunal* deems necessary; or
  - .3 prohibits the *respondent*, either unconditionally or subject to such conditions as the *Disciplinary Tribunal* deems necessary, from accepting or carrying out any public access instructions; or
  - .4 the *respondent's* authorisation to conduct litigation be suspended or be subject to such conditions as the *Disciplinary Tribunal* deems necessary; or
  - .5 where that respondent does not currently hold a *practising certificate*, requires the *Bar Standards Board* not to issue any *practising certificate* to them.
- rE202B** Any order made under rE202A will take effect immediately and last until a decision on what sanction to impose has been made unless the *Disciplinary Tribunal* directs otherwise. Where an order is made under rE202A.1 the effect of the suspension will be as set out in rE220.
- rE202C** Where an order is made in respect of a *respondent* under rE202A and that *respondent* considers that, due to a change in the circumstances, it would be appropriate for that order to be varied, they may apply to *the President* in writing for it to be so varied.

- rE202D** When *the President* receives an application made under rE202C, they must refer it to the Chair and to one of the *lay members* of the *Disciplinary Tribunal* which originally made the order to make a decision on the application or where under rE211 a three-person panel refers a case to a five-person panel for sanction and that five-person panel has been convened by the *President* to the Chair and to one of the *lay members* of the new five-person panel.
- rE202E** Any application made under rE202C must be sent by the applicant, on the day that it is made, to the *Bar Standards Board*. The *Bar Standards Board* may make such representations as they think fit on that application to those to whom the application has been referred by the *President*.
- rE202F** The persons to whom an application made under rE202C above is referred may vary or confirm the order in relation to which the application has been made.

## Proposals Part 2: Amendments to the Interim Suspension and Disqualification Regulations

### Referral to an interim panel

- rE268** On receipt of a referral or any other information, the *Commissioner* may refer a *respondent* to an *interim panel* if:
- .1 subject to rE269:
    - .a the *respondent* has been convicted of, or charged with, a *criminal offence* in any jurisdiction other than a *minor criminal offence*; or
    - .b the *respondent* has been convicted by another *Approved Regulator*, for which they have been sentenced to a period of suspension or termination of the right to practise; or
    - .c the *respondent* has been intervened into by the *Bar Standards Board*; or
    - .d removed;
    - .e the referral is necessary to protect the interests of *clients* (or former or potential *clients*); ~~and~~ or
    - .f the referral is necessary to protect the public or is otherwise in the public interest; and
  - .2 the *Commissioner* decides having regard to the *regulatory objectives* that pursuing an interim *suspension* or an interim *disqualification order* is appropriate in all the circumstances.



- rE269** No matter shall be referred to an *interim panel* on any of the grounds of referral set out in rE262.1.a to rE262.1.b unless the *Commissioner* considers that, whether singly or collectively, the relevant grounds of referral would warrant, in the case of a *BSB authorised person*, a charge of *professional misconduct* and referral to a *Disciplinary Tribunal*, or, in the case of a *applicable person*, an application to a *Disciplinary Tribunal* for *disqualification* (in each case such referral or application to be made in accordance with Section 5.B).
- rE270** If the *Commissioner* refers a *respondent* to an *interim panel* under rE268, the Chair of the *Independent Decision-Making Body* shall consider whether or not the *respondent* should be subject to an immediate interim *suspension* or *disqualification* under rE272 pending disposal by the *interim panel*.
- rE271** An immediate interim *suspension* or *disqualification* may only be imposed if the Chair of the *Independent Decision-Making Body* is satisfied that such a course of action is justified having considered the risk posed to the *public* if such interim *suspension* or *disqualification* were not implemented and having regard to the *regulatory objectives*.
- rE272** Any immediate interim *suspension* or *disqualification* imposed by the Chair of the *Independent Decision-Making Body* shall:
- .1 take immediate effect;
  - .2 be notified in writing by the *Commissioner* to the *respondent*;
  - .3 remain in force until the earlier of:
    - .a such time as an *interim panel* has considered the matter; or
    - .b the date falling four weeks after the date on which the immediate interim *suspension* or *disqualification* is originally imposed;
  - .4 where relevant, result in the removal of the relevant *BSB authorised individual's practising certificate, litigation extension* and/or right to undertake public access work (as appropriate);
  - .5 where relevant, result in the imposition of conditions on the relevant *BSB authorised person's* authorisation and/or licence (as appropriate)
  - .6 be published on the *Bar Standards Board's* website; and
  - .7 be annotated on the *Bar Standards Board's* register of *BSB authorised persons* which is to be maintained by the *Bar Standards Board* in accordance with rS60.2 and ~~rS129~~rS128 or be included on the *Bar Standards Board's* register of individuals that are the subject of a *disqualification order* (as appropriate).

**Guidance**

- gE1** If an immediate interim *suspension* or *disqualification* has been imposed by the Chair of the *Independent Decision-Making Body* it must be considered by an *interim panel* within four weeks of the date that the immediate interim *suspension* or *disqualification* is originally imposed. If it is not considered by an *interim panel* within that period, it shall automatically fall away and no further period of interim *suspension* or *disqualification* may be imposed on the *respondent* until the matter is considered by an *interim panel*.
- gE2** If, subsequent to the imposition of an immediate *suspension* or *disqualification* under rE271, the *applicable person* agrees to provide to the *Commissioner* an undertaking in written terms in accordance with the provisions of rE274.4 below which is satisfactory to the *Commissioner* and which is subject to such conditions and for such period as the *Commissioner* may agree, the *Commissioner* may elect to remove or qualify the immediate interim *suspension* or *disqualification* pending the disposal of any charges or application by a *Disciplinary Tribunal*. For the avoidance of doubt, in these circumstances the referral to the *interim panel* shall also be withdrawn in accordance with the provisions of rE275 below.

**Governance, Risk and Audit Committee (GRA) - Annual Report 2023****Introduction**

1. The Governance, Risk and Audit Committee (GRA) is a standing committee of the Board with oversight of governance; risk management; risk strategies; key organisational controls; internal business processes; the Assurance Framework; and the work of the Internal Auditors.
2. The Committee meets regularly throughout the year and has convened six times since the last report in November 2022.
3. The Committee currently has a membership of five, comprising three Board members: Stephen Thornton (Chair), Andrew Mitchell KC and Jeff Chapman KC; and two independent members: Liz Butler and Stephen Hickey. Before the next report in November 2024, Liz Butler will have concluded her final term on the Committee (at the end of June 2024) and Stephen Hickey will then conclude his final term at the end of December 2024.
4. The attendance of Committee members during the period under review was:
  - a. Stephen Thornton CBE – four (of six meetings);
  - b. Liz Butler – six (of six meetings);
  - c. Jeff Chapman KC – four (of five meetings convened since his appointment);
  - d. Stephen Hickey – six (of six meetings);
  - e. Andrew Mitchell KC – five (of six meetings).

**Executive Summary**

5. This report summarises the key aspects of the Committee's work during the past year. The report also provides the Board and public with assurance that the risk, governance, audit, and control processes within the organisation remain robust and appropriate.
6. The GRA publishes an annual report on its activities during the preceding year. Since its last report the Committee has focussed on processes to identify, evaluate, and mitigate corporate and regulatory risks. The Committee has challenged the Executive on its evaluation of those risks which pose the greatest threat to the regulatory objectives or to delivery of the BSB's core regulatory functions.
7. We have considered the Committee's Terms of Reference and can give assurance that the Committee's work over the last year indicates that the Committee is substantially compliant with those Terms of Reference. It has not had an opportunity in this year to review the Business Continuity Plan (but expects to do so shortly within the next reporting period) nor has it made explicit recommendations to the Board on how the BSB's governance structures and arrangements maintain the BSB's independence (although it has scrutinised the effectiveness of actions in mitigation of the relevant corporate risk, and expects to have opportunity to consider this more fully in the coming period).
8. Our internal audit contract with Crowe U.K. LLP came to an end on 31 March 2023. Following a successful tender process RSM UK were appointed as our new Internal Auditors with effect from April 2023. The term of appointment continues to align with the business and reporting year and will run until 31 March 2026.

## Risk Management

9. The BSB takes a risk-based approach to regulation. At a strategic level, understanding regulatory risks assists the Board to identify emerging risks within the legal services market and helps the BSB to support the profession to respond positively to mitigate those risks, ensure that the public interest is protected, and the needs of consumers are met. At an operational level, the Committee considers identified risks to determine the best deployment of resources and to recognise challenges to the delivery of our core regulatory functions and continuing projects.
10. A core function of the GRA is to provide the Board with assurance on the oversight of risk. This includes the identification, management, and control of both regulatory and corporate risks. It does this through holding the Executive to account for its risk management strategies and in challenging the evidence and rationale for regulatory risks that are identified.
11. The Committee oversees a programme of regulatory deep dives. Over the last year, the Committee has focussed on the following regulatory risks:
  - i. Diversity of the profession;
  - ii. Access to justice;
  - iii. The market is uncompetitive or does not work well; and
  - iv. Professional Standards.
12. The Committee scrutinised and approved comprehensive updates to the corporate risk register with new, revised and restructured risks and a review of 'medium' to 'high' priority risks.
13. Assurance on the fitness for purpose of the organisation's cyber security framework and GDPR compliance has continued to be an area of focus for the committee as the General Council of the Bar (GCB) has implemented an action plan following the Grant Thornton Report. The GCB commissioned Grant Thornton to conduct an independent review of cyber security to determine the steps we can take to reduce vulnerability to cyber-attack, and to improve resilience and our ability to maintain operations if a cyber-attack is detected or occurs.
14. In response to a request from the Board, the GRA has provided more comprehensive updates on the apparent effectiveness of our mitigation of all the corporate risks rated as a high priority for action.
15. The Committee scrutinised consolidated risk reports which included any risks that might arise when implementing and delivering BSB Programmes (as distinct from other regulatory or corporate risks). The committee received assurance that adequate measures were in place to mitigate the risk of any delay in achieving the operational efficiencies which projects were originally established to achieve, and the risk of staff overload should new projects commence whilst others remain ongoing. The Committee noted the need for the Board to carefully consider the impact on existing projects / resources prior to authorising new streams of work.

## Risk Framework Review

16. In the last twelve months, the GRA Committee has played an important role advising on and scrutinising the work of the BSB's Regulatory Risk Framework Review. The Review, which commenced in February 2023, seeks to evaluate the BSB's effectiveness in identifying, managing and responding to risks to the BSB's regulatory objectives. The GRA Committee reviewed the Provisional findings initially out of session in June 2023, before considering them again in a session in July, joined by the BSB's Advisory Pool of Experts member for Regulatory Risk. The GRA Committee considered the final report of the Review in November 2023.

### Assurance and Internal Audit

17. The BSB continues to follow the [four lines of defence model of assurance](#)<sup>1</sup> which ensures a holistic approach to risk management with controls at various levels of a process. The GRA Committee agreed the Internal Audit Plan for 2023/24.
18. Crowe U.K. LLP completed the following audits since the last report:
  - (a) MyBar - Barrister Payments (Final report in Jan 2023);
  - (b) Ethics Assessment in Pupillage (Final report in Feb 2023); and
  - (c) GDPR (Final report in May 2023).
19. Since taking over responsibility as internal auditors for the BSB, RSM UK have scheduled the following audits:
  - (a) LSB Regulatory Performance Framework (Final report July 2023);
  - (b) Examinations;
  - (c) Cyber Security;
  - (d) Equality and Enforcement;
  - (e) Use of Resources; and
  - (f) Risk Management.
20. RSM UK have provided the GRA with reasonable assurance following its audit of the assurances provided to the Board on our compliance with the LSB Regulatory Performance Framework, with one management action to be completed by January 2024.
21. The Committee monitors the progress and impact of agreed management actions arising from audits at every meeting. In addition, there is an agreed schedule of independent reviews by RSM UK to ensure that management actions have been completed.

### Bar Standards Board's cyber security arrangements – Grant Thornton report and Action Plan

22. Following the Grant Thornton report a 'Security Project' was launched to implement the recommendations within the report. The Committee had oversight of activities relating to the implementation of the action plan being delivered via the 'Security Project'. The Committee has received regular reports and updates on the progress of workstreams within the 'Security Project' to provide assurance that our response is effective, proportionate and on track.
23. The GRA requested a further audit to be completed on the effectiveness of the cyber-security controls by our current internal auditors.

### GDPR

24. GRA receives periodic reports on data breaches and other compliance issues from our Data Protection Officer (the last report was in May 2023), and we include two specific GDPR related risks on our Corporate Risk Register. This ensures that there is ongoing scrutiny of our GDPR compliance, that we monitor how the requirements for GDPR are being embedded across the BSB and that mitigation strategies are in place. The risk of data breach will always exist due to human error, but this risk is mitigated as far as possible by the systems and procedures put in place.
25. The Committee asked that the Executive prioritise the follow-up actions identified by the internal audit completed for GDPR compliance and requested a timetable on the mitigation of risks around data retention highlighted in the audit.

<sup>1</sup> ICAEW - <https://www.icaew.com/technical/audit-and-assurance/assurance/what-is-assurance/assurance-glossary/four-lines-of-defence>

## Independent Reviewers

26. The role of the Independent Reviewers is to assist the BSB in ensuring that our regulatory decisions remain of a high quality, that we are effective and fair, and that all the correct processes and procedures have been followed properly. During the past 12 months, the GRA received two reports from the Independent Reviewers and were assured that cases continue to be assessed and investigated in line with relevant regulations and policies.
27. The GRA were satisfied that although cases were not always dealt with in a timely manner, the outcomes were determined in accordance with the process and the quality of decision-making was to a consistently high standard.

## Service Complaints

28. The GRA reviewed the annual BSB Service Complaints report and received assurance that the Executive had identified trends and reasons for those trends and was implementing actions to address those. There was an increase in the number of complaints; a majority of those were attributed to delays in decision-making and in communication. This was not unexpected given known backlogs within our operational teams in the year that was reported.
29. There were important lessons learned from complaints about difficulties in accessing our services. In response to those, we have clarified to our people that we should be willing to take information over the phone from people who are unable to write and avoid defaulting to our standard processes, and that we must improve internal communications when a person requires reasonable adjustments so that person does not have to repeat their requirements multiple times.

## Other Business

30. The Committee oversees the BSB's compliance with its obligations under the Money Laundering Regulations. It reviewed the annual report which provided the Committee with the required assurance that measures were in place to reduce the risk of money laundering and terrorist funding occurring at the Bar.
31. The GRA received six-monthly updates on litigation against the BSB and statutory appeals to the High Court, to enable it to consider whether such challenges, particularly successful challenge, highlight risks arising from inadequate capacity or poor policy or process.
32. Following the tragic and unforeseen loss of a key member of staff of the BSB, the GRA considered the impact of such a loss on a small organisation such as the BSB. The GRA were assured that the risk to business continuity and performance following such a sudden and unforeseen loss of resource was being addressed and contingency measures within our succession planning were adequate given the likelihood of such an event in the future being remote.

## Forward View

33. As well as the routine business defined by its terms of reference, over the coming year the Committee will continue work refining processes for its oversight of risk and mechanisms for considering the interdependencies between risks to the regulatory objectives and those to the organisation. A cycle of deep dives is planned once again, enabling the GRA to fulfil its function as part of the fourth line of defence in our Assurance Framework, and to give assurance to the Board.

**Part 1 - Public**

34. We will recruit and appoint two new independent (non-Board) members to take up post as the current incumbents come to the end of their terms.
35. The next GRA Annual Report will be presented to the Board in November 2024.





## Performance and Strategic Planning Committee (PSP) Mid-Year Report 2023/24

### Recommendation to the PSP

1. The Board is invited to **note** the Annual Report of the Performance and Strategic Planning Committee (PSP). The Committee's Terms of Reference require that it must now report to the Board at least bi-annually (following a change requested by the Committee so that it must report more frequently than annually) and that change was implemented following the annual report in May 2023.

### Introduction

2. The PSP replaced the Strategic Planning and Resources Committee (SPR) in December 2022 and is a standing committee of the Board to which it reports on matters related to organisational performance, resources and strategic planning. The PSP supports the Board and the executive in delivering high performance and in formulating the overall strategy for the BSB and, to these ends, it scrutinises the BSB's multi-year Strategic Plan and annual Business Plans and budgets before the Board's approval is sought. It oversees performance against relevant service levels and financial performance against the objectives and targets set out in the Business Plan and considers any necessary corrective actions, including to the allocation of resources across the BSB.
3. The Committee meets regularly throughout the year and has met four times since the last report.
4. The Committee currently has a membership of six – all of whom are members of the Board, with a majority of lay members. The members are: Steven Haines (Chair), Gisela Abbam FRSA, Alison Allden OBE, Emir Feisal JP (lay members); Simon Lewis, and Irena Sabic KC (barrister members).
5. The attendance of Committee members during the period under review was (from a total of four meetings):
  - a. Steven Haines – four meetings;
  - b. Gisela Abbam FRSA – three meetings;
  - c. Alison Allden OBE – three meetings;
  - d. Emir Feisal JP – two meetings;
  - e. Simon Lewis – four meetings;
  - f. Irena Sabic KC – two meetings.

### Executive Summary

6. This report summarises the key aspects of the Committee's work over the past six months. The report also provides the Board and public with assurance that the scrutiny of business and strategic plans (when applicable) prepared by the BSB are robust, appropriate, and financially sound and that organisational performance is again scrutinised by a committee of the Board (but without dilution of the Board's primary responsibility for oversight and monitoring of performance).
7. We have considered the Committee's Terms of Reference and can give assurance that the Committee's work over the last six months indicates that the Committee is compliant with those Terms of Reference, and is dealing with (or has scheduled on the forward agenda) all area within its remit.

**Strategic Plan (2022-25), Business Plan and budget for 2024-25**

8. The Committee undertook horizon scanning exercises to identify risks to the regulatory objectives and recommended priorities for the 2024-25 Business Plan for the third and final year of the Strategic Plan (2022-25). It then made suggestions for additional matters to be included on the forward agenda for Board discussion.
9. The Committee endorsed the parameters proposed for the development of the Business Plan for 2024/25 (the last year of the current strategy), that: we should not propose significant uplifts or reductions in resources; we should continue to implement the pay reforms approved by the Board last year; and broadly define priorities for 2024/25 as:
  - improving the timeliness and responsiveness of our operations;
  - continuing with the reforms confirmed to the LSB in April 2023;
  - completing existing strategic projects outlined in our current strategy subject to availability of sufficient resources.
10. The Committee scrutinised budget proposals to satisfy itself that the provisional budget is fair and reasonable in the context of the strategic and business plan before recommending it to the Board. The provisional budget presented included the costs of the second year of the previously agreed five year implementation of pay reform for the BSB. The Committee recommended the provisional budget to the Board for approval (so that the joint Finance Committee of the Bar Council and the BSB could then consider the appropriate level of the Practising Certificate Fee).

**Oversight of performance**

11. Since the Committee's remit was expanded in December 2022, the Committee has met to review performance against Key Performance Indicators (KPIs) and had oversight of progress towards the activities set out in the published Business Plan. The role of the reconstituted PSP is to undertake closer scrutiny and analysis of performance trends and any systemic causes for those, and to make recommendations to the Board.
12. The Committee considered the report on performance at the end of the 22 – 23 business year and noted that whilst we were then still to see the impact of the improvements in productivity reflected in the existing KPI figures, it expected that would become apparent in subsequent months. The Committee also noted the backlog of work in the authorisations team, primarily due to a "highest ever" caseload number including a spike in the number of applications from transferring lawyers and those seeking exemptions from the Bar Training requirements.
13. At the request of the Board, the Committee has continued to oversee the development of a balanced scorecard capturing performance in our regulatory decision making (rather than across all of the broader work of the BSB). The Committee endorsed the pilot of a new scorecard with four dimensions of performance: quality, timeliness, productivity, and service, and agreed that we should continue to monitor and report on progress against the existing KPIs (which focus on timeliness almost exclusively) concurrently with the pilot.
14. The Committee agreed that the pilot of the new balanced scorecard will run for a period of 10 months from June 2023, with a planned launch of the new scorecard in April 2024. The Committee recommended that on conclusion of the pilot, the final recommendations to the Board also include a formal periodic review process so that the efficacy of the new KPIs is maintained over the longer term.
15. The Committee considered a report on the income received through the annual Authorisation to Practise process and noted the high degree of accuracy of our forecasting model and that the data from each year's process is used to iteratively refine that forecasting model.

16. The Committee scrutinised quarterly financial accounts and reforecasts. This included oversight of the cash and reserves to ensure that the BSB had sufficient liquidity to meet its obligations.
17. The Committee scrutinised the year-end accounts for the 2023-24 financial year (in advance of the publication of the audited accounts) and had oversight of the five-year forecast alongside the financial reports.

**Other Business**

18. The Committee scrutinised the draft BSB Annual Report (for the financial year 2022/2023) and made recommendation for the Board's subsequent approval of a version with its agreed amendments.
19. The Committee received its six-monthly report from the BSB's People Team, and noted the beneficial impacts from the pay reforms approved in 2022 (increased retention rates and more successful recruitment campaigns).
20. During the last year the Committee has continued to hold meetings remotely (using Microsoft Teams). It is intended that the Committee will continue holding meetings remotely as routine but may meet in person depending on the business on the agenda.

**Forward View**

21. As well as the routine business defined by its terms of reference, the Committee will consider the evaluation of the pilot of the balanced scorecard for reporting on performance of our core regulatory operations and any refinements that might be required following results of the pilot.
22. The provisional budget figures will be further refined and scrutinised and challenged by the Committee prior to presenting a final version of the budget to the Board in March 2024.
23. The Committee will continue supporting the executive with development of the Business Plan for the next year, and agreeing a process for development of the next multi-year strategy within that next business year.
24. The Committee anticipates that the reviews currently underway – the review into our decision-making processes for authorisations and the end-to-end review of our enforcement policies and processes – should lead to improvements in performance and will also help inform our thinking for the next multi-year strategy.
25. The Committee will consider any recommendations of the executive on the provision of corporate services, including where the executives proposes sharing or ceasing to share any service with the General Council of the Bar (to ensure continuing compliance with the Internal Governance Rules set by the Legal Services Board).
26. The next PSP Bi-annual Report will be presented to the Board in May 2024.

**Lead responsibility**

Steven Haines, Chair, Performance and Strategic Planning Committee (PSP)  
Rebecca Forbes, Head of Governance and Corporate Services



<b>Meeting:</b>	Board	<b>Date:</b>	30 November 2023
<b>Title:</b>	Reform of BSB's regulatory capacity		
<b>Author:</b>	Mark Neale		
<b>Post:</b>	Director General		

<b>Paper for:</b>	<b>Decision:</b> <input type="checkbox"/>	<b>Discussion:</b> <input checked="" type="checkbox"/>	<b>Noting:</b> <input type="checkbox"/>	<b>Other:</b> <input type="checkbox"/> (enter text)
-------------------	---	--	---	---

**Paper relates to the Regulatory Objective (s) highlighted in bold below**

- (a) **protecting and promoting the public interest**
- (b) **supporting the constitutional principle of the rule of law**
- (c) **improving access to justice**
- (d) **protecting and promoting the interests of consumers**
- (e) **promoting competition in the provision of services**
- (f) **encouraging an independent, strong, diverse and effective legal profession**
- (g) **increasing public understanding of citizens' legal rights and duties**
- (h) **promoting and maintaining adherence to the professional principles**

Paper does not principally relate to Regulatory Objectives

### Purpose of Report

1. This paper updates the Board on our progress in implementing the reforms to which we committed in April of this year and covers a draft letter of assurance to the Legal Services Board.

### Recommendations

2. The Board is invited to:
  - i. note the latest analysis of progress against the reform commitments at annex A: a green rating denotes that purposeful activity is underway to broadly the expected timetable; amber denotes that we have materially adjusted what we aim to deliver or the timetable to which we intend to deliver it; and red denotes that the aim is unlikely to be achieved to any realistic timescale;
  - ii. approve the draft assurance letter to the Legal Services Board at annex B.

### Overview

3. We remain on track to deliver the ambitious programme of reform to which we committed in the Spring. Significant developments since the Board's last meeting and review at the beginning of October include:
  - advice to the Board at this meeting – see parallel paper BSB 060 (23) – to initiate consultations on the recommendations flowing from the first leg of our review of Authorisations: if implemented, the proposed reforms will simplify how we define the essential academic understanding of legal principles required for entry to vocational Bar training so that decisions on entry can more readily be taken by the Bar training provers themselves, with fewer applications for waiver directed to the BSB's Authorisations Team;
  - implementation of new policies on the role of independent review in BSB's decision-making following consideration by the Board at its meeting on 5 October;

## Part 1 – Public

- a project to overhaul the BSB’s approach to gathering, analysing and using data and intelligence approved by the Senior Leadership Team at a strategy session in November, with a view to a submission to the Board in March 2024;
  - approach to revising the Handbook submitted to the Board at its meeting on 30 November, including proposed revisions to the Equality Rules, with a view to launching a consultation in early 2024;
  - consultation launched on clarifying role of chambers in promoting the regulatory objectives; first roundtable held in London on 9 November, with further roundtables planned in all Circuits;
  - a prospective contract with Ipsos Mori to survey opinion annually on consumers’ views of, and trust in, the barrister profession and understanding of, and confidence in, the regulatory arrangements.
4. There are two areas in which we propose material adjustments to the original timetable, though not to the underlying objectives. Those are in track changes in the latest analysis of progress at Annex A.

*Standards; continuing competence*

5. Our Assuring Competence (AC) Programme is proceeding well. The progress of the four projects that make it up is outlined below.
- Our Competence Monitoring Framework (CMF) is on track. It will provide us with better data and intelligence about competence and, therefore, ensure that other areas of our AC Programme are evidence-based, targeted, and proportionate.
  - Our Assuring Standards Framework (ASF) is on track. It will strengthen our approach to ensuring compliance with our ongoing competence requirements through our communication, supervision, and enforcement work. In early 2024, we will run an internal pilot to identify gaps in our approach and how to address them. We will start to implement the ASF in spring.
  - Our CPD Project is making good progress. Early in the New Year, we will launch new CPD guidance and templates to help barristers meet our requirements and strengthen the link to the Professional Statement (PS). We are looking at updating the introduction to the Professional Statement to help barristers use it to meet our CPD requirements and expectations. As part of our ASF, we plan to create a ‘one-stop shop’ for all content about CPD. We have identified some ways to clarify our CPD Rules, which we are discussing with the leaders of our Handbook Review Project.
  - We will deliver any significant changes to the PS in our next strategy. This is so we can collect evidence from our CMF, Bar Training Evaluation, and technology research. Second, we want to ensure the successful implementation of any changes, for example, by training providers that must update their curricula. Third, we intend to pursue collaboration by aligning with the SRA’s work to review its Statement of Solicitor Competence.

*Independence*

6. We continue to engage with the Bar Council on the Internal Governance Rules. This follows a letter sent in April about improvements to the current shared services. Our view remains that the medium-term objective should be to incorporate the Bar Standards Board in order to provide appropriate operational freedom, particularly in relation to people policies. We shall return to this as part of our next multi-year strategy.

**Conclusion**

7. We have drawn together our assessment of progress in the draft assurance letter at annex A. The letter also picks up some of the broader issues raised in the LSB’s draft regulatory performance assessment.

**Annexes**

Annex A – latest monitoring return on progress against the reform action plan

Annex B – draft assurance letter from the Director General to the chief executive of the Legal Standards Board

**Bar Standards Board  
November 2023**





**BAR STANDARDS BOARD****ACTION PLAN – TRANSFORMATIONAL CHANGE****Introduction**

1. The Bar Standards Board has adopted this plan for reform, which brings together a range of changes which the Bar Standards Board and Senior Management Team have commenced or have planned, in order to bring transformative change to the BSB. This change is being managed via the deployment of transformational programmes of work that each have appropriate governance and gated controls. The overall theme is one of continuous improvement. It seeks to bring about major change to the culture and capacity of the organisation, significantly to improve some of our key processes, and to tackle areas of underperformance. By the end of the plan we will be:
  - operationally excellent in delivering our core regulatory services. We already take consistently high quality decisions. We have markedly improved our productivity in the last year, particularly in concluding investigations. To high quality decision-making and high productivity we want to add consistently prompt and responsive service so that members of the public or barristers who use our services can be sure we shall take the right decision and do so efficiently and quickly;
  - on the front foot as a regulator, anticipating risks and opportunities, not just reacting to them. This means reforming our approach to capturing and analysing intelligence about the Bar. It means joining up the information we receive to build up a picture of emerging risks and empowering our front-line teams to act on the risks we identify. And it means gaining assurance that chambers are themselves effective in overseeing standards, equality and access. The result of this regulatory approach will be an engaged and proactive regulator which addresses risks to the public interest before the public sees or suffers any harm;
  - a force for change in the service that the Bar provides to the public. That means that the BSB deals not just with regulatory operations, but develops a broad and evidence-based understanding of the standards and skills the Bar will need to meet the future needs of consumers and the administration of justice. This aspiration is well expressed by our current strategic priorities of standards, equality and access. We shall take forward strategic change in collaboration with the profession, where that makes sense, or through targeted and proportionate regulation where necessary;
  - a collaborative regulator working closely with other legal regulators, with consumer groups and with the profession because we know we can achieve more through collaboration than by acting unilaterally. We shall, of course, regulate and take enforcement action where necessary but we know that a culture in which the public interest always comes first cannot be achieved through regulation alone; and
  - a self-confident and well-respected independent regulator. We shall achieve that by embedding a culture of continuous improvement which advances our values of fairness and respect, independence and integrity and excellence and efficiency. We shall see it reflected in our organisational performance results, the results of our annual People Survey and in the credibility BSB commands among its stakeholders.
2. The prospectus captures the Board's reform agenda under a number of key headings:
  - Performance;
  - Regulatory approach (including strategic change, intelligence and data, and reforming our Handbook and rules); and
  - Culture and capacity.
3. The Board will own and hold itself accountable for the delivery of the plan and receive reports on its implementation from the Director General and Senior Management Team at every meeting until completion.

Theme	Action	Lead	Contact	Milestone and timetable	Progress report		
					Date of update	Update on progress / completion	RAG
Performance	We will conduct an independent end-to-end review of our enforcement policies and processes to identify improvements and ensure that the system is operates effectively and efficiently in the public interest.	SJ	SJ / SH	Tender process – April – July 2023. Completion of review – by <a href="#">April 2024 with presentation of final recommendations to the Board. Interim report January 2024. end of 2023 but dependent on outcome of tender process.</a> Consideration and implementation of recommendations – 2024/25 dependent on extent of changes.	24/10/23	The review is proceeding in line with the agreed timetable. A report on emerging issues and areas to address was presented to the Steering Committee in October and forwarded to the SLT. The work in the next phase will include further interviews of internal and external stakeholders, surveys of users, IDB and BTAS panel members and case reviews.  A report on emerging recommendations is due to be presented to the SLT in December and considered by the Board in January 2024 with final recommendations for change being put to the Board at a single-issue meeting in April 2024.	
	We will conclude the ongoing review into our decision-making processes for authorisations and implement its recommendations	SH	SH / VS	<a href="#">Delivered in phases with the first phase proposals for the overarching framework to be discussed with the Board before the end of 2023 and a public consultation launched in early 2024.</a>	25/10/2023	This Project is on course. A draft consultation paper on the phase one proposals was considered by SLT in early November and then by the Board at its meeting on 30 November 2023. We plan to undertake the public consultation between January-March 2023, during which time we will plan workshops with our key stakeholders, particularly AETOs.	

Theme	Action	Lead	Contact	Milestone and timetable	Progress report		
					Date of update	Update on progress / completion	RAG
Performance (cont.)				<del>Delivered in phases with the first phase proposals for the overarching framework to be discussed with the Board before the Summer and consulted, where necessary, in early Autumn.</del>			
	We will implement the recommendations arising from the Deloitte review of the fitness for purpose and durability of our key operating systems	MN	MN	Milestones will be aligned with the end-to-end review of enforcement processes, but changes to the operating systems are unlikely to be implemented before 2024-25		We are in the process of recruiting a Solution Owner for the CRA and CMS systems, as recommended by Deloitte, who will work alongside the Enforcement Review.	
	We will review the role of the Independent Reviewers in our enforcement and authorisations processes to identify improvements in the operation of this assurance mechanism and to ensure that it is procedurally fair.	SJ	RB	Review complete – end April 2023. Consideration of review outcomes by the Board – July 2023. Consultation and approval of any Handbook changes arising (subject to approval by the Board and the LSB) – July – December 2023. Implementation of revised approach – early 2024.	20/10/2023	Review complete and new policies adopted following the meeting of the Board on 5 October 2023.	
	We will agree and pilot a balanced scorecard to measure BSB's performance in delivering core regulatory operations	MN	AW	Year one: <ul style="list-style-type: none"> <li>Agree shadow measures for piloting in May 2023</li> </ul> Year 2: <ul style="list-style-type: none"> <li>Begin formally reporting against new measures</li> </ul>	20/10/23	We have identified the key risks and issues which could impact delivery and implementation. We have a range of current and planned actions to mitigate these including taking steps to ensure the relevant software and system functionality is available to support reporting, working with operational teams to ensure the reliability of data, communicating internally with staff on the aims and benefits of the project, and scoping a potential piece of consultancy with auditors RSM UK Risk Assurance Services LLP on measures of productivity.	
Regulatory approach – Strategic change	Establish a standards assurance framework which will set out clearly our expectations of barristers and their chambers and employers on how to maintain standards of practice at the Bar	RM	B Burns	Develop framework during 2023/24 business year and implement in Q1 of 2024/25		<p>Since September, our Assuring Competence (AC) Programme has been led by our Director of Standards and a new policy manager. They have completed a thorough stocktake of the programme, on which we will brief the LSB.</p> <p>We are on track to develop our Assuring Standards Framework (ASF) in this business year and start to implement it by Q1 of the next business year. Implementation will be incremental, for example, so that we can pilot, evaluate, and refine elements of our ASF to ensure its success.</p> <p>Our ASF will use improved forms of education and outreach to clarify our expectations of barristers and their chambers or employers. It will also deploy an enhanced approach to supervising and enforcing against issues of competence. As part of this work, we are preparing to run an internal pilot to identify any gaps, barriers, or issues in our regulatory framework or how we apply it.</p>	
	Refine our approach to assuring professional competence of barristers including a refresh of the competences we expect barristers to demonstrate, our	RM	B Burns	Complete reform to CPD and commence supervision against the new arrangements by April 2024		<p>Following the thorough stocktake of our AC Programme, we have decided to proceed with four projects. Namely, our ASF, our Competence Monitoring Framework, a project on CPD, and a project on our Professional Statement (PS).</p> <p>To ensure the success of our AC Programme and deliver work that is targeted, proportionate and evidence-based, we will pursue any fundamental or structural changes to our CPD regime or PS as part of our next strategy if we identify evidence</p>	

Theme	Action	Lead	Contact	Milestone and timetable	Progress report		
					Date of update	Update on progress / completion	RAG
Regulatory approach (cont.) – Strategic change	approach to CPD and the regulation of competence and standards in the early years of a barrister's career					<p>that provides a clear rationale for it (e.g. through our CMF and ASF projects). The milestone to deliver complete reform to CPD is no longer relevant. Nor is it committed to in our AC Action Plan.</p> <p>For the remainder of our current strategy, we will maximise the potential of our existing arrangements and implement a data and intelligence-led approach to competence. This will include several measures to enhance our approach, including to CPD. This business year, we will roll out new CPD guidance and templates to clarify our expectations and help our regulated community meet them. Subject to legal advice, we will also update the Professional PS to strengthen its link to ongoing competence. We continue to assess the need for additional competencies or competency statements. Our Technology at the Bar research, which we plan to publish this business year, forms part of this work.</p> <p>Measures we will take in the next business year include an enhanced approach to supervising CPD compliance (from Q1) and completing research about our New Practitioner Programme. These steps will help to create an evidence base for any fundamental or structural changes to our CPD arrangements.</p>	
	We will undertake a thematic review of the quality of vocational Bar training providers, how they ensure that standards are maintained once a student is admitted and what systems are in place to ensure that a student develops to their full potential, whatever their starting point.	RM	JW	Research and analysis carried out during 2023/24 with final report and recommendation considered by the Board by April 2024.	24/10/23	The thematic review is in progress. The latest annual report on Bar training was presented to, and discussed by, the Board at its meeting on 30 November.	
	We will focus on promoting public legal education in collaboration with our fellow regulators and with other frontline providers of help to those in legal need	WW	WW	This is an ongoing commitment and the Board last reviewed our PLE strategy in May. All our projects are evaluated in terms of their reach and impact.	24/10/23	We continue to support projects with frontline PLE providers such as Law for Life, Citizens Advice, Support through Court and Refugee Action and we have now rejoined the Legal Choices website and look forward to playing an active role in its future development.	
	We will continue to ensure that our transparency rules are being complied with and are being effective	EM	RP	Compliance checks are ongoing and we will consider next steps on transparency in the light of our DCT market study and other evaluation work undertaken to date.	24/10/23	Compliance checks are ongoing in Supervision. Some clarification changes have been made to the transparency guidance on the website, based on Supervision recommendations.	
	We will continue our examination of the role of new technology in the legal services market and our participation in	EM	HF	This is an ongoing commitment (we now have dedicated policy staff taking this work forward) and we will review the DCT pilot following its conclusion.	26/10/23	This work is ongoing – see below for update on DT evaluation and technology research.	

Theme	Action	Lead	Contact	Milestone and timetable	Progress report		
					Date of update	Update on progress / completion	RAG
Regulatory approach – Intelligence & data	the work of LawtechUK and we will also be looking at whether consumers' interests can be well served by online comparison or by other intermediaries offering to broker access to barristers						
	We will overhaul our approach to the gathering, collation and analysis of the intelligence we receive from a wider range of sources	EM	BBray	Year one: <ul style="list-style-type: none"> <li>Create and publish a data and intelligence strategy</li> </ul> Year two <ul style="list-style-type: none"> <li>Commence implementation of agreed strategy</li> </ul>	20/10/2023	The Data and Intelligence Strategy work is progressing. We have considered the planned vision and objectives of the strategy and assessed how we feel the BSB is meeting these in a current state analysis. The project is currently at the Future State Analysis phase, where we seek to understand the changes needed to be made in future years to meet our objectives. The full strategy and proposals will go to the Board in March 2024	
	We will review our current risk framework to make sure that intelligence is joined up and that our front-line teams have more discretion to act promptly in response to emerging risks	EM	BBray	Year one: <ul style="list-style-type: none"> <li>Complete review</li> </ul> Year two: <ul style="list-style-type: none"> <li>Implement new processes</li> </ul>	20/10/2023	The Provisional Report of the Risk Framework Review has been completed. The elements of the review that involve BSB strategy were discussed at the Board Away Day. The team has now drafted the final report, including implementation plan, which was approved by the Senior Leadership Team at a meeting on 3 October and will go for Board approval in February 2024.	
	We will continue to use our research team and commissioned providers to publish evidence in support of policy changes, to better understand the market for barristers services and to evaluate the impact of any reforms. We will seek to collaborate with the other legal regulators on cross-cutting matters, such as on consumer-focused research.	EM	OJ	Year one: <ul style="list-style-type: none"> <li>We shall undertake research with pupillage providers to investigate the recruitment outcomes of different approaches aimed at increasing diversity.</li> <li>We aim to complete our evaluations of our DCT pilot and our Bar training reforms by end of 2023-24.</li> <li>We also plan to undertake analyses of enforcement outcomes and begin to build a more substantive evidence base in relation to the use of technology and innovation at the Bar in 2023-24.</li> </ul> Year two: <ul style="list-style-type: none"> <li>In 2024-25 we intend in particular to look at the extent to which solicitors offer their clients a choice of barrister and at whether access to justice in future may be threatened by a lack of barristers as the profession ages</li> </ul>	26/10/23	On track: <ul style="list-style-type: none"> <li>Pupillage research: quantitative data analysis complete, first draft of qualitative research expected in November.</li> <li>DCT evaluation: the pilot has closed and we are about to start the evaluation fieldwork.</li> <li>Enforcement outcomes: ongoing, emerging findings expected in December.</li> <li>Technology research: stakeholder interviews have begun.</li> <li>We are beginning discussions with the SRA on whether it would like to participate in the research identified for next year.</li> </ul>	

Theme	Action	Lead	Contact	Milestone and timetable	Progress report		
					Date of update	Update on progress / completion	RAG
Regulatory approach - Reforming our Handbook & rules	We recognise the need to revise the Handbook, to ensure that it is easily navigable and easily understood by both barristers and the public alike, and represents good regulatory practice. We shall be making design changes to the layout of the Handbook and Code of Conduct with this in mind, in the meantime taking forward essential amendments to the Code of Conduct and Handbook, including amendments flowing from other priority work programmes.	EM	RP	<p>In year one:</p> <ul style="list-style-type: none"> <li>We will identify any urgent Handbook changes that are needed to address gaps or improve efficiency in the short to medium term.</li> <li>We will complete our review of the regulation of standards in non-professional life and of barristers' use of social media in the light of our recent consultation.</li> <li>We will complete our review of the Equality Rules to ensure that they remain fit for purpose and clearly set out minimum standards for chambers' and employers' oversight of diversity, including appropriate governance.</li> <li>We will also be looking at our "association rules" which regulate how barristers interact with intermediaries which provide information about their services.</li> </ul> <p>In year two:</p> <ul style="list-style-type: none"> <li>We will begin systematically consulting on more strategic changes to the Handbook, taking on board challenge and feedback from a variety of stakeholders.</li> </ul>	20/10/2023 (RB)	<ul style="list-style-type: none"> <li>Board to consider urgent Handbook amendments at its January meeting.</li> <li>Conduct in Non-Professional Life project now complete with the publication of new guidance on the regulation of non-professional conduct and social media use published in September 2023. (RB)</li> <li>The equality rules have been reviewed and we are in the process of finalising draft rules for consultation later this year.</li> <li>The review of associations is being scoped.</li> </ul>	
	We will develop arrangements for the assessment of advocacy and negotiation skills during pupillage as the final part of our reforms to Bar training	RM	VS	New means of assessment for advocacy will be in place by Sept 2024 and negotiation in Sept 2025	24/10/23	Significant progress has been made in this area; extensive engagement has taken place with stakeholders including the Inns and Circuits, pupils, members of the BSB's equality taskforces and experts in advocacy and negotiation/mediation. A version of the documents outlining the requirements for advocacy is currently with the Inns and circuits for comment, with responses due by the end of October. We will then publish the final version of the documents for advocacy, with the new courses starting in 2024 as planned. We have also developed draft requirements for negotiation; however, as this is a new course and the proposed approach is more novel, this will require further thought and development. However, it is still likely to be completed in line with the planned timetable.	

Theme	Action	Lead	Contact	Milestone and timetable	Progress report		
					Date of update	Update on progress / completion	RAG
Culture & capacity	We shall ensure that the Board itself exemplifies the values of the BSB, refreshes its equality and diversity training regularly and undertakes annual reviews of its governance, including an independent review every third year	KS	MN / RF	An annual Board self-appraisal will take place in Summer 2023; an independent appraisal will take place in Summer 2024. Equality and diversity training, delivered in Q4 2022/23, will be refreshed in 2024/25.	26/10/23	Annual Board self-appraisal considered by the Board in October 2023. Appraisal of Chair completed in September 2023. Appraisal of Board members also now completed. External independent evaluation planned for Summer 2024; Invitation to Tender to be finalised early in 2024. Equality and diversity refresher training for the Board scheduled for March 2024.	
	We will continue to implement our programme of embedding our values and behaviours to deliver a culture of continuous improvement	TH	TH	Delivery of the 2023/24 organisational learning plan, to be launched in April 2023 and completed by March 2024  On going delivery of senior leadership development and teambuilding, plus delivery of a leadership development programme by April 2024	23/10/2023	Delivery of the learning plan is progressing well.  Leadership development activities are continuing and the project is on track.	
	We will review our processes for recognition and performance management to ensure that they support our values and help to deliver continuous improvement	TH	TH	Launch of a revised recognition scheme by December 2023  Launch of a revised performance management system by April 2024	23/10/2023	Slight delay to recognition but there is a draft policy and an EIA is in progress. Performance management is on track.	
	We will periodically review our implementation of the Internal Governance Rules, with the aim of enhancing regulatory independence within the current legislative framework.	MN	MN	To be conducted annually.	26/10/23	We are engaging with the Bar Council on follow-up our letter of 19 April following our review in 2022/23 of the current arrangements for shared services.	
	We will continue to pursue the governance reforms in our Well Led Action Plan and in this action plan in response to the LSB's Regulatory Performance Review	MN		To be concluded by Summer 2023 where not continuing	26/10/23	The reforms are now fully implemented.	
	We will promote engagement and collaboration with consumer organisations, the profession and other regulators	WW		This is an ongoing commitment.	24/10/23	All policy papers going to the Board must now include a section on stakeholder engagement and we continue to pursue collaborative initiatives in a number of areas (eg with PLE providers, with the profession and with consumer groups) as appropriate. We publish regular bulletins for the profession and for consumers and are about to begin a series of roundtables in every circuit to discuss our proposals for consolidating our regulatory requirements for barristers in chambers with the profession and other key stakeholders.	

**DRAFT LETTER TO THE CHIEF EXECUTIVE OF THE LEGAL SERVICES BOARD****REGULATORY REFORM**

As usual following a Board meeting, I am writing to provide assurance on our progress in delivering the reforms to which we committed this April. The latest update is attached as annex A. The Board reviews this update at every meeting. This letter reflects that discussion.

As you will see from the update, we remain largely on track to deliver the principal reforms.

Current operational performance is comprehensively covered in a separate paper taken in the Board's public session. Our parallel reviews of enforcement and of authorisations are also moving forward to the timetable we foreshadowed in the Spring. Indeed, the Board discussed at its meeting on 30 November proposals – and an associated draft consultation document – arising from the first phase of our independent review of Authorisations. This phase has focused on the rules governing qualification as a barrister and, in particular, on the academic understanding of the legal principles required to enter vocational Bar training. The consultation will be seeking views on the case for simplifying our definition of the understanding of legal principles required of all Bar training students so that the providers of Bar training are better placed to make judgements about eligibility to join their courses. While maintaining standards, this should foster flexibility and accessibility. It should also reduce the number of applications to the BSB to authorise waivers from the current more complex and rigid requirements.

This apart, we have also, since my last assurance letter on 13 October, made good progress in a number of other respects.

- We have implemented new policies on the role of independent review in BSB's decision-making following consideration by the Board at its meeting on 5 October.
- We have established a project to overhaul the BSB's approach to gathering, analysing and using data and intelligence with a view to a submission to the Board in March 2024.
- We submitted proposals to the Board on 30 November on our planned approach to revising the Handbook, including proposed revisions to the *Equality Rules*, with a view to launching a consultation in early 2024 on the highest priority amendments. This includes amending the current rule requiring us to pass reports by clients on their own barrister direct to the Legal Ombudsman.
- We launched in October a consultation on clarifying expectations of chambers in promoting the regulatory objectives; a first roundtable was held in London on 9 November, with further roundtables planned in all Circuits over the next three months.
- We are about to contract with Ipsos Mori to survey opinion annually on consumers' views of, and trust in, the barrister profession and understanding of, and confidence in, the regulatory arrangements.

There are, however, two areas where we are proposing changes to our planned timetable in the light of intervening developments.

The first, and more significant, centres on standards and on our approach to continuing competence. I mentioned in my last assurance letter of 13 October that our in-coming Director of Standards, Rupika Madhura, had undertaken a stocktake of our work. We welcomed it as an opportunity to be self-critical and ensure success. The key outcome of the stocktake is that we have refined the projects that make up our Assuring Competence (AC) Programme. This is to ensure, for example, that they are fit for purpose, aligned to the Better

Regulation Principles, linked to related internal and external work, suitably phased, and deliverable. I have outlined the four projects we are taking forward, and the progress of each, below:

- Our Competence Monitoring Framework (CMF) will provide us with better data and intelligence about competence and, therefore, ensure that other areas of our Programme are evidence-based, targeted, and proportionate. It will do this by maximising existing sources, for example, by adding questions on competence to our annual Authorisation to Practise process. Additionally, it will create new sources, such as a judicial survey about competence. The CMF is on track. We plan to implement it from early 2024.
- Our Assuring Standards Framework (ASF) will strengthen our approach to ensuring compliance with our CPD and ongoing competence requirements through our communication, supervision, and enforcement work. The ASF is on track. In early 2024, we will run an internal pilot to identify gaps in our approach and how to address them. We will start to implement the ASF in spring, for example, by rolling out an enhanced approach to supervision, which will be led by intelligence from our CMF.
- Our CPD Project is making good progress. Early in the New Year, we will launch new CPD guidance and templates to help barristers meet our requirements and strengthen the link to the Professional Statement (PS). We are looking at updating the introduction to the Professional Statement to help barristers use it to meet our CPD requirements and expectations. These resources will focus on reflection and feedback, and we will work with chambers to ensure their success. As part of our ASF, we plan to create a 'one-stop shop' for all content about CPD. We have also identified ways to clarify our CPD Rules, which we are discussing with the leaders of our Handbook Review Project.
- Our Professional Statement Project. We will deliver any significant changes to the Professional Statement in our next strategy. This is so we can collect evidence from our CMF, Future Bar Training Evaluation, and Technology at the Bar research to ensure that changes are evidence-based, targeted, and proportionate. Second, we want to design an approach to ensure the successful design and implementation of any changes: for example, by training providers that must update their curricula. Third, we intend to pursue cross-regulator collaboration by aligning with the SRA's work to review its Statement of Solicitor Competence.

Second, we are continuing to chart an independent course for the Bar Standards Board itself by pushing ahead with the second year of pay reform and undertaking further work on our vision for the future and on supporting values. We continue to see incorporation as an important and useful complement to this work, but take the view that we should return to this as part of our next multi-year strategy beginning in 2025/26. We shall be developing that strategy over the course of the next year in close consultation with external stakeholders.

We are, of course, at your disposal to discuss.

Yours sincerely,

**Mark Neale**  
**Director General**



**Bar Standards Board – Director General’s Strategic Update – 30 November 2023**

**For publication**

**LPMA Annual Conference**

1. I spoke on 9 November at the annual conference of the Legal Practice Management Association. We very much value our engagement with the LPMA whose members play a key role in facilitating the work of chambers. A link to my remarks at the conference is here: <https://www.barstandardsboard.org.uk/resources/press-releases/legal-practice-management-association-lpma-conference-9-november-2023.html>

**Chambers**

2. Following the publication last month of our consultation document on the role of chambers, we held the first of a series of roundtable events at the BSB office in High Holborn on 10 November. The event was very well-attended and generated much discussion and insight. We shall be holding follow-up roundtables in all the Circuits and a further event in London over the next three months.

**LSCP Seminar on Unmet Legal Need**

3. On 31 October Wilf White and Ahmet Arikan represented the BSB at an interesting seminar on unmet legal need which was hosted by the Legal Services Consumer Panel. A variety of speakers – including regulators, legal academics and representatives of the voluntary sector - discussed the problems of “legal aid deserts” and other areas of legal need and a wide range of options for helping to meet legal need was discussed.

**Justice Select Committee**

4. The Chair and I will be appearing before the Justice Select Committee on 28 November as part of a broader hearing on the regulation of legal services.

**Mark Neale**

Director General



**Schedule of Board Meetings Jan 2024 – Mar 2025****Status**

1. For noting and approval.

**Executive Summary**

2. The paper sets out proposals for the 2024/25 cycle of Board meetings. We have an additional, special meeting in April to accommodate discussion on the BSB's Enforcement Review. All regular Board meetings will be immediately preceded by either a seminar or training event for Members.
3. As yet we do not have any dates for a Board-to-Board meeting with either the OLC or LSB.
4. Members may recall earlier communications about changing the start time for some of the meetings. We proposed an earlier start time of 2 pm for the following dates:
  - Thursday 23 May 2024
  - Thursday 26 September 2024; and
  - Thursday 30 January 2025
5. Should the Board agree this, the preceding seminar will begin at around 12.15 pm. One lay Member cannot accommodate the change for the May date, though one barrister Member (who was otherwise engaged in the evening) can now attend the same meeting. There have been no other responses.

**Recommendation**

6. The Board is asked to **agree** the schedule.

**Detail**

7. The proposed dates for Bar Standards Board meetings (Jan 2024 – Mar 2025) are: (all 5 pm start, unless indicated)
  - Thurs 25 January 2024 – already diarised
  - Thurs 21 March 2024 – already diarised.
  - Thurs 11 April 2024 (special meeting)
  - Thurs 23 May 2024 (2 pm start time)
  - *Thurs 27 June 2024 (Board Away Day)*
  - Thurs 25 July 2024
  - Thurs 26 September 2024 (2 pm start time)
  - Thurs 28 November 2024
  - Thurs 30 January 2025 (2 pm start time)
  - Thurs 27 March 2025

**Rebecca Forbes**  
**Head of Governance and Corporate Services**

**November 2023**



**Chair’s Report on Visits and External Meetings from Oct-Nov 2023****Status:**

1. For noting

**Executive Summary:**

2. In the interests of good governance, openness and transparency, this paper sets out the Chair’s visits and meetings since the last Board meeting.

**List of Visits and Meetings:****Introductory meetings**

11 October Introductory meeting with Abby Thomas, Chief Executive and Chief Ombudsman, Financial Ombudsman Service and Kevin Grix, Chief Executive and Chief Ombudsman, Dispute resolution Service

**Meetings**

9 October Met with Jane Malcolm, SRA  
 16 October Met with Alan Kershaw, Chair, LSB  
 28 November Attended Parliamentary Select Committee  
 29 November Met with Mrs Justice McGowan accompanied by Mark Neale  
 Attended Board briefing  
 Attended ISAG meeting and reception  
 30 November Attended Board meeting and Dinner

**1-2-1 Meetings**

17 October Met with David Wurtzel  
 19 October Met with Jaspal Kaur-Griffin  
 1 November Met with Julia Witting, Victoria Stec and Hayley Langan  
 23 November Met with Nick Vineall KC

**Events**

12 October Attended Trinity Call, Inner Temple  
 13 October Attended Vocational AETO Conference, BSB  
 19 October Attended Knowledge Share Session presentation by Laurie Anne Power KC  
 25-26 October Attended ICLR Conference in Dublin with Mark Neale  
 9 November Attended the first London Roundtable