

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



Meeting of the Bar Standards Board

Thursday 23 May 2024, 2.00 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 late morning Board Member Seminar on Consumer Focused Regulation followed by a sandwich lunch for the Board and members of the Anti-Racist Working Group

				Page
1.	Welcome / announcements (2.00 pm)		Chair	
2.	Apologies		Chair	
3.	Members' interests and hospitality		Chair	
4.	Approval of minutes from the last two meetings: (i) 21 March 2024 & (ii) 11 April 2024	Annex A	Chair	(i) 3-8 (ii) 9-14
5.	a) Matters arising & Action List	Annex B	Chair	15
	b) Forward agenda	Annex C	Chair	17
6.	Performance Report: Quarter 4 (2023/24) (2.10 pm)	BSB 027 (24)	Mark Neale	19-49
7.	Performance and Strategic Planning Committee (PSP) Year End Report (November 2023 to March 2024) (2.25 pm)	BSB 028 (24)	Steve Haines	51-55
8.	Committee Terms of Reference, Appointments policy and governance policies (2.30 pm)	BSB 029 (24)	Rebecca Forbes	57-74
9.	Director General's Report – Public Session (2.40 pm)	BSB 030 (24)	Mark Neale	75
10.	Chair's Report on Visits & External Meetings	BSB 031 (24)	Chair	77

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

11. **Any other business**
12. **Date of next meeting**
 - Thursday 25 July 2024, 5 pm
13. **Private Session**
(2.45 pm)

John Picken
Governance Officer
16 May 2024

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

Part 1 - Public
Minutes of the Bar Standards Board meeting
Thursday 21 March 2024 (5.00 pm)

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

- Present:** Kathryn Stone OBE (Chair)
Gisela Abbam
Alison Allden OBE
Jeff Chapman KC
Emir Feisal JP
Steve Haines – via Teams
Simon Lewis
Andrew Mitchell KC
Irena Sabic KC
Professor Leslie Thomas KC
Stephen Thornton CBE
- By invitation:** Sam Townend KC (Chair, Bar Council)
James Wakefield KC (Hon) (Director, COIC)
Malcolm Cree CBE (Chief Executive, Bar Council) – via Teams
Rachael Gardner (Senior Adviser, Independent Audit)
Omang Nain (Senior Consultant, Independent Audit)
Susan Stenson (Partner, Independent Audit) – via Teams
- Press:** Neil Rose, Legal Futures
- BSB Executive** Ben Bray (Head of Risk Based Regulation)
Laura Cassidy (Stakeholder Engagement Officer)
Henry Fingerhut (Policy Manager)
Christopher Fitzsimons (Communications Manager)
Rebecca Forbes (Head of Governance & Corporate Services)
Imogen Kirby (Senior Reports and Data Analysis Officer)
Sara Jagger (Director of Legal and Enforcement) – via Teams
Ewen Macleod (Director of Strategy & Policy)
Rupika Madhura (Interim Director of Standards) – via Teams
Natasha Mutch-Vidal (Diversity, Inclusion & Wellbeing Manager) – via Teams
Mark Neale (Director General)
John Picken (Governance Officer)
Mark Platt (Interim Head of Policy)
Dee Sekar (Head of Equality & Access to Justice)
Theodore Smith (Policy Officer) – via Teams
Jennifer Terry (Senior Regulatory Officer) – via Teams
Kirsty Totimeh (Senior Policy Officer)
Wilf White (Director of Communications & Public Engagement)
Alex Williams (Head of Operational Support)
- Resource Group:** Richard Cullen (Director of Finance) – via Teams

Item 1 – Welcome / Announcements

1. Kathryn Stone welcomed those present, in particular Rachael Gardner, Omang Nain and Susan Stenson from Independent Audit who were observing the meeting as part of a governance effectiveness review recently commissioned by the Board.
2. Online questionnaires have been sent to Board Members as part of that review process and the Chair reminded her colleagues to complete them.
3. She also welcomed a number of BSB staff members who were attending the Board meeting for the first time.

**Board to
note**

Item 2 – Apologies

- Lorinda Long (Treasurer, Bar Council);
- Teresa Haskins (Director of People, BSB);
- Saima Hirji (Acting Director of Regulatory Operations).

Item 3 – Members’ interests and hospitality

5. None.

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

6. The Board **approved** the Part 1 (public) minutes of the meeting held on 25 January 2024.

Item 5a – Matters arising & Action List

7. There were no matters arising. The Board **noted** the update to the action list. The Chair also asked for an update on min 16c (30/11/23) concerning the rise in applications from overseas lawyers.
8. In response, Mark Neale confirmed the following:
 - we are pursuing our enquiries about the rise in these applications (predominantly from the Indian Sub-Continent);
 - we think this is driven in many cases by motives other than to practise at the Bar in England and Wales ie to market themselves as having been Called to the Bar for that jurisdiction.

Item 5b – Forward agenda

9. The Board **noted** the forward agenda list.

Item 6 – Performance Report: Quarter 3 (2023/24)

BSB 013 (24)

10. Mark Neale highlighted the following:
 - Authorisations completed a wide range of pupillage related tasks in Q3 reflecting a welcome rise in pupillage numbers. However, the seasonal nature of this activity also contributed to a drop in productivity for other related authorisation work;
 - in overall terms the trend on productivity remains upwards. A fall off in Q3 happens every year because of the Christmas shutdown period but other factors also affected productivity in Autumn 2023;
 - Transferring Qualified Lawyers (TQLs) currently account for around 50 applications a month but we now have a dedicated Task Force in place to manage these.

11. Members commented as follows:
- the Q3 results for the Supervision Team are notably strong and it would be useful to know if there are any good practice lessons to learn that can be shared with other Teams;
 - the figures for Authorisations at Annex B remain well short of KPI targets. Though reasons for this are understood we should, in the meantime, manage the expectations of applicants so they have a realistic idea of current processing time;
 - the Performance and Strategic Planning (PSP) Committee scrutinised the Q3 results but was assured by the explanations provided. The forthcoming Fieldfisher report on Enforcement is likely to make useful recommendations around end-to-end accountabilities and workflow.
12. Mark Neale stated that:
- our Supervision work is rather different to that of other BSB operational teams insofar as it focuses on training providers and chambers. Notwithstanding that the Team has been very successful in delivering both proactive and reactive work, so the suggestion of contacting the Head of Supervision will be followed up once she returns from leave;
 - we do communicate with applicants about increased wait times and have updated information on our website to that effect. We have also made clear how genuinely urgent applications can be prioritised with the Authorisations Team.
13. Irena Sabic KC noted the time now taken (over 12 weeks) for the majority of authorisations to be completed, as well as the creation of the Task Force (cf. min 10). She asked about the operation of the latter.
14. In response the Executive stated that:
- the key features of the Task Force are that:
 - it comprises an experienced lead (Jennifer Terry) plus four new starters (three now in post and one further to add);
 - there are 650 TQL applications currently outstanding;
 - first priority is given to applicants who have either pupillage or tenancy offer letters. Second priority are SRA regulated solicitors. This accords with earlier direction from the Board;
 - some applications are very old either because fees have not been paid or because further information has not been supplied;
 - two issues have added additional pressure ie
 - spurious claims for prioritisation;
 - requests for reconsideration of previous decisions by the Team;
 - the latter avenue is no longer available. Anyone now wishing to dispute a decision will have a right of appeal to the Independent Decision-Making Body (IDB) on payment of the appropriate fee;
 - a price rise for TQL applications is due soon and, if flagged in advance, there is a risk of further applications to avoid the extra cost.
15. **AGREED**
- a) that the Director General contacts the Head of Supervision about any good practice lessons it may be possible to share in the light of excellent performance results in that team.

MN

- b) to note the action taken to address the increase in applications from transferring lawyers (cf. min 14).

Item 7 – Draft Anti-racist Strategy

BSB 014 (24)

16. Ewen Macleod and Rupika Madhura highlighted the following:
- the strategy reflects the “good practice” model promoted by the Chartered Institute of Personnel Development (CIPD) and might also act as a useful reference tool for the wider profession;
 - the document addresses each of the CIPD principles in turn, so accounts for its length, but that was a necessary task as it needed to explain how these will be applied in practice and the impact we seek.
17. The Board welcomed the Anti-racist strategy and gave a strong commitment in this respect. In response to questions raised, the Executive commented that:
- the co-Chairs of the Anti-racist Working Group were drawn from the Senior Leadership Team (SLT) to show leadership on this topic but that has not distracted from ordinary SLT business;
 - other members included the Head of Equality and Access to Justice and the Diversity, Inclusion & Wellbeing Manager (as well as various Team representatives);
 - there are several options in terms of further Board engagement ie:
 - a Board Member “champion”;
 - taking part in Anti-racist strategy events or directly participating in the implementation group itself;
 - including Equality, Diversity & Inclusion (EDI) as part of our Board evaluation process;
 - we consider the anti-racist strategy to be appropriately resourced and will incorporate annual reviews. Our feedback mechanisms include regular people surveys analysed by protected characteristics and background. Additionally, any Board reports on Anti-racism will be conducted in public session and progress published on the website;
 - we are also initiating a “safe space” Staff Forum so that people can express their views openly and confidently.
18. Natasha Mutch-Vidal also gave an assurance about communication and the momentum for change for the Anti-racist strategy. She welcomed the challenge from the Board and gave a commitment to its delivery.
19. The following comments were also made:
- the need for a comprehensive set of principles is understood but an additional summary would be helpful for ease of reference;
 - we should institute both qualitative and quantitative measures in setting key performance indicators;
 - Members might consider acting as a sounding board from time to time;
 - we should consider the impact of remote working on the Anti-racist strategy as this could affect dynamics;
 - we should create a separate Board led committee on people and culture / EDI issues though, equally, we should not blur the line between Executive and Non-Executive roles;

20. **AGREED**

- a) to approve the BSB Anti-racist Strategy, and first year action plan as stated in Annexes A and B of the report.
- b) to create a separate Board led committee on people and culture.
Note: the Director General agreed to host a lunch for the Anti-racist Working Group and the Board prior to the meeting on Thursday 23 May 2024 (12.45 – 1.45 pm)

EM/RM to
note
EM/RM

Item 8 – Board Code of Conduct, Committee Terms of Reference and policies

BSB 015 (24)

21. Rebecca Forbes invited views on a range of governance related proposals. Members commented as follows:
- the Code of Conduct should include provision to proactively challenge racism and discrimination;
 - all Board Members should have a right to observe any Committee meeting;
 - the Performance & Strategic Planning Committee should have a right to call upon external advice should it deem that necessary;
 - any declaration of interests arising during appointment should be investigated by the Chair *and* (not or) the Director General.

22. **AGREED**

That subject to the additional caveats identified in the meeting (cf. min 21) to approve, as set out in the paper:

- the revised Terms of Reference for the Governance, Risk and Audit Committee (GRA) and the Performance and Strategic Planning Committee (PSP);
- the revision to the Board Appointments Policy to amend the composition of selection panels for Board Committees;
- the composition of the selection panel for the imminent recruitment for two (non-Board) members of GRA;
- the revised Code of Conduct for Board Members (Appendix 9 to the Governance Manual); and
- the updated policies on Declarations of Interests, and Gifts and Hospitality (Appendices 11 and 12 to the Governance Manual).

Item 9 – Director General’s Report – Public Session

BSB 016 (24)

23. The Board **noted** the report.

Item 10 – Chair’s Report on Visits and External Meetings

BSB 017 (24)

24. The Board **noted** the report.

Item 11 – Any Other Business

25. None

Item 12 – Dates of next meetings

26. Thursday 11 April 2024, 5 pm (special meeting)
Thursday 23 May 2024, 2 pm (ordinary meeting)

*Note: the Chair reminded those present that the **May meeting** will commence at the earlier time of **2.00 pm***

Item 13 – Private Session

27. The Board resolved to consider the following items in private session:
- (1) Approval of Part 2 (private) minutes – 25 January 2024.
 - (2) Matters arising and action points – Part 2.
 - (3) KPI & performance monitoring – balanced scorecard implementation
 - (4) Setting the fees charged by the Bar Standards Board
 - (5) BSB Business Plan 2024-25 and final budget
 - (6) BSB Consolidated Risk Update for the Board: March 2024
 - (7) Data and Intelligence Strategy - Approval
 - (8) Director General's Report – Private Session
 - (9) Any other private business.
28. The meeting finished at 5.50 pm.

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

Part 1 - Public
Minutes of the Bar Standards Board meeting
Thursday 11 April 2024 (5.00 pm)

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

- Present:** Andrew Mitchell KC (Acting Chair)
Gisela Abbam – via Teams
Jeff Chapman KC
Emir Feisal JP
Steve Haines
Simon Lewis – via Teams
Kathryn Stone OBE – via Teams
Irena Sabic KC
Stephen Thornton CBE
- By invitation:** Ian Busby (Consultant at Fieldfisher)
Sarah Ellson (Partner, Fieldfisher)
Malcolm Cree CBE (Chief Executive, Bar Council)
Ailís Lockhart (BTAS Registrar and Head of Administration)
Lorinda Long (Treasurer, Bar Council);
Sam Townend KC (Chair, Bar Council)
James Wakefield KC (Hon) (Director, COIC)
- Press:** Jonathan Ames, The Times
Neil Rose, Legal Futures – via Teams
- BSB Executive** Jameelah Bangali (Project Manager) – via Teams
Laura Cassidy (Stakeholder Engagement Officer)
Christopher Fitzsimons (Communications Manager)
Rebecca Forbes (Head of Governance & Corporate Services)
Teresa Haskins (Director of People, BSB)
Saima Hirji (Acting Director of Regulatory Operations)
Sara Jagger (Director of Legal and Enforcement)
Ewen Macleod (Director of Strategy & Policy) – via Teams
Rupika Madhura (Interim Director of Standards) – via Teams
Mark Neale (Director General)
John Picken (Governance Officer)
Paul Pretty (Head of Investigations & Enforcement) – via Teams
Wilf White (Director of Communications & Public Engagement)

Item 1 – Welcome / Announcements

Action

Note: Andrew Mitchell KC kindly agreed to chair the meeting as the Chair was participating online

1. The Acting Chair welcomed those present, in particular Ian Busby and Sarah Ellson from Fieldfisher.

2. **Item 2 – Apologies**

- Alison Alden OBE
- Professor Leslie Thomas KC

Item 3 – Bar Standards Enforcement Review: Final report from Fieldfisher

BSB 024 (24)

3. At the Acting Chair’s invitation, Mark Neale commented as follows:
- the current approach to investigations was put in place in 2019;
 - over the past five years, the volume and complexity of reports received from barristers, and their investigation, has significantly increased;
 - our enforcement work has nevertheless delivered consistently high quality results, as well as recent improvements in productivity;
 - that said, the Board also agreed that a review to benchmark BSB operations against best regulatory practice would be timely. That report, commissioned by Fieldfisher, has now been completed.
4. Sarah Ellson and Ian Busby (collectively “Fieldfisher”) stated that:
- the report focused on the end-to-end enforcement process including the Bar Tribunal and Adjudications Service (BTAS) as well as the BSB;
 - its scope related to the fitness for purpose of enforcement processes, the effectiveness of its decision making, and the potential for improvement;
 - the report concluded that the BSB enforcement model is both in line with, and appropriate to, other regulatory bodies, but there is still capacity to further improve its function.
5. In this respect the key themes identified were:
- a senior executive role responsible for the effectiveness of the end-to-end process of enforcement (including BTAS interface) needs to be created;
 - staff sometimes face challenges in accessing the right knowledge and expertise in order to deliver timely and effective operations;
 - improvements are needed to the case management system ie better communication and co-ordination;
 - many individuals submitting reports lack knowledge about the BSB’s enforcement process and what it can, and cannot, achieve.
6. Members welcomed the thorough and comprehensive nature of the report. In response to the Board’s observations, Fieldfisher stated that:
- they consider a one-stage triaging system would be more efficient ie the Contact and Assessment Team (CAT) would be responsible for identifying which cases to investigate further. Other regulators have used similar models successfully. *Note currently we have a two-stage process involving case recommendations by CAT and acceptance (or non-acceptance) of these by the Investigations Team;*
 - systemic problems that were present around IT functionality and the business process model are now being actively addressed with the aim of achieving much closer interaction between IT and staff using those systems;
 - the BSB relies heavily on remote working and this creates a general challenge around knowledge sharing and communication. Our recommendations therefore seek an achievable balance between modern working practices and effective knowledge management;

- it is for the BSB to determine which of the options for an end-to-end enforcement process it wishes to approve. *Note: Fieldfisher reviewed the CAT Team only in the context of enforcement, but its remit extends beyond that. The BSB therefore needs to bear this in mind when making a final decision on structure.*
7. Jeff Chapman KC referred to those making reports about barristers ie
- 1,500 – 1,700 of these are received each year;
 - typically, 85% of these are found to have no prima facie basis for proceeding and are dismissed;
 - the Fieldfisher report comments negatively on the amount of time spent on these “low value” reports (cf. para 2.2.5) but these enquiries are still received and need a reply. In many cases the person making the report was coming to the BSB as a last resort and was unlikely to be deterred from doing so.
8. In response, Fieldfisher stated that:
- we need to strike a balance that gives proper care and respect to those making enquiries but avoids prolonged communication if the criteria necessary to continue reports has not been met.
 - misperception about the BSB’s enforcement role (and consequent dismissal of reports) is unfortunate because these then correlate to high dissatisfaction rates on the part of those making reports;
 - there needs to be a change in emphasis so that misguided reports are not pursued, either through appropriate re-direction or early closure.
9. Simon Lewis asked about the cost of enforcement regulation. Fieldfisher replied that:
- their remit was around fitness for purpose and seeking improvements. Costs were therefore considered out of scope as it was not designed as an efficiency review;
 - their report identifies several recommendations which may have cost implications but how and when these are accepted / implemented is a matter for the BSB to decide.
10. **AGREED**
to thank Fieldfisher for the insightful report and recommendations.

**Item 4 – Executive response to the Enforcement Review
Recommendations**

BSB 025 (24)

11. Sara Jagger highlighted the executive’s response as follows:
- all the report’s recommendations were agreed in principle and our initial responses are set out in Annex 1 (BSB) and Annex 2 (BTAS);
 - we have several options / interdependencies as to how recommendations might be addressed (cf. paragraph 5) and we shall aim to work up a detailed implementation plan by July 2024;
 - the operational aspects of the report can proceed without formal Board approval, though others require further consideration (cf. min 15);
 - many of the recommendations will be implemented during the current financial year. With the exception of the Part 2 Code Review of the Handbook, we would aim to complete any others by year end 2025-26.

12. Members discussed the report's reference to low satisfaction rates of those who send reports (cf. min 8). The following points were made:
- BSB satisfaction surveys have run at low levels over many years, so this finding is not surprising. Every regulator across all remits has had challenges in disaggregating outcome with satisfaction;
 - better explanations as to why reports do not proceed might help but we are nevertheless unlikely to see high satisfaction rates.
Note: these rates were low even when decision letters used to be drafted by barristers from the Professional Conduct Committee;
 - finding the balance between time, cost and fair process has always been difficult. Any decision we make to dismiss reports still needs to be properly stated, otherwise we could risk judicial review;
 - some financial regulators make initial contacts by telephone and that can prove helpful. *The Acting Chair noted this point but expressed concern that it would not reduce (and could increase) transaction time;*
 - we use the BSB's website as the principal conduit to assist those making reports but, even though survey respondents thought the site was helpful, this did not translate to reasonable satisfaction rates on outcomes;
 - it suggests that those concerned choose to make reports irrespective of the site's explanations on eligibility because other factors, in some cases emotionally driven ones, have overriding priority. Moreover, reports are often made at a point when those concerned have previously engaged in a legal process which has already left them disappointed.
13. Steve Haines asked about future implementation costs and the net effect of this ie whether additional costs early on might be compensated by greater efficiencies later leading to a zero-sum outcome. In response, the executive stated that:
- the review was not predicated on a cost neutral basis;
 - the budget already makes provision for implementation costs, some of which will be one-off and others which are currently "in principle" only;
 - there may be additional costs, but these will be for the Board to determine as and when they arise. *Note: Steve Haines emphasised that any costs in excess of the existing budget for enforcement review implementation must then require prior approval by the Board.*
14. Stephen Thornton asked that future iterations of the executive response clarify timescales for the implementation plan. In response to other points made by the Board, the executive commented that:
- the enforcement review is one part of a larger, overall reform programme;
 - we support the concept of a one-stage triage system (cf. min 6) but implementation of associated recommendations may mean amending our Handbook regulations. Appropriate staff training will be needed;
 - prior to 2019, assessment and investigation teams were managed as a single Department. The current proposals on structure are similar in essence to this but not an exact replica;
 - the preferred choice of a "single owner" for the end-to-end process (cf. para 3.1.4. iii) is considered the best long-term option. Others ie cross-departmental groups / matrix management structures, may be difficult to operate in the context of the wider organisation and may not be as sustainable.

15. The Acting Chair noted the indicative nature of the statement on end-to-end processes ie that this should just be a preferred steer at present, pending further discussion on formal proposals about structure and associated costs. Members agreed this and also approved the remaining recommendations in paragraph 4 of the executive’s report about BTAS and Tribunal arrangements and other operational matters.
16. With the permission of the Acting Chair, Sam Townend KC, Chair of the Bar Council, in an observer capacity, reflected on the Fieldfisher report as well as earlier changes to Key Performance Indicators (KPIs). He expressed several concerns ie:
- KPI results on the timeliness of investigations are still poor even though the number of new investigations per month is now quite low (under 20);
 - the Board’s decision in March 2024 to change KPIs for investigations from 25 weeks to 38 weeks is surprising given existing feedback on the need to improve timeliness. In addition, Fieldfisher considers a 25 week target achievable once its recommendations have been implemented;
17. The BSB is facing significant demands on its time and there is a limit to what it can reasonably achieve. In consequence it should dial back on wider “before the event” compliance activities and instead focus on performance improvements for (i) investigations and (ii) authorisations.
18. Although observer comments are noted but not generally debated, the Acting Chair invited a response from the DG. Mark Neale agreed the need for performance improvement, and said that the BSB expects to see better productivity and faster turnaround of investigations as a result of the recommendations. KPIs should not, however, be regarded as “norms” but rather as “tolerance parameters”. A minority of investigations will still be complex and contested so would be unlikely to be completed within 25 weeks.
- Note: our new target is to complete 80% of investigations in **no more than 38 weeks** (with many likely to be achieved much earlier, though we also know that very complex cases will take longer).*

19. **AGREED**

- | | | |
|----|---|-------------------|
| a) | to approve the steers set out in paragraph 4 of the executive’s report on the enforcement review concerning: | MN to note |
| | <ul style="list-style-type: none">• creation of a senior executive role to take full responsibility for the end-to-end enforcement process (cf. para 4 i)• “in principle” acceptance of proposals to improve the BTAS and Tribunal arrangements (cf. para 4 ii and para 44, 8.1, 8.2 and 8.4)• other operational matters and proposals for future amendments to the Handbook (cf. para 4 iii) | MN |
| b) | that these steers be developed into formal proposals that also include relevant timelines and cost estimates. | MN |
| c) | that the executive seeks prior Board approval for any costs in excess of budget of the enforcement review. | MN |
| d) | to note the comments made by the Chair of the Bar Council (cf. mins 16-17). | |

Item 5 – Any Other Business

20. None

Item 6 – Date of next meeting

21. Thursday 23 May 2024, 2 pm

Item 7 – Private Session

22. The Board resolved to consider the following items in private session:
(1) Reform & re-structure of the Bar Standards Board

23. The meeting finished at 6.05 pm.

BSB – List of Part 1 Actions

23 May 2024

(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
19b (11/04/24)	develop the steers from the Board's meeting on its enforcement review into formal proposals that also include relevant timelines and cost estimates	Mark Neale	before 20 July 2024	15/05/24	In hand – the executive intends to present further proposals for implementation at the July meeting
19c (11/04/24)	seek prior Board approval for any costs in excess of budget of the enforcement review	Mark Neale	before 20 July 2024	15/05/24	In hand – as above.
15a (21/03/24)	contact the Head of Supervision about any good practice lessons it may be possible to share in the light of excellent performance results in that team	Mark Neale	before 9 May 2024	15/05/24	Complete - the DG will report orally under the performance item at the May Board
20b (21/03/24)	create a separate Board led committee on people and culture	Ewen Macleod / Rupika Madhura	before 20 July 2024	15/05/24	People and culture issues are in practice discussed by the Performance and Strategic Planning Committee, with succession planning addressed by the Remuneration sub-committee.
16c (30/11/23)	investigate the reasons for the rise in applications from overseas lawyers seeking to transfer to the Bar for England and Wales and to involve the Bar Council as necessary	Mark Neale	end March 2024 end July 2024	15/05/24	Action in hand – set out in the performance paper.
16d (30/11/23)	consider expediting full cost recovery analysis of authorisation applications	Rebecca Forbes	25 January 2024 end July 2024	15/05/24	Action in hand – see private session action log

Forward Agenda

Thursday 27 June 2024 (Board Away Day) – 10 am start

- Strategy & Capability
- Ethics
- External Board Evaluation and Board Skills Matrix

Thursday 25 July 2024 – 5 pm start

- Annual Report 2023-24 (including Cost Transparency Metrics)
- Director General's Report (public & private session)
- Corporate Risk Annual Deep Dive
- Outcome of consultation on expectations of chambers
- Reform and reorganisation
- Board appointments and re-appointment
- Authorisations review consultation findings and next steps

Thursday 4 September 2024 – BSB / LSB Board to Board Meeting

Thursday 26 September 2024 – 2 pm start

- Q1 performance report
- Director General's Report (public & private session)
- 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
- Draft strategy

Thursday 28 November 2024 – 5 pm start

- Mid year report from the PSP Committee
- GRA Annual Report
- Annual report – Bar Training
- Q2 performance report
- Director General's Report (public & private session)
- Dates for Board Meetings (Jan 2025 – Mar 2026)
- Equality Rules
- Corporate Risk Report (summary)
- Draft return to LSB for its regulatory performance assessment of BSB and six monthly self-assessment against the LSB Regulatory Performance Framework

Thursday 30 January 2025 – 2 pm start

- Annual Diversity Data Report
- Director General's Report (public & private session)
- Annual “deep dive” on the corporate risk register

Thursday 27 March 2025 – 5 pm start

- Director General's Report (public & private session)
- BSB Business Plan 2025/26 and final budget
- Q3 performance report
- Consolidated Risk Report

Meeting:	Board	Date:	23 May 2024
Title:	Performance Report: Quarter 4 (2023/24)		
Author:	Mark Neale		
Post:	Director General		

Paper for:	Decision: <input type="checkbox"/>	Discussion <input checked="" type="checkbox"/>	Noting <input type="checkbox"/>	Other: <input checked="" type="checkbox"/> Recommendation
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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
<input type="checkbox"/>	Paper does not principally relate to Regulatory Objectives

Purpose

1. This paper comments on performance to the end of the fourth quarter in March 2024, covering both operational performance and progress in delivering the Business Plan 2023/24. This is the last performance report in the current format. We shall be reporting Quarter one operational performance in 2024/25 in September on the basis of the balanced scorecard.

Summary

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

Operational performance

- i. The Bar Standards Board has been dealing with markedly higher volumes of operational work across 2023/24, with Authorisations applications up 25%.
- ii. productivity bounced back as expected in the fourth quarter: the Contact & Assessment Team cleared nearly 500 reports in the quarter and 1,769 over the year – up 12% on 2022/23.
- iii. the Authorisations Team also cleared more applications in the fourth quarter, but, although the Task Force dedicated to Transferring Qualified Lawyers applications is now up and running, new applications continue to exceed closures and the caseload continues to grow, reaching 873 by the end of March.
- iv. over the quarter 64% of concluded investigations were within the 25-week target – the best performance in 4 years – despite 58% of investigations being classed as complex.
- v. the Supervision Team exceeded all its KPIs over the quarter.

Business Plan 2023/24 & reforms

- vi. we have implemented, or are implementing, the main commitments of the 2023/24 business plan, including the reforms to which we committed last April.

Operational performance (annex A)

3. The fourth quarter report is an opportunity not just to comment on current performance, but also to look back on trends across the year as a whole. We can now see that the year has been characterised by both higher volumes and by greater complexity of operational work.
4. The volume of Authorisations applications received was up on the previous year – by 25%. There was also a marked shift in the Authorisations caseload towards more complex applications from qualified transferring lawyers, which accounted for 586 applications in 2023/24 compared to only 422 in the previous year and 300 the year before that. This shift in the balance of work, alongside higher volumes of pupillage and other Authorisations work, accounts for the fall across the year in the number of applications decided. Investigative work has also become more complex with just under 60% of investigations classed as three or above on a five-point scale of complexity.
5. Turning to current performance, we can see that productivity re-bounded in the fourth quarter. This re-bound was especially impressive in the Contact & Assessment Team which cleared just under 500 reports in the quarter – the best performance since the last quarter of 2022/23. This had the effect of reducing the caseload – the stock of cases - by around 80. Because, however, a significant proportion of the reports assessed were older than 8 weeks, the timeliness KPI was only at 58%. This is the inevitable result of strong progress in clearing the backlog. Other Contact & Assessment KPIs were met.
6. The Authorisations Team also increased productivity in the fourth quarter, although not to the same extent. In-coming applications continued to exceed decisions, resulting in a further increase in the overall caseload to 873. However, the Task Force dedicated to dealing with applications from Transferring Qualified Lawyers is now in full operation, releasing team members to deal with the flows of other applications. This should be reflected in the productivity and timeliness numbers in future quarters. We are also in the process of recruiting a regulatory lawyer to join the team on a fixed term contract to support decision-making.
7. Turning to investigations, the good news this quarter is the improvement in the timeliness KPI with 64% of investigations concluded over the quarter completed within the 25-week target. This is the best performance in four years and reflects the stabilisation of the caseload following the accelerated investigations programme which spanned 2022/23 and 2023/24. We can also see the continuing shift in the balance of the team's work from investigation to prosecution, with Disciplinary Tribunal cases exceeding investigations for the first time (once cases on hold are excluded).

8. Finally, it is pleasing to note that the Supervision Team exceeded all its KPIs in the fourth quarter, continuing its impressive performance record.

Progress against the Business Plan – annex B

9. We can also now take stock of progress across the year in taking forward reform of our regulatory capacity and in delivering other Business Plan commitments.
10. Progress with the reform agenda is covered in a separate paper and return, but, suffice it to say, that we have made steady progress. We have delivered an independent review of enforcement. We have agreed an overhaul of our regulatory risk framework and initiated a review of data and intelligence. We have maintained the momentum of our initiative on chambers.
11. The tracker at annex B also shows that we are on track with other business plan commitments against our strategic priorities of: *efficiency, standards, equality, access and independence*.
12. I would highlight:
 - the development of a balanced scorecard which will be used to monitor operational performance from 2024/25;
 - the publication on 2 May of important research on pupillage recruitment;
 - the imminent publication later this month for consultation of revised *Equality Rules* which draw on our research and analysis into diversity at the Bar and on the findings of the Regulatory Return;
 - the development of an internal capacity to understand and to promote the opportunities to deploy technology, including AI, to support the efficiency of, and access to, barristers' services;
 - re-joining *Legal Choices* and, as part of that, the agreement of other front-line regulators to view strategy for public legal education as embracing partnership with third sector organisations; and
 - the conclusion of a study of the market for intermediaries, which may facilitate consumers' access to barristers' services. This has identified the key business models and regulatory risks in relation to such activities. The conclusions have been presented to SLT and we have decided to undertake some further research that will engage directly with intermediary businesses. This work will therefore continue into the current business year, when we will decide what regulatory response is necessary.
13. We expect to complete these and other programmes of work in 2024/25 which is the last year of the current strategy.

Annexes

Annex A – Quarter 4 operational performance report

Annex B – BP & Performance Dashboard Q4

Mark Neale

Director General

2023-24 Quarter 4 Performance report – Regulatory Operations and Legal and Enforcement Departments

All teams overview

Team	KPI	Total Cases/ Applications / Reviews closed	Performance Q4
CAT	General Enquiries		
	Substantive responses to general enquires, that can be addressed by CAT, provided within 5 working days. (Target 80%)	140	96.4%
	General enquiries, which cannot be answered by CAT, that are referred to another team within 3 working days. (Target 80%)	65	98.5%
	Initial Assessment		
	Reports assessed and concluded by CAT, or referred to another team for action, within eight weeks. (Target 80%)	490	57.6%
	Quality indicators		
Cases where the Independent Reviewer upholds the original decision following a request for review. (Target 95%)	0	n/a	
Authorisations	Authorisation, Exemptions and Waivers		
	Applications determined within six weeks of receipt of the complete application. (Target 75%)	173	38.2%
	Applications determined within eight weeks of receipt of the complete. (Target 80%)		49.7%
	Applications determined within twelve weeks of receipt of the complete application. (Target 98%)		59.0%
	Entity (including ABS) Authorisation		
	Authorisation decisions made within six months of receipt of the application and associated fee. (Target 90%)	4	100.0%
Authorisation decisions made within nine months of receipt of the application and associated fee. (Target 100%)	100.0%		

Team	KPI	Total Cases/ Applications / Reviews closed	Performance Q4
I&E	Referral of cases		
	Cases referred by CAT to another team for regulatory action that are accepted or referred back to CAT within 2 weeks. (Target 80%)	24	87.5%
	Investigation of allegations		
	Investigations of allegations of breaches of the Handbook completed, and a decision taken on disposal, within 25 weeks of acceptance. (Target 80%)	22	63.6%
	Determination by Consent		
	Process completed (service standard 93 working days). (No target)	1	100.0%
	Disciplinary Tribunal		
	Cases concluded (service standard 197 working days). (No target)	16	31.3%
	Quality indicators		
	Cases where the Independent Reviewer upholds the original decision following a request for review. (Target 95%)	1	100.0%
Appeals against the imposition of administrative sanctions and % successful. (Target 0%)	0	n/a	
Appeals of Disciplinary Tribunal decisions concluded and % successful attributable to procedural or other error by the BSB or discrimination in the decision-making process. (Target 0%)	2	0.0%	
Supervision	Allocations		
	Cases assigned within 3 working days of the team receiving the referral from CAT. (Target 80%)	26	100.0%
	Regulatory Response		
Cases for which a regulatory response was agreed within 20 working days of the case being assigned. (Target 80%)	44	100.0%	

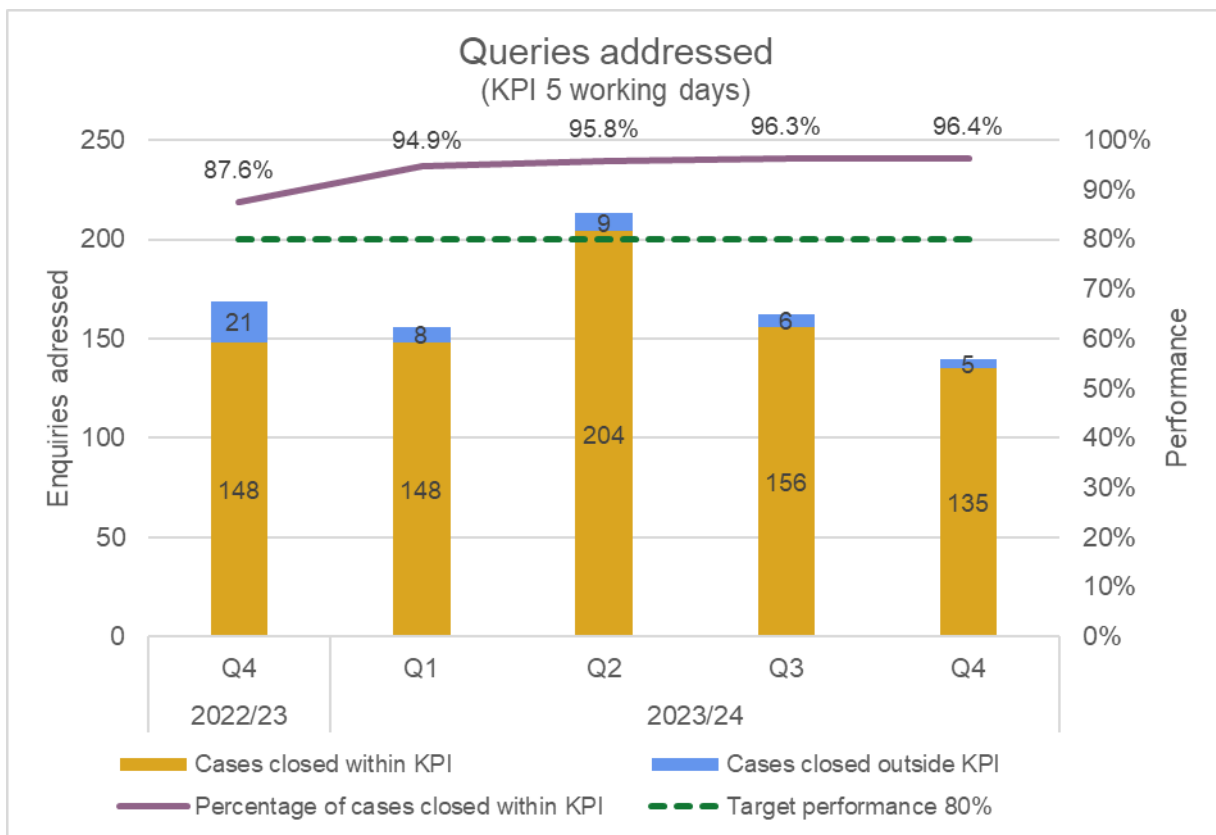
Team	KPI	Total Cases/ Applications / Reviews closed	Performance Q4
Supervision (cont.)	Visits		
	Visit report letters issued within 5 working days of a visit to an organisation. (Target 80%)	1	100.0%

Contact & Assessment

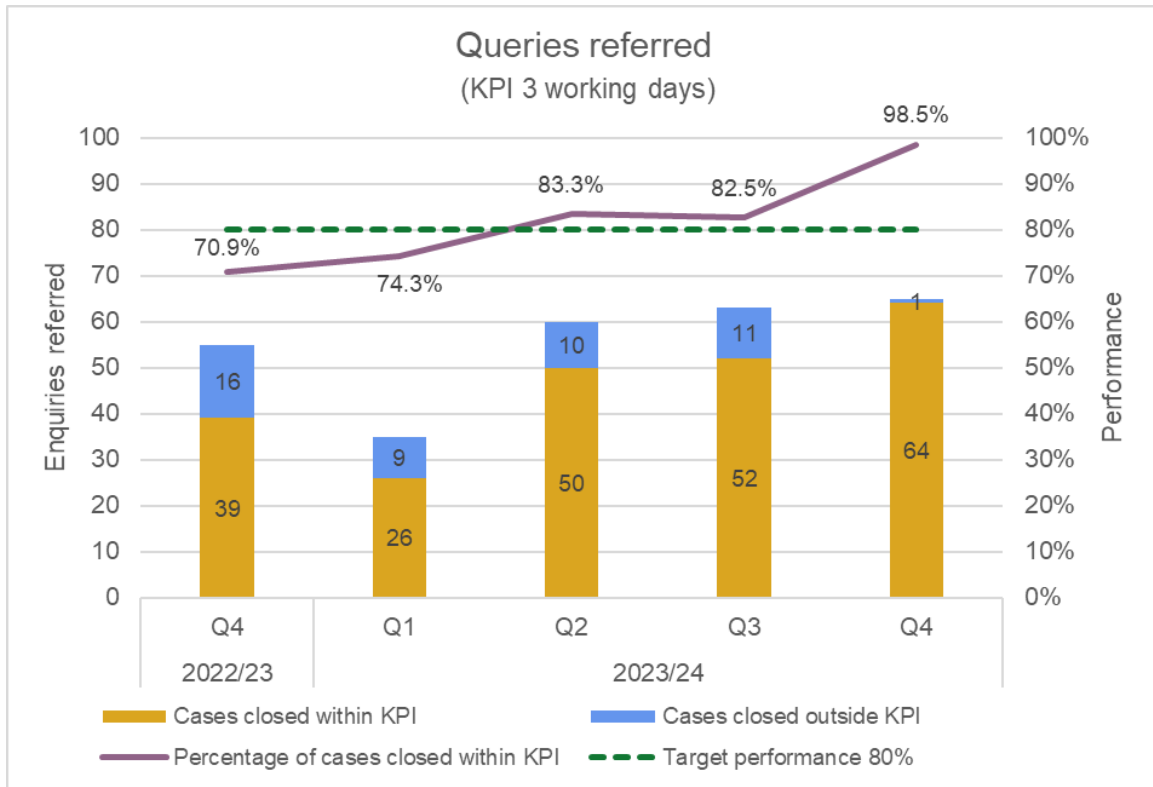
Key points

- The team have met 2 out of 3 KPI targets this quarter.
- For both of the general queries KPIs, quarter 4 had the highest performance this fiscal year.
- Initial Assessment output increased to the highest seen this year, but performance against this KPI dropped as backlog cases were closed.

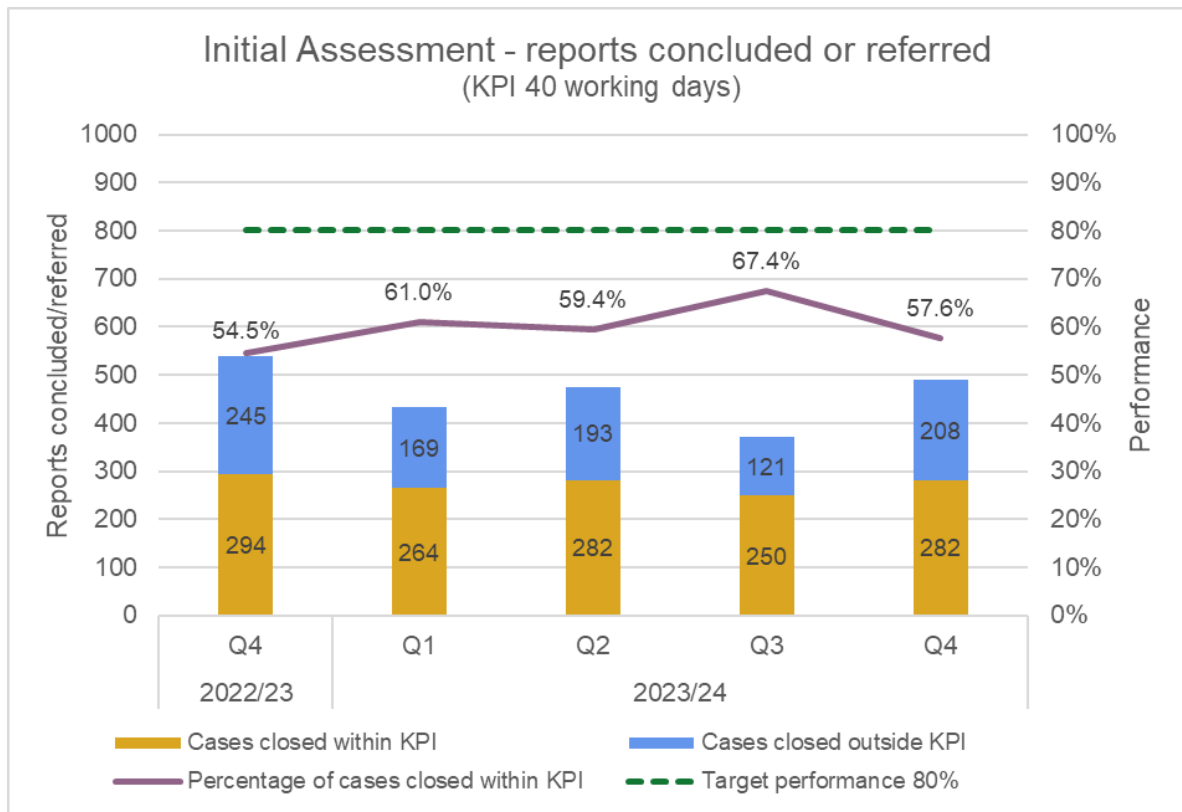
KPIs & performance data



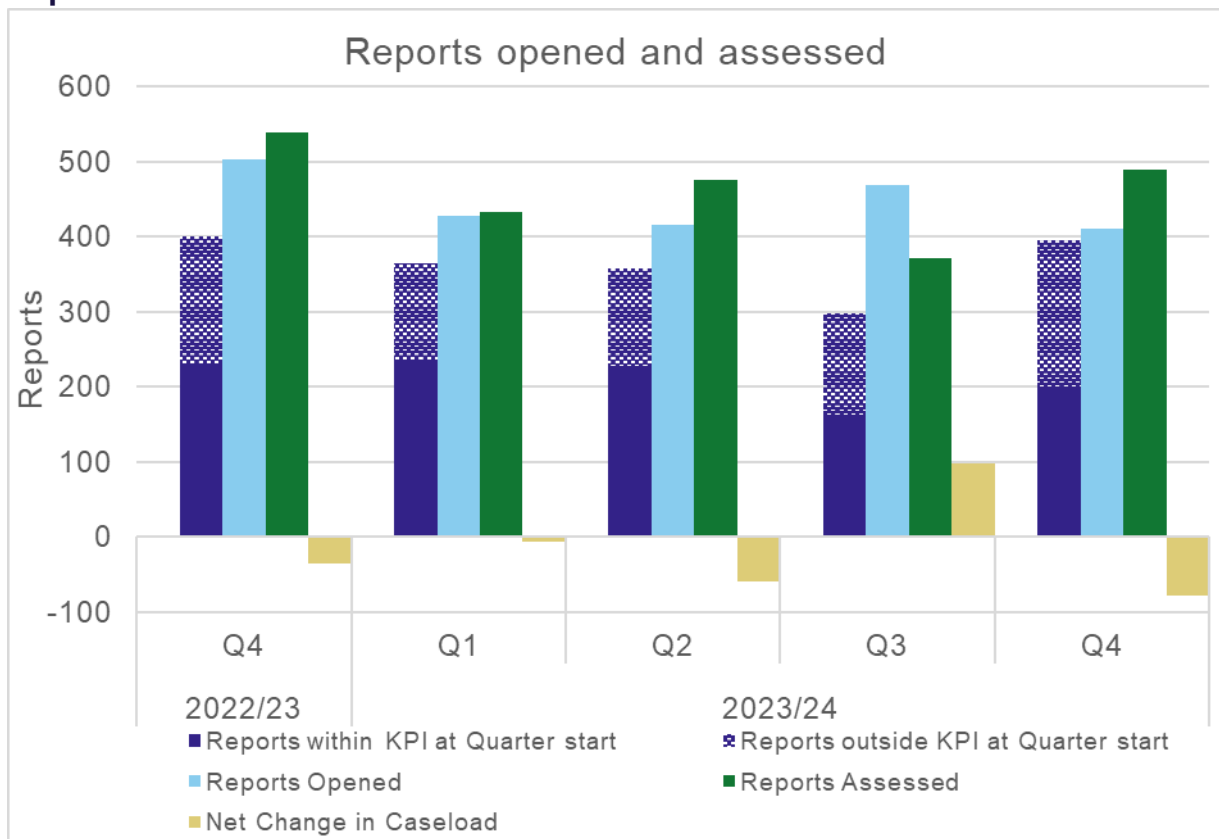
1. Performance for general enquiries has been consistent across the whole fiscal year, with incremental improvement each quarter.



2. Performance against the general enquiries referral target has continued to improve.
3. This is the first year that the overall annual performance for this KPI has surpassed the 80% target, with the target exceeded in three out of four quarters. Quarter 4 has seen the highest performance since records began in 2019.



Reports



- Output increased in quarter 4, with almost 120 more reports closed than in quarter 3.

5. Performance against the KPI target reduced as progress was made towards clearing the backlog. This lower performance can be attributed to the reduced output in quarter 3 as shown in the chart above. Fewer cases were closed last quarter (due to the Christmas office closure and staffing vacancies), leading to a larger caseload awaiting assessment at the beginning of quarter 4. As many of these cases were closed during quarter 4, the number of cases closed outside KPI saw a corresponding increase.
6. The net reduction in workload of almost 80 cases this quarter reflects a combination of factors. Slightly fewer reports were opened in quarter 4 than in the previous quarters this year. In addition, in quarter 4 the team had extra temporary part-time resource at the Assessment Officer level, and three team members who joined in quarter 3 and early quarter 4 began to handle a higher number of cases as their training advanced.
7. In the Quarter 3 Performance update we reported that around 35 social media cases had been opened on one specific issue. Approximately 30 further cases on this topic were opened in quarter 4 (7% of all cases received).
8. 1769 reports have been closed in 2023/24. This is 112% of the 1582 reports closed last year, and the second highest number of reports closed in a single year since the team was established in 2019/20.

Live cases

Snapshot at the close of Q4 of 2023-24

Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
General Enquiries			
General enquiries addressed (5 days)	3	0	0%
General enquiries referred (3 days)	1	0	0%
Initial Assessment			
Concluded or referred (8 weeks)	317	164	52%
Total	321	164	51%

9. The number of open cases has reduced by one fifth over the course of this quarter (from 405 down to 321).
10. The percentage of over-running cases has increased from 47% at the close of quarter 3 to 51% at the end of quarter 4. However, the actual number of over-running cases reduced, from 190 down to 164, in line with the overall reduction of caseload this quarter.

Commentary

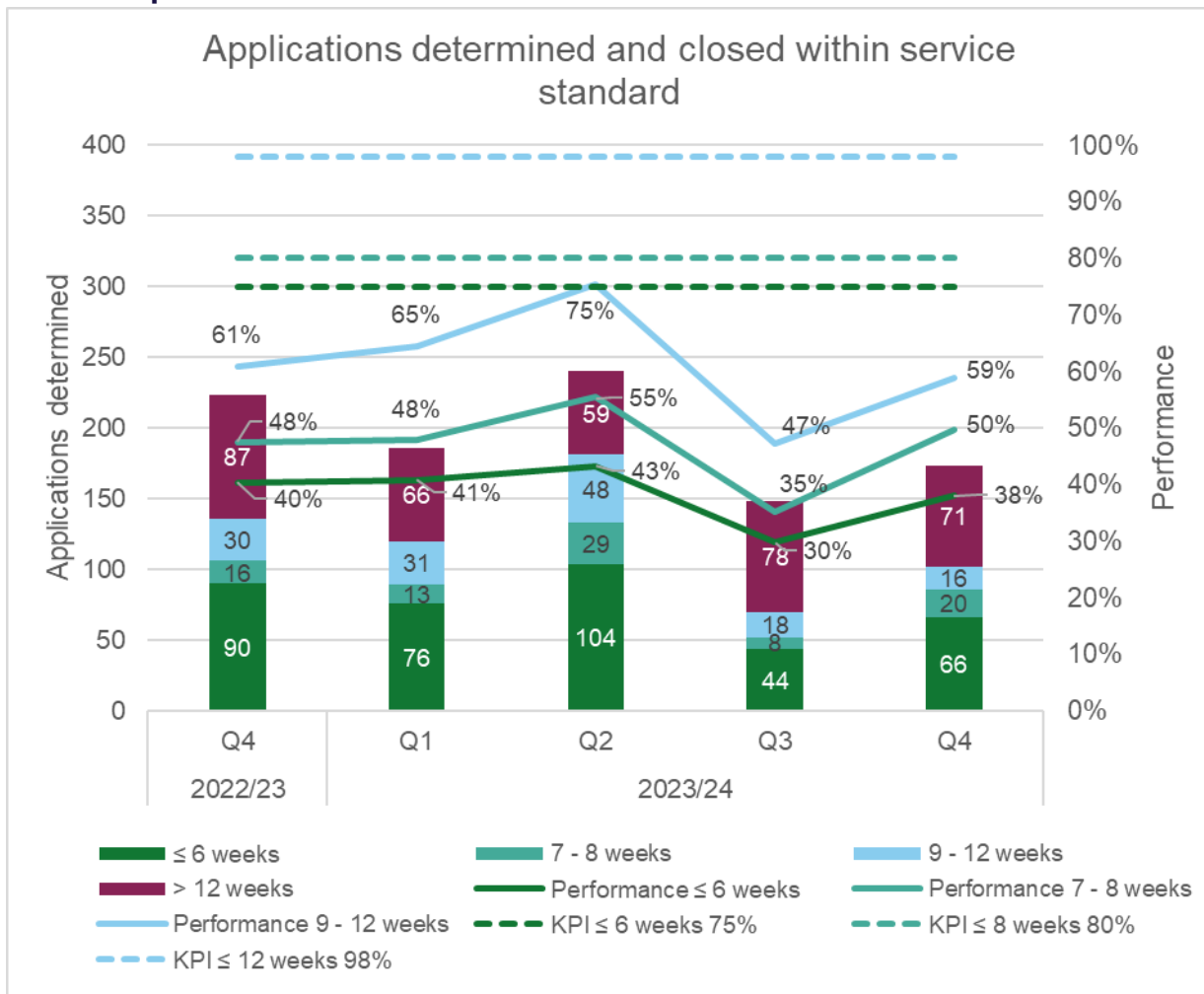
11. By the end of quarter 4 CAT was fully staffed, and although new members of staff are not yet working at full capacity their impact can be seen in the higher output. Whilst their training continues, the team have had two temporary Assessment Officers. This additional support will cease by mid-May 2024, by which point it is expected that all the permanent team members will be fully trained.
12. This quarter 7 Customer Satisfaction surveys were returned, all relating to reports. For the ease of access questions, 6 of 14 (43%) had positive responses. For quality of communication questions, 8 of 28 (28%) had positive responses. Finally, for timeliness questions, 3 of 14 (21%) had positive responses.

Authorisations

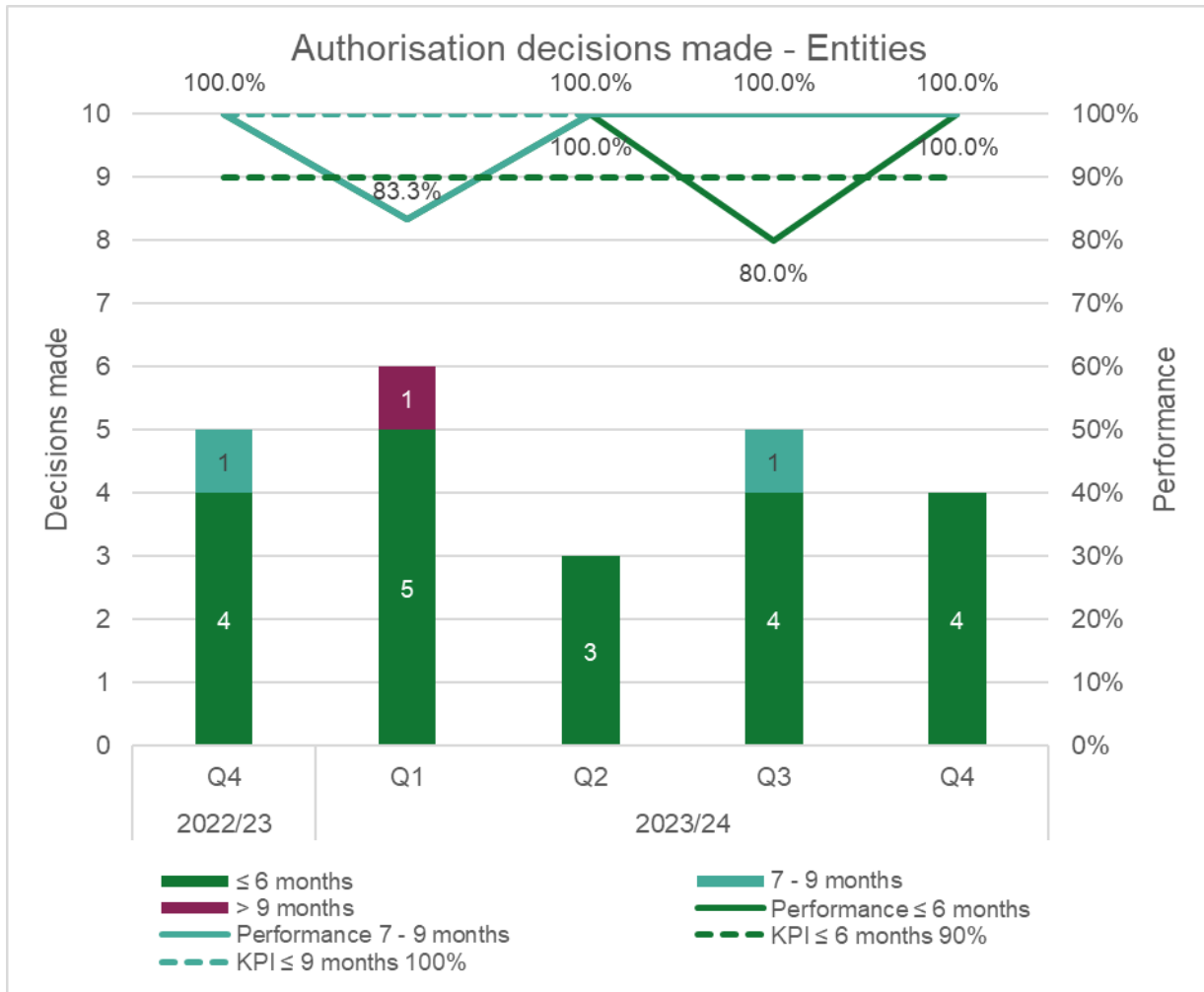
Key points

- Performance and output have both increased in this quarter.
- The number of Transferring Qualified Lawyer (TQL) applications received each month has remained high and they accounted for more than 50% of all applications received in quarter 4.
- The TQL taskforce, consisting of 1 Senior Officer and 4 Officers, was established this quarter.

KPIs and performance data

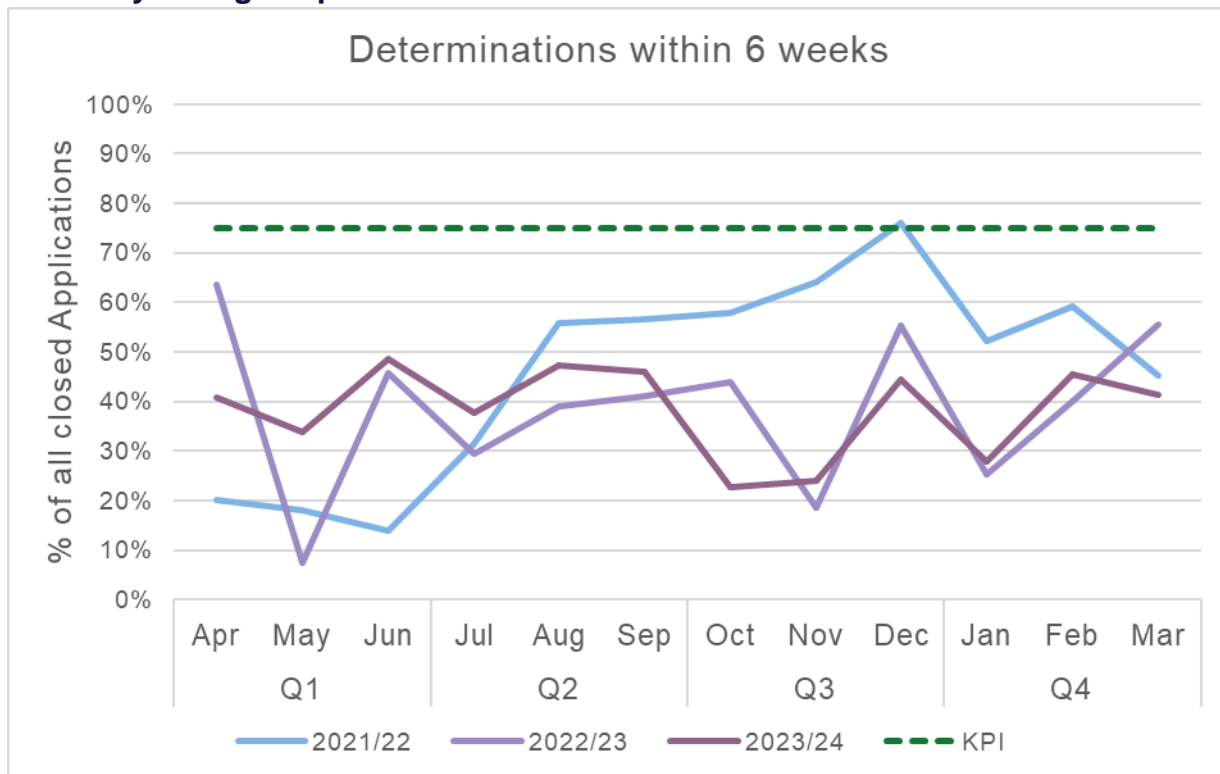


13. Output increased slightly this quarter, with the number of applications decided totalling 173, but remained lower than the output seen in the first half of the year.
14. Performance against the three targets increased, although also remaining lower than performance in quarters 1 and 2, because the majority of live applications are over 12 weeks old.



15. All entity applications were decided within 6 months this quarter, meaning that both the performance targets were met.

Quarterly change in performance



16. Similar to quarter 3, the proportion of applications decided within 6 weeks dropped at the start of the quarter before improving again in February and March.

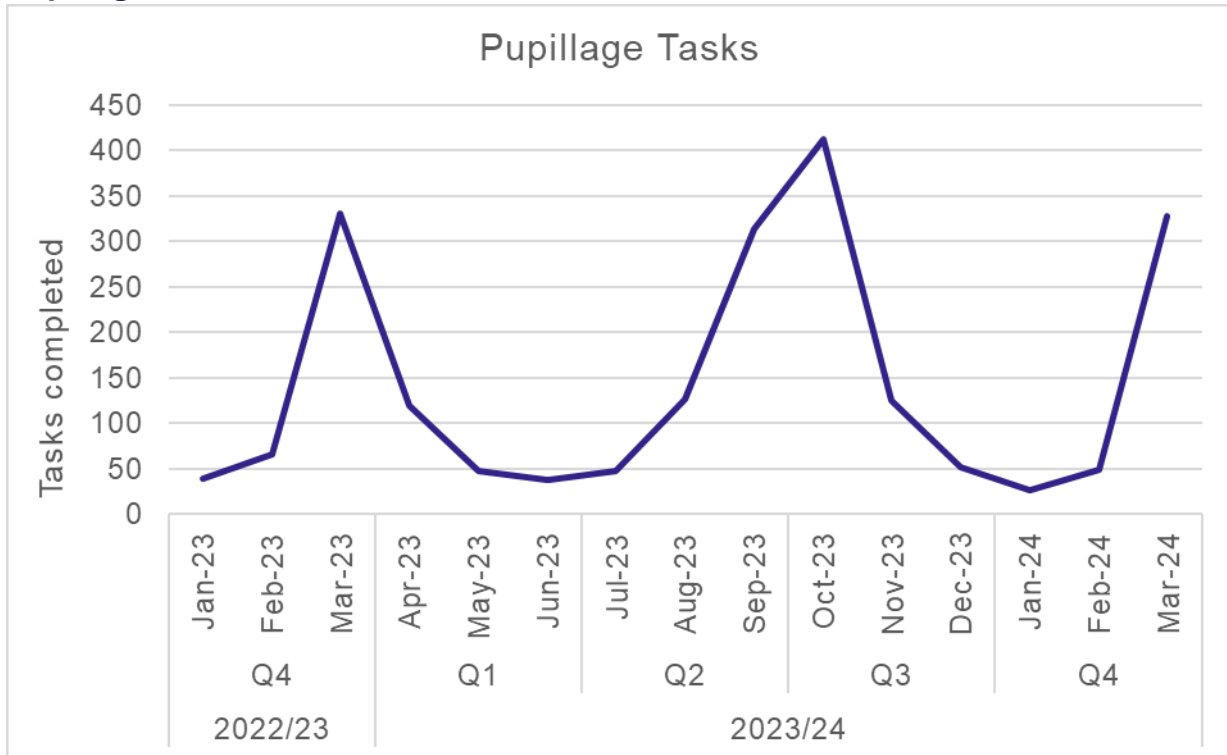
Live cases

Snapshot at the close of Q4 of 2023-24

Operational Indicator	Total Open Applications	Over-running Applications	Percentage Over-running
Waiver applications			
Decisions made (12 weeks)	873	610	70%
Total	873	610	70%

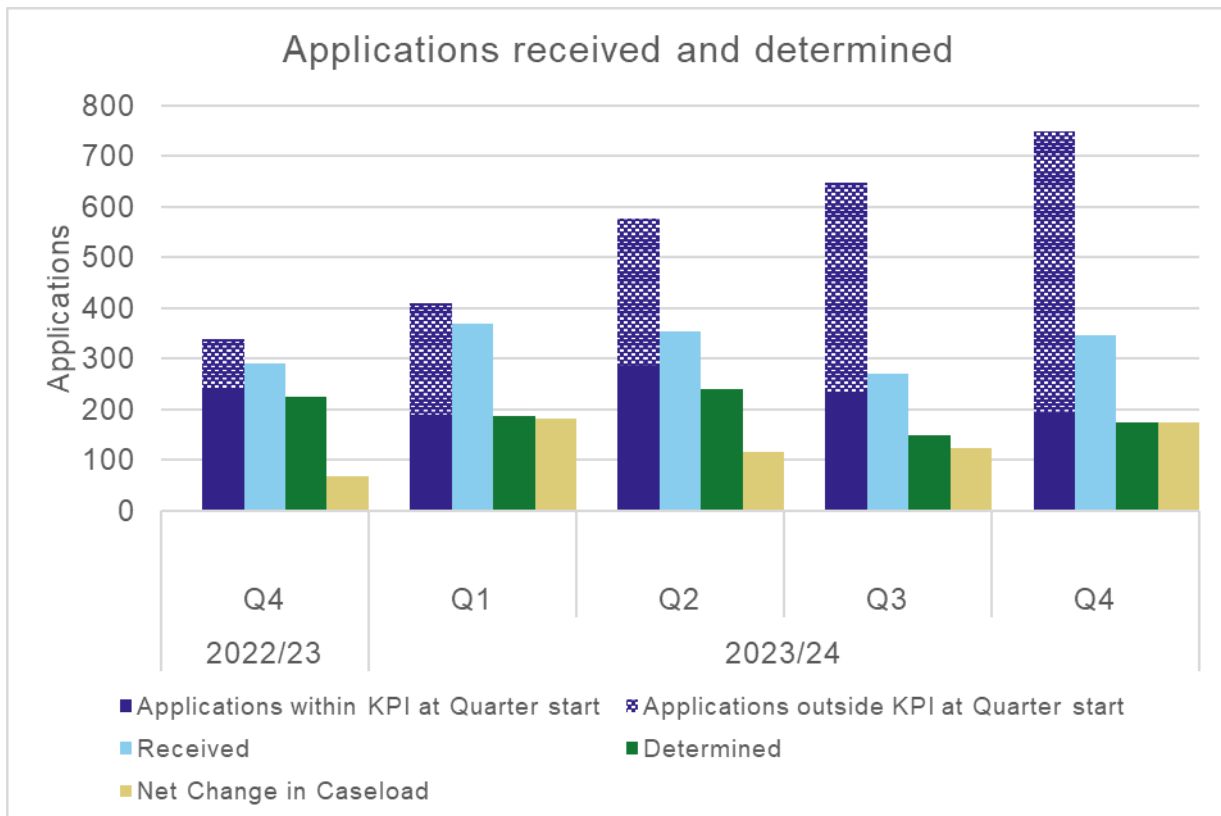
17. The number of open applications has increased from 747 in quarter 3.
18. Although the percentage of over-running applications has decreased slightly from 74% last quarter, the absolute number of these aged applications has increased by over 50, from 554 up to 610.
19. Similar to quarters 2 and 3, 62% of this live workload is Transferring Qualified Lawyer (TQL) applications.

Pupillage Tasks



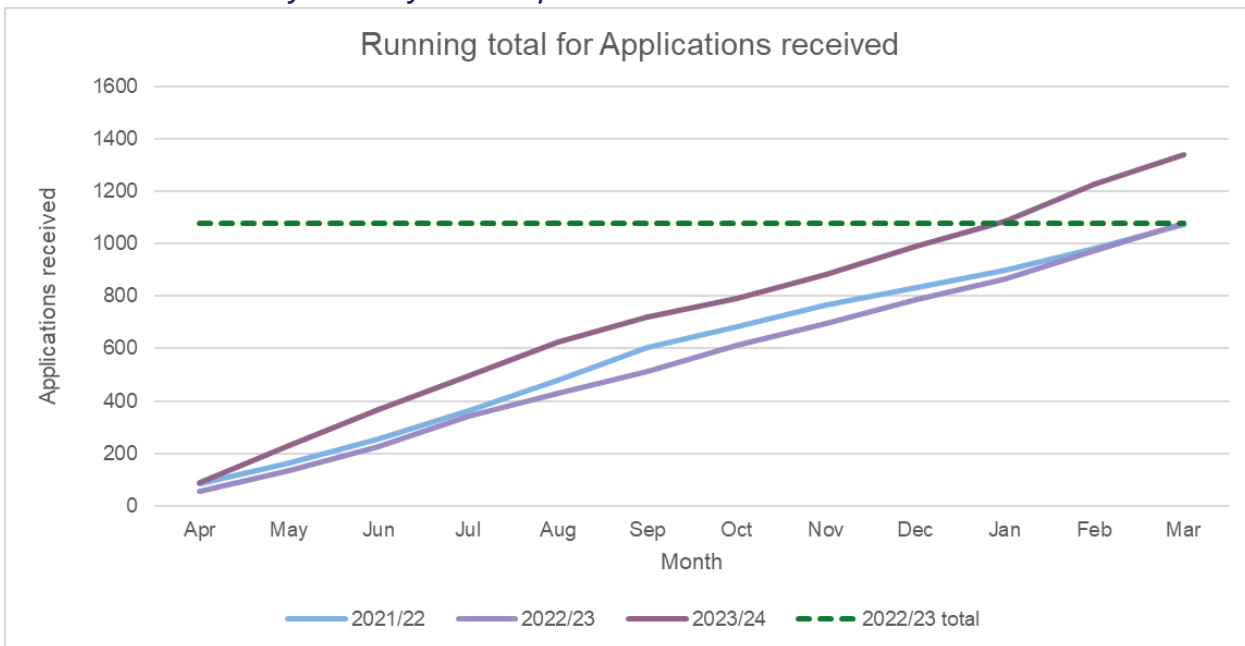
20. Pupillage workload has been high in March and non-practising (first 6) sign-off processes will continue throughout April before being concluded in May.

Applications received and determined



21. The backlog increased further in quarter 4, with the overall workload of applications ready for assessment more than double the number at the beginning of 2023/24 – it has risen from 408 to 873 across the year. This is in part due to the additional administrative capacity described at paragraph 32, resulting in applications becoming ‘ready for assessment’ more quickly due to proactive chasing of outstanding documentation and fees.

Workload volume – year-on-year comparison



22. 1340 applications have been opened in 2023/24. This is 25% higher than the number of opens in both 2022/23 and 2021/22.

Transferring Qualified Lawyer applications

Fiscal Year	TQL applications opened	Monthly average
2021/22	300	25
2022/23	422	35
2023/24	586	49

Type of Application decided	2022/23	2023/24			
	Q4	Q1	Q2	Q3	Q4
TQL	87 (39%)	60 (32%)	54 (23%)	51 (34%)	27 (16%)
Other applications	136 (61%)	126 (68%)	186 (78%)	97 (66%)	146 (84%)
Total	223	186	240	148	173

23. The number of TQL applications received remained high up until the end of the year, with a monthly average of 49. The number decided is around one third of this total, with an average of 16 closed each month.

24. In quarter 4 the new team members in the TQL taskforce underwent training, and experienced team members shifted their focus to other application types, resulting in a temporary drop in the number of TQL decisions.
25. In addition, the number of TQL decisions which could be processed this quarter was limited because many applications are submitted without all of the key supporting documents or payment of the application fee. To address this, two members of the taskforce are now focused on getting these incomplete applications ready for assessment, by contacting applicants directly to request the missing documents and/or fees, so that decisions can then be made more swiftly.
26. A triage approach is being applied to assessment of TQL applications. First priority is given to applicants who are able to produce either pupillage or tenancy offer letters, second priority is given to SRA regulated solicitors (where there is a clear expectation of future practice as barristers in England and Wales). All remaining applications are then generally assessed in the order that they are deemed 'ready for assessment' (ie all necessary documents and fee payments received).

Commentary

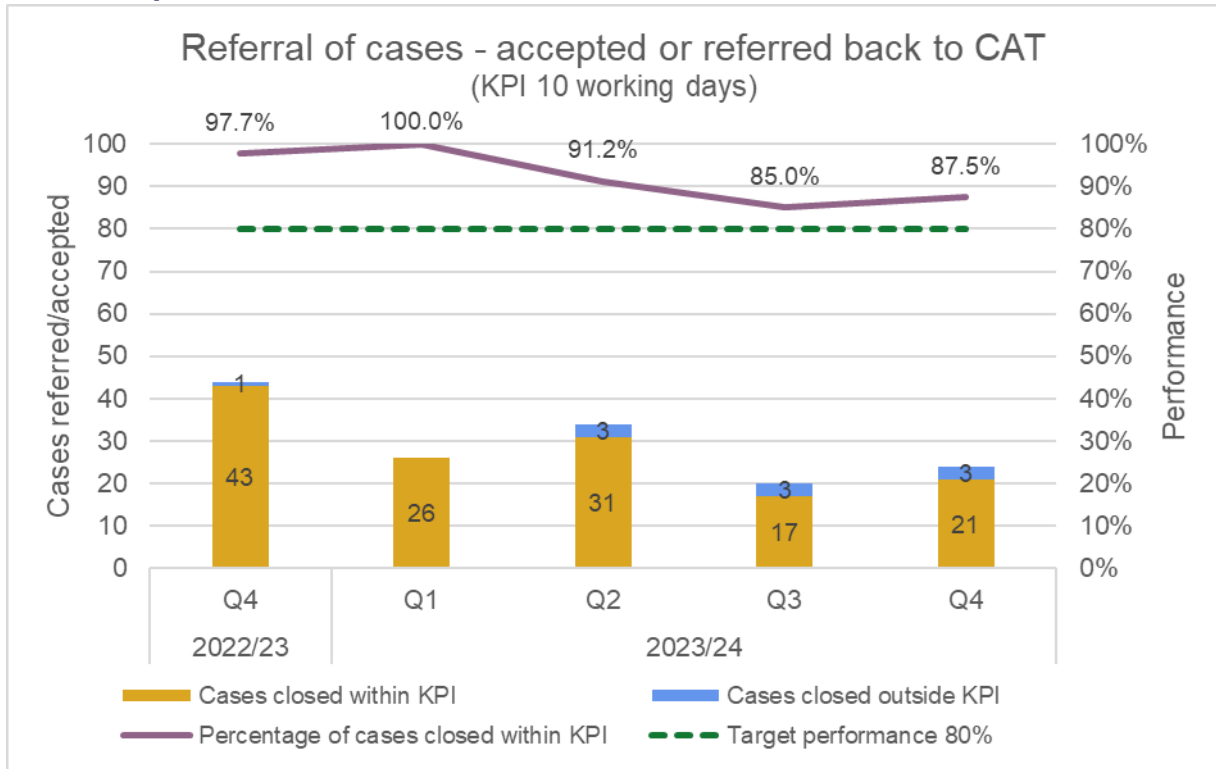
27. The team will be recruiting at the start of quarter 1 2024/25 to fill two posts - one FTC in the TQL Taskforce and one backfill role for maternity leave cover.
28. In quarter 4 there was a rise in review requests which required referral to the Independent Decision-Making Body. Half of these were reviews of Inns' Conduct Committee (ICC) decisions. The high volume of these ICC decision review requests is unusual, but this trend does appear to be continuing into quarter 1 2024/25. The number of review requests considered in quarter 4 overall was equal to the total considered in quarters 2 and 3 combined.
29. The inflationary increase in all Authorisations application fees mentioned in the Quarter 3 Performance Report will come into effect from April 2024, and a more detailed cost-recovery analysis will follow. From quarter 1 2024/25 we will monitor the impact this has on the overall workload for the team, including whether it leads to higher numbers of Fee Waiver applications.

Investigations and Enforcement

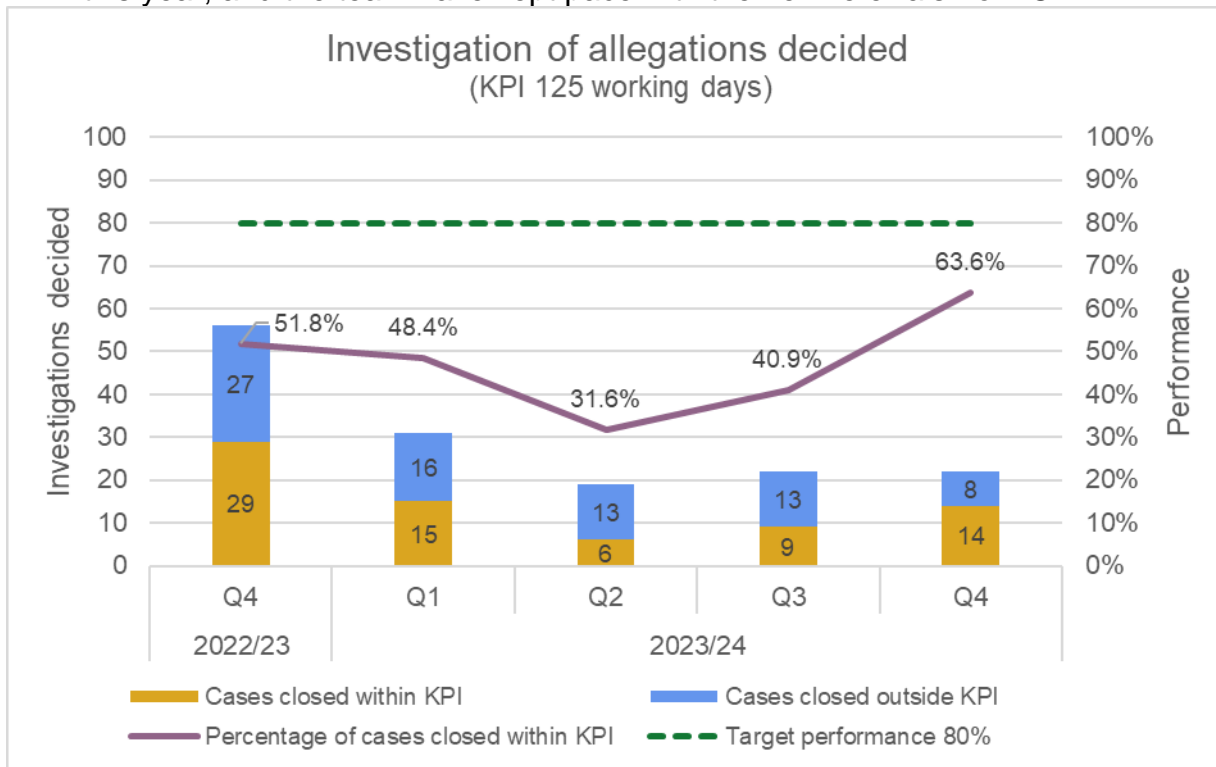
Key points

- Performance against both the referral and investigation KPIs increased this quarter.
- Quarter 4 saw the highest number of Disciplinary Tribunal cases concluded this year.
- The active investigations caseload has reduced because of the high number of cases that are on hold.
- No appeals of administrative sanctions were concluded this quarter.

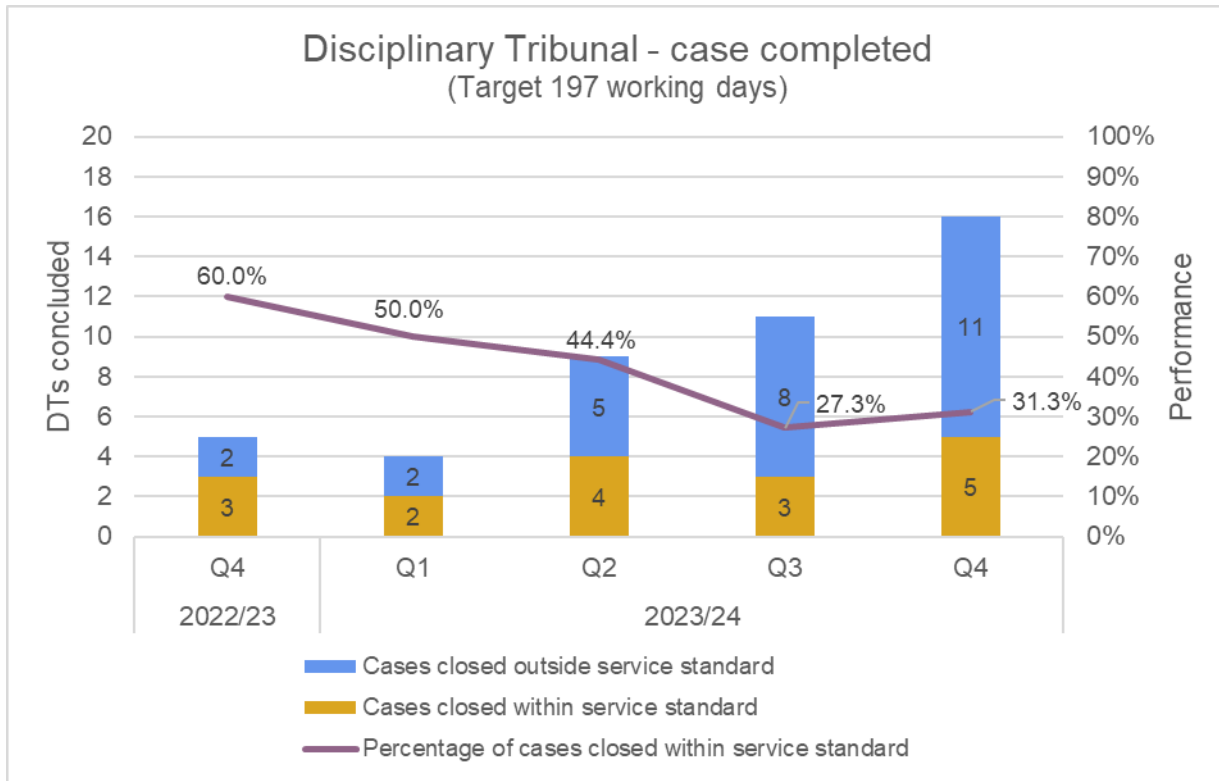
KPIs and performance data



30. The 80% target for accepting cases for investigation has been met in every quarter this year, and the team have kept pace with the new referrals from CAT.



31. The same number of investigations were decided in both quarters 3 and 4. However, the number closed within the KPI target increased sharply in the final quarter of the year. With 63.6% concluded within the target time, this is the highest quarterly performance recorded in the past four years.



32. The number of cases concluded at Disciplinary Tribunal continued to increase, and 43% of all tribunal cases concluded in 2023/24 were closed in quarter 4. This increase in Tribunal decisions is due to the increase in investigations concluded during the accelerated investigations process, with those that were referred to disciplinary action at that time now reaching conclusion at tribunal. Whereas in the first two quarters of this year half of the tribunal cases decided had been referred during the plan, in quarter 4 this stood at 81%.

Live cases

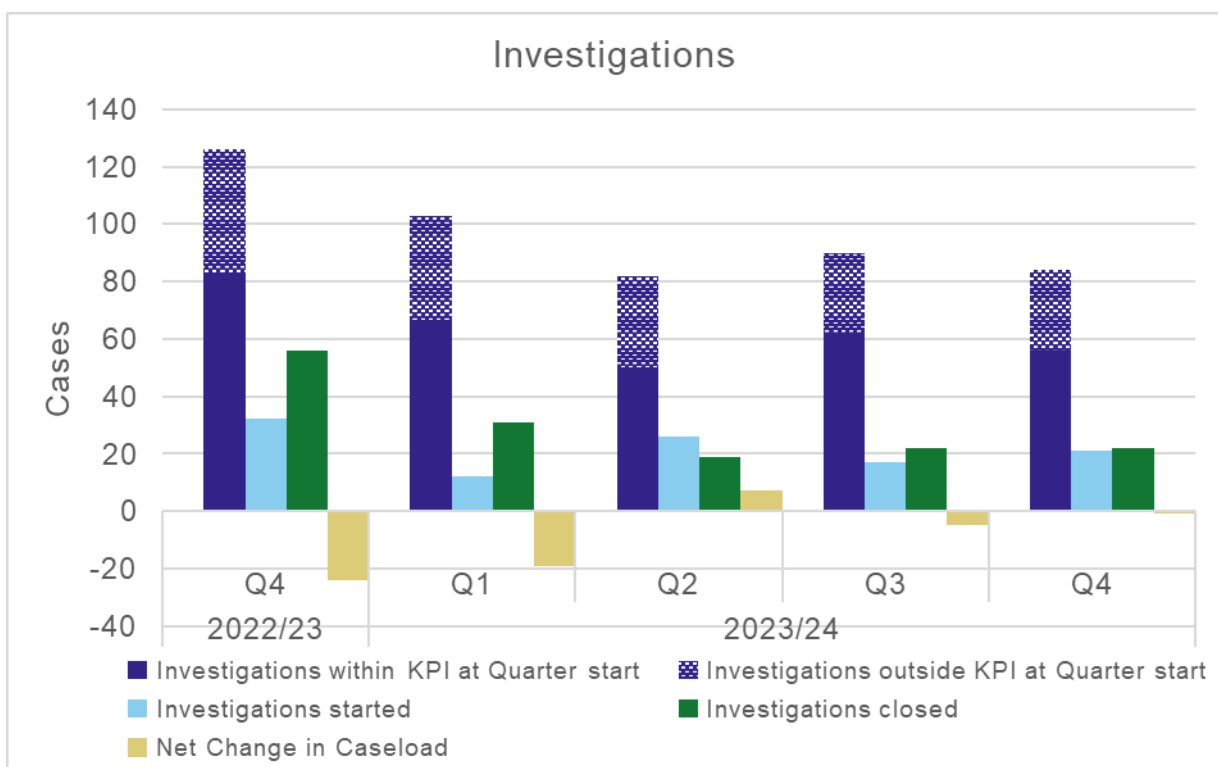
Snapshot at the close of Q4 of 2023-24

Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
Referral of cases			
Accepted or referred back (2 weeks)	8	1	13%
Investigation			
Decision on disposal (25 weeks)	82	30	37%
Total	90	31	34%

Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
Determination by Consent			
Process completed (93 working days)	1	0	0%
Disciplinary Tribunal			
Cases concluded (197 working days)	51	20	39%
Total	52	20	38%

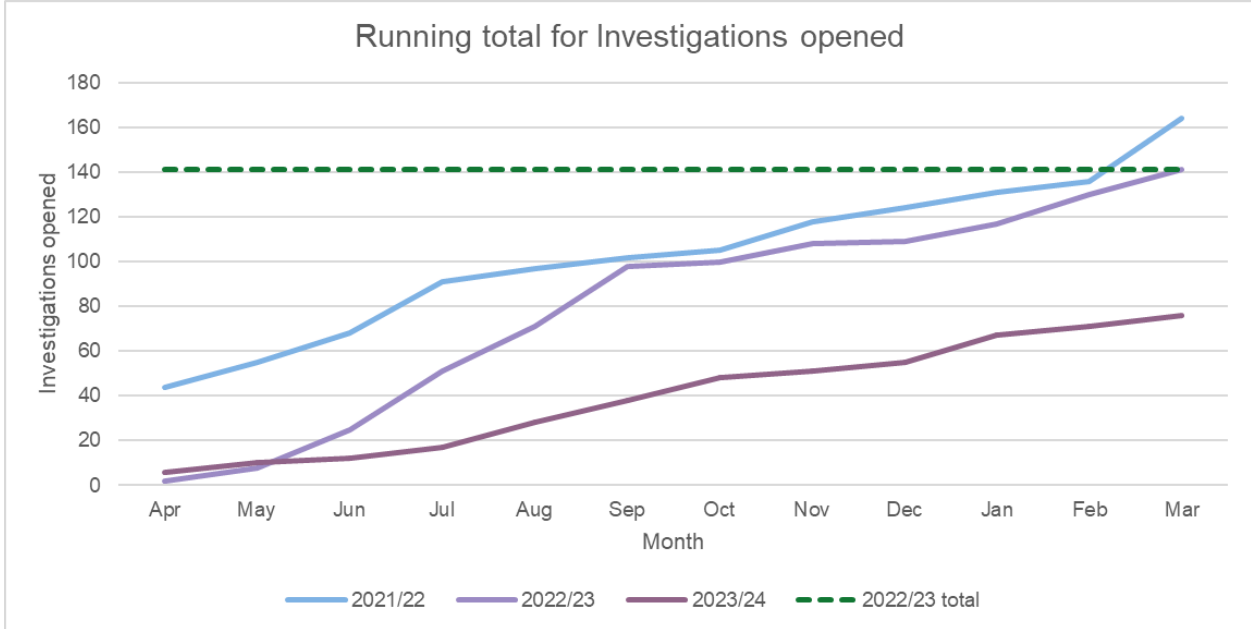
33. The number of open investigations has reduced slightly from 84 last quarter to 80, however the combined referral and investigation caseload increased by six due to the cases that were still waiting acceptance at the close of quarter 4.
34. 35 of the currently open investigations are on hold (43%), this is an increase from the 21 on hold at the end of quarter 3. As a result, the pool of active cases is the lowest it has ever been, at just 47 investigations. Analysis of those cases on hold shows that of the 35, 11 that were placed on hold this quarter (and therefore a significant part of the increase) relate to the same barrister where health issues have been raised. Of the other cases on hold, 11 are awaiting the outcome of other proceedings before they can be progressed. Finally, four (including three against the same barrister) are on hold pending the conclusion of other matters already being considered by the Disciplinary Tribunal.
35. The number of Disciplinary Tribunal cases has dropped by 5, down from 56 last quarter.

Investigations

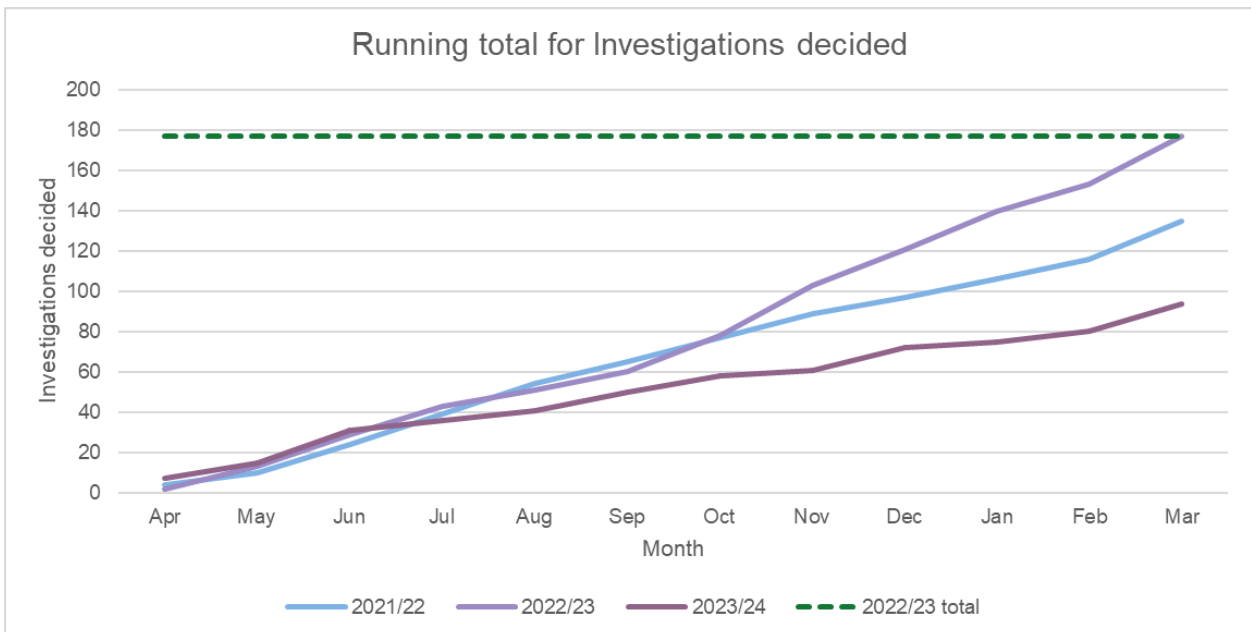


36. A small net reduction in investigation caseload was seen in quarter 4, as the numbers of investigations started and decided were almost equal.

Workload volume – year-on-year comparison



37. 76 investigations have been opened in 2023/24. This is 54% of the 141 investigations opened last year, and the sharp contrast between the two years is again due to the impact of the accelerated investigations process that started in the summer of 2022 and led to the backlog of cases awaiting acceptance for investigation being cleared.



38. 94 investigations were decided in 2023/24, 18 more than the number of investigations started.

39. The accelerated investigations process came to an end in quarter 2 of 2023/24. As the live workload reduced and the pool of investigations available for decisions became smaller, we have seen a corresponding reduction in the rate of investigations decided over the past nine months.

Commentary

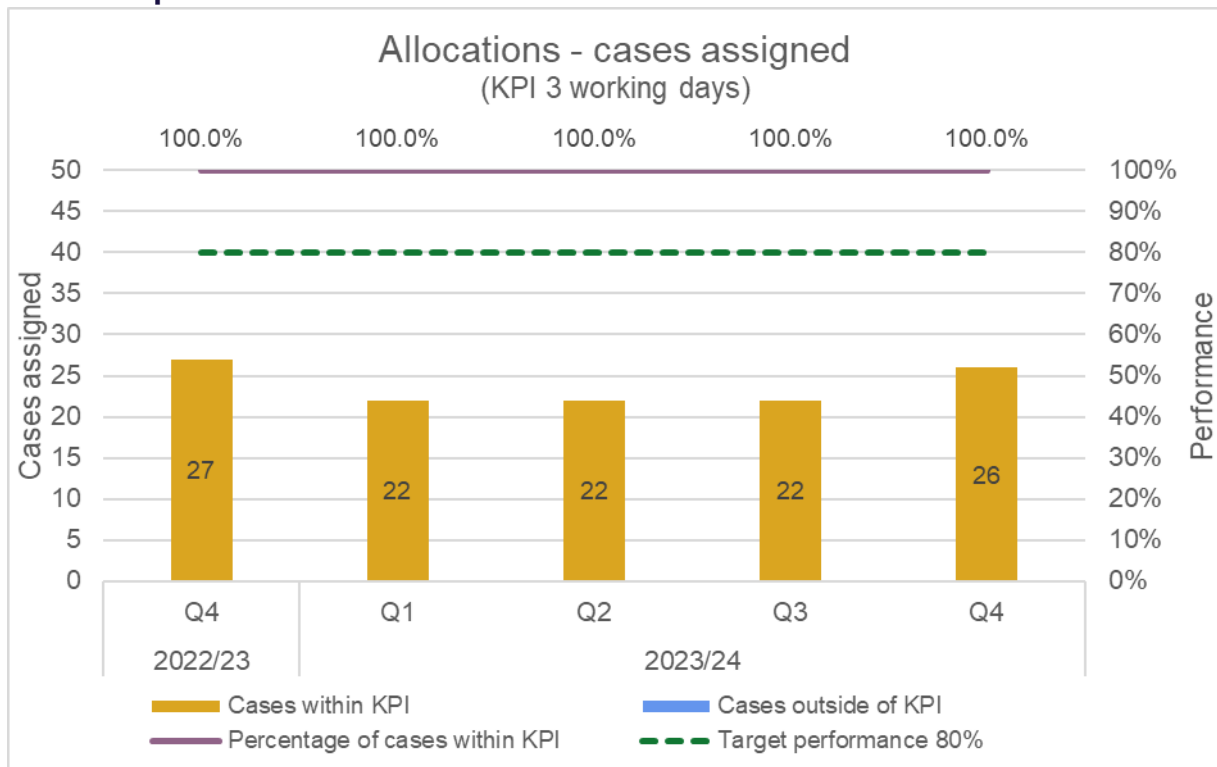
40. Performance in the quarter was good with the referrals KPI continuing to be met despite an increase in the number of referrals; the throughput of investigations being maintained; a continuing increase in the number of investigations being closed within the KPI target; and a record number of tribunal cases concluded.
41. The nature of the overall caseload is still being affected by the positive impact of the accelerated investigations plan with live disciplinary cases overtaking the number of live investigation cases. This shift will be temporary given the rate of referral to disciplinary action has reduced and the number of live tribunal cases is gradually reducing. However, the reduction in the active investigations caseload does mean that there is capacity to handle the large number of tribunal cases in the system.
42. In terms of the complexity of the investigations caseload, this remains at the higher end of the scale. At the end of the quarter, 58% of the active investigations (i.e. those at investigation or IDB stage which are not on hold) were classed at 3 or above in terms of complexity (on a scale of 1-5). This is similar to the 56% of cases with these higher complexity scores at the end of quarter 3.
43. Staffing in the team remains stable, although during the quarter the team have been working at reduced capacity at Casework Manager level, resulting in an increase in the workload of the remaining Casework Manager and Head of I&E in taking decisions and providing advice. The second Casework Manager is due to return from maternity leave in the next quarter.
44. There were two cases during the quarter that were subject to successful appeal of a Disciplinary Tribunal decision. The outcomes were not as a result of any error by the BSB or discrimination in the decision-making process, and therefore the quality KPI in relation to appeals was met. Both cases related to the same barrister and were heard in one appeal where he successfully challenged a tribunal panel decision not to recuse itself from considering sanction.

Supervision

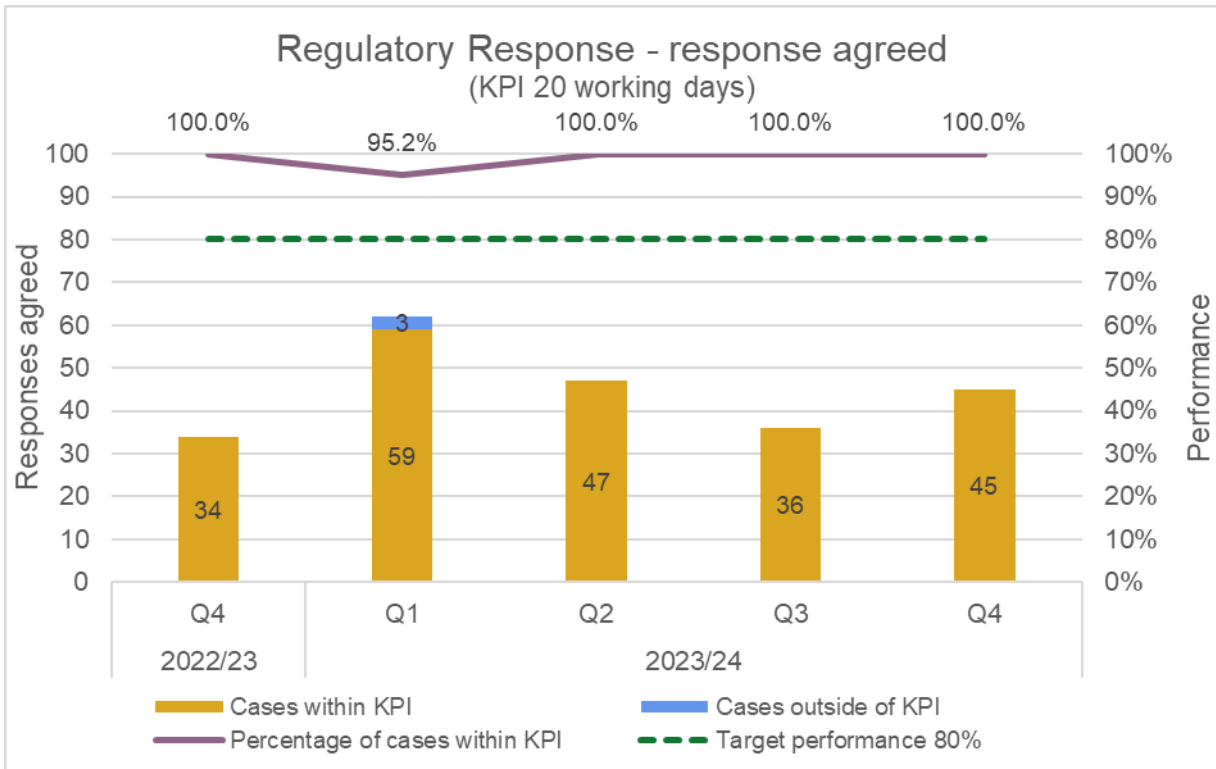
Key points

- All three KPIs, for Allocations, Regulatory Responses, and Visit Report letters have been exceeded.
- Productivity continues to be high, with 85 more cases closed this year than last year.

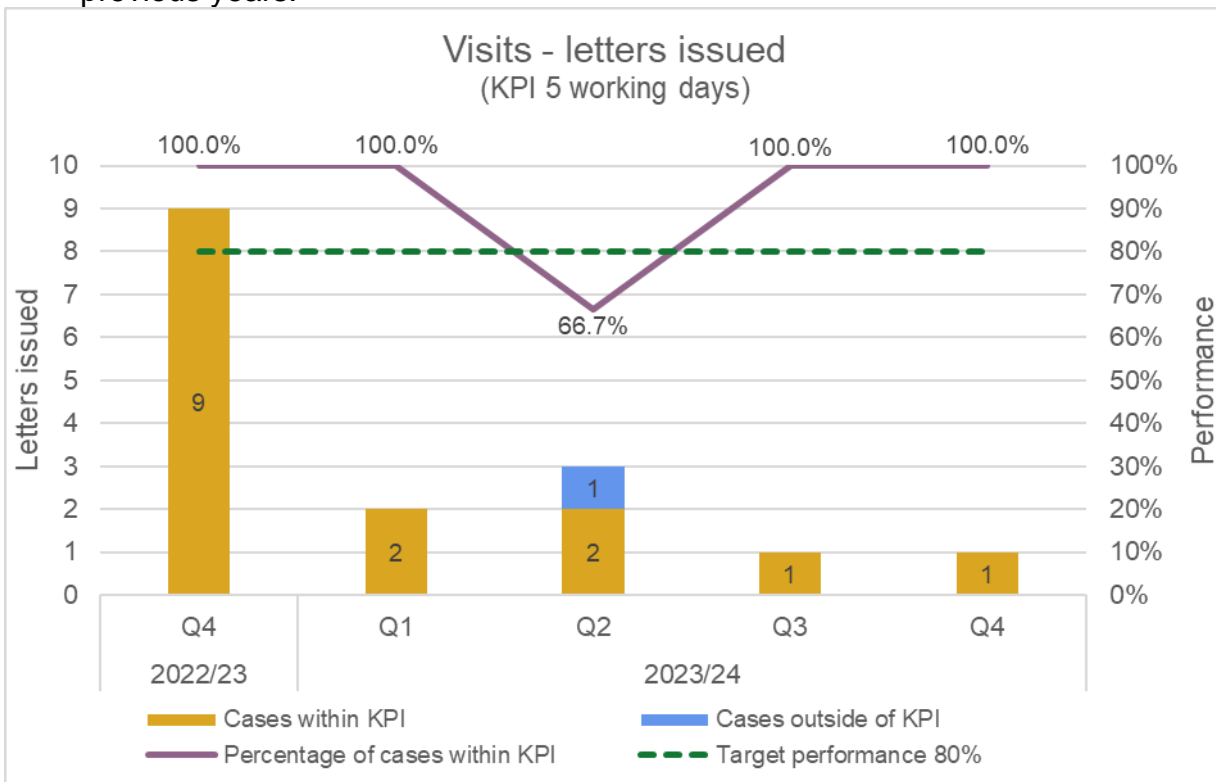
KPIs and performance data



45. There was a small increase in the number of cases referred to the team by CAT in the final quarter of the year, and all were allocated to team members within the target three days.



46. For the past three quarters all the regulatory responses have been agreed within the target time, and the annual performance for this KPI (98%) is higher than seen in the previous years.



Live cases

Snapshot at the close of Q4 of 2023-24

Case Type	Total Open
All Excluding Regulatory Reports	
All cases	90
Of which have 'Hold – I&E' status	9
Regulatory Returns	
All cases	5

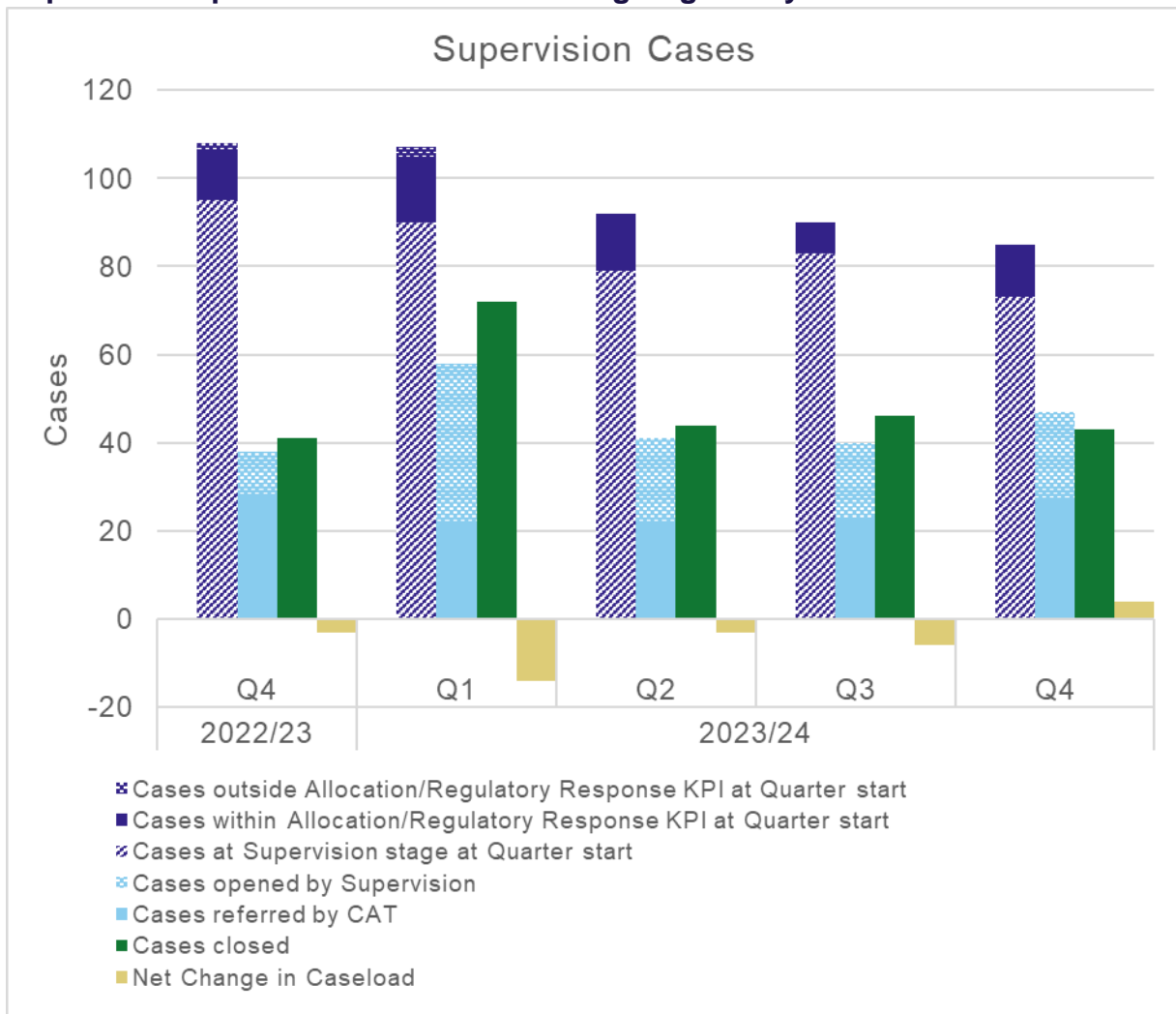
47. Live cases increased slightly from the 85 open at the end of quarter 3, but the number of Hold-I&E cases remained the same.
48. Five Regulatory Return cases remain open with 26 open actions. Four of these are now actively engaging, in particular one chambers with six open actions that had not been engaging is now doing so and another has cleared seven out of nine actions in April. The fifth is now being considered for enforcement referral.

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
Cases opened by Supervision or referred from CAT					
2023/24	Q4	35	28	6 (17.1%)	9
Regulatory Returns					
2023/24	Q4	26	26	10 (38.5%)	4

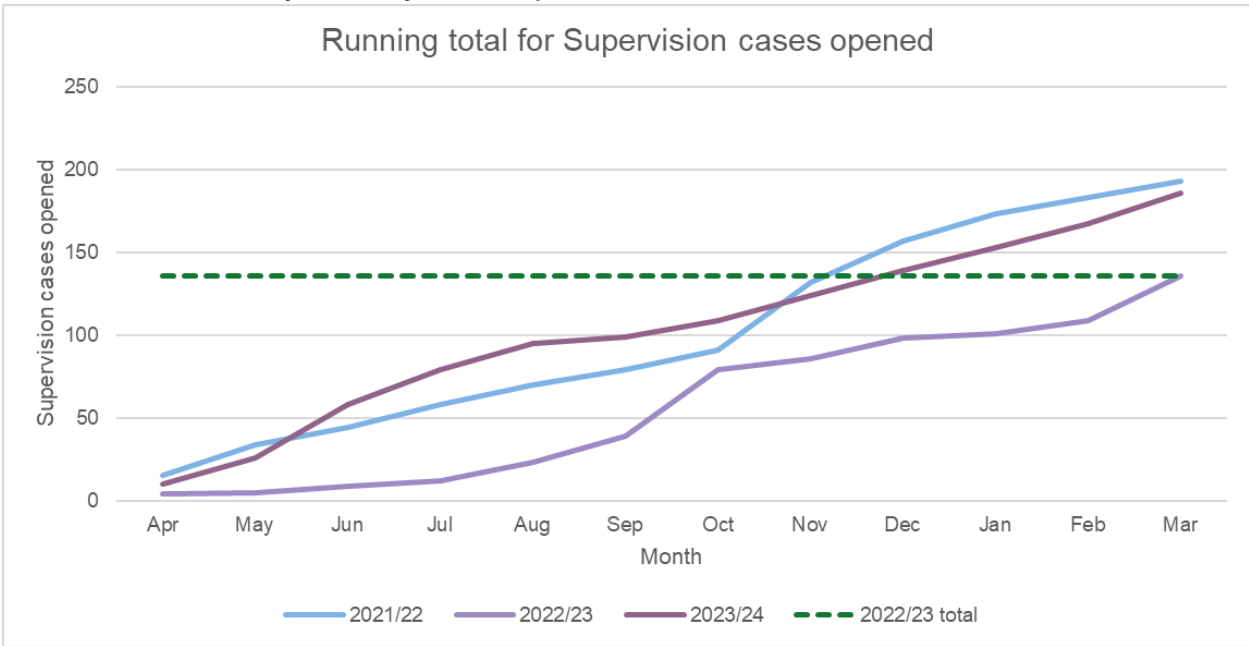
49. The number of open actions has remained steady since quarter 3, for both cases opened by Supervision or referred from CAT, and for the remaining Regulatory Return cases.

Supervision open case volumes excluding Regulatory Returns

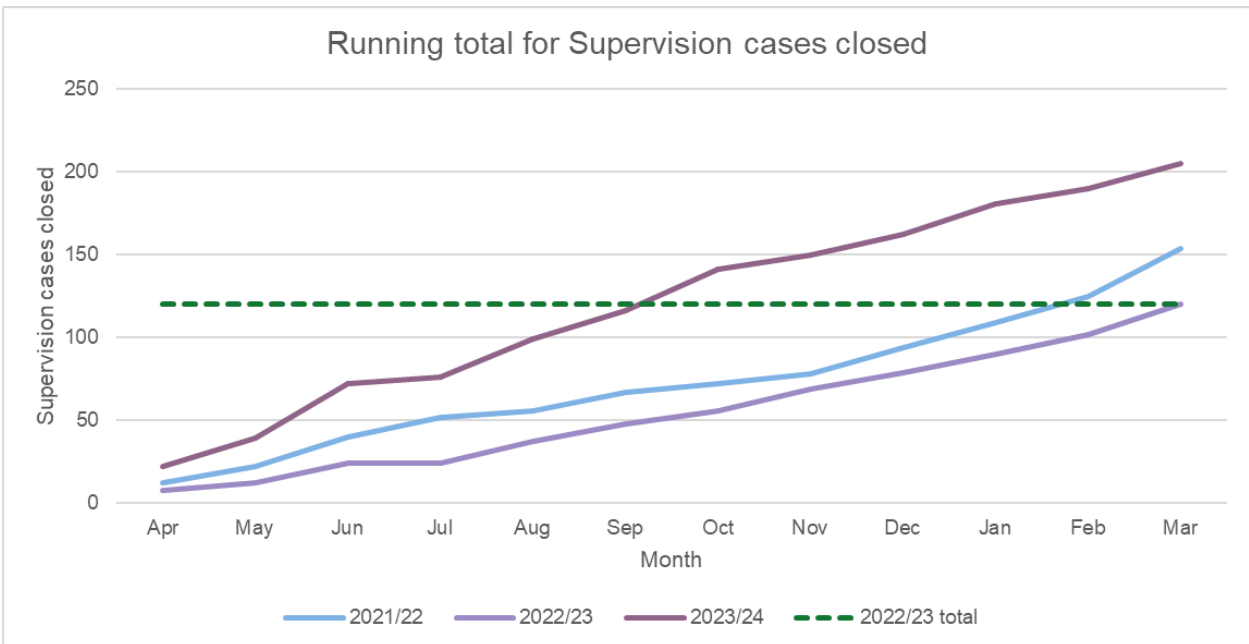


50. The caseload increased slightly in quarter 4, for the first time in more than twelve months. Of the new cases opened this quarter, six (13%) were following intelligence received from the Home Office. In quarter 3 five such reports were opened, although none were opened in the first half of this year. This comes from a sector-wide initiative to improve information sharing about poor practice in immigration services (whether willful or incompetent). The quality of intelligence provided by the Home Office reports has been in need of improvement, which has been actioned through the establishment of a new “Professional Enabler Team” at the Home Office. We are currently setting up a meeting so that the team can meet the CAT, Supervision and I&E teams, to better understand each other’s processes and what we are looking for in effective referrals from them.

Workload volume – year-on-year comparison

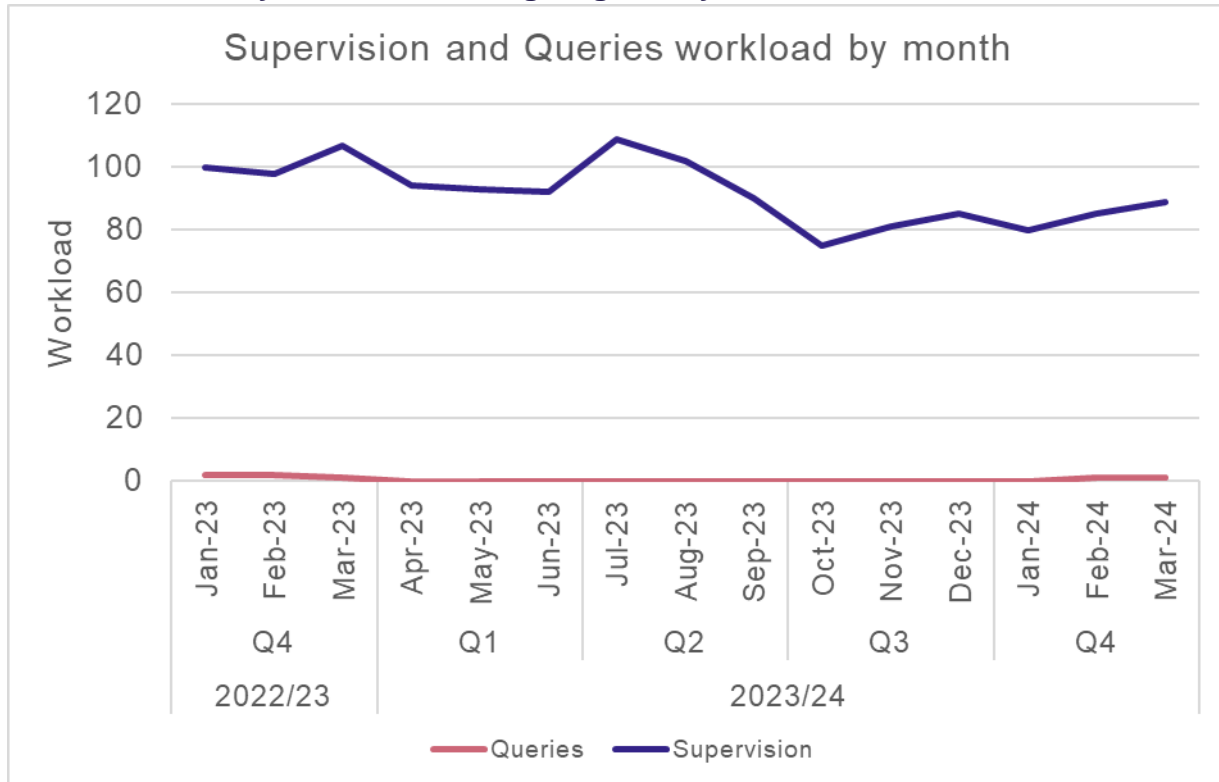


51. 186 cases were opened in 2023/24. This is 137% of the 136 cases opened last year, and close to the 193 opened in 2021/22.



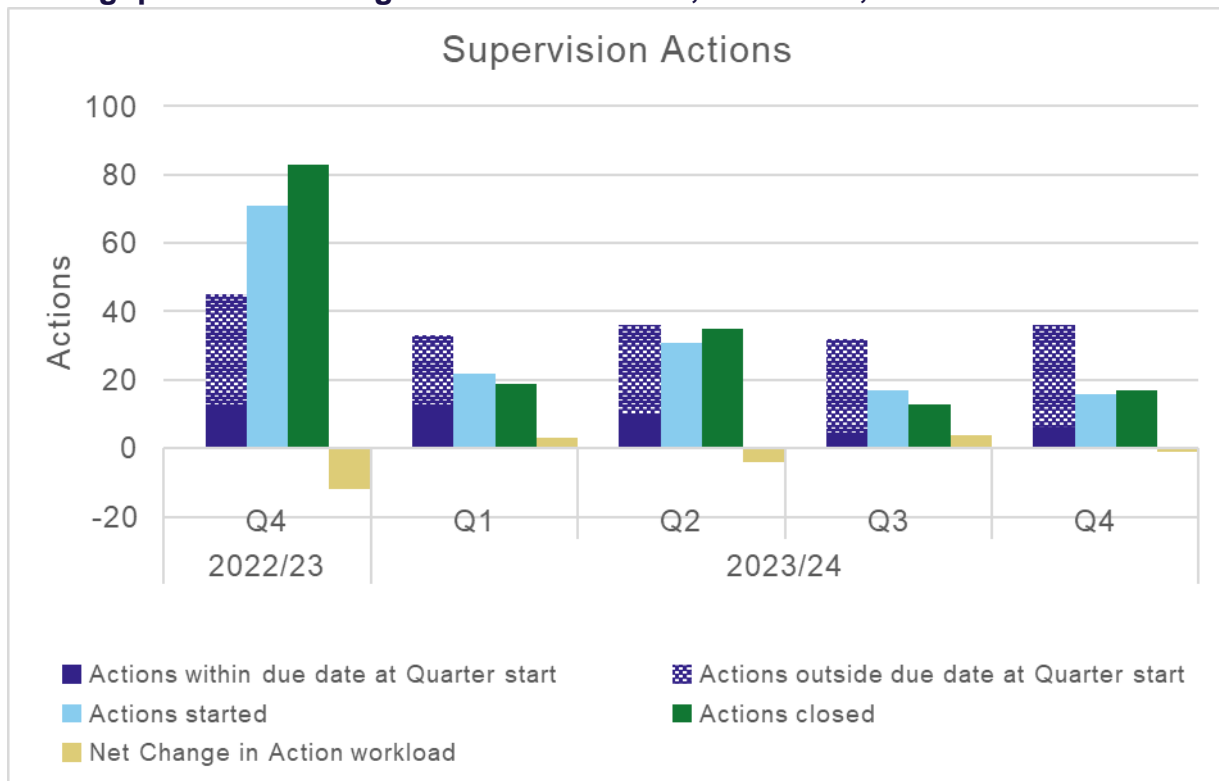
52. 205 cases have been closed in 2023/24, 171% of the 120 cases closed last year.

Total caseload by month excluding Regulatory Returns

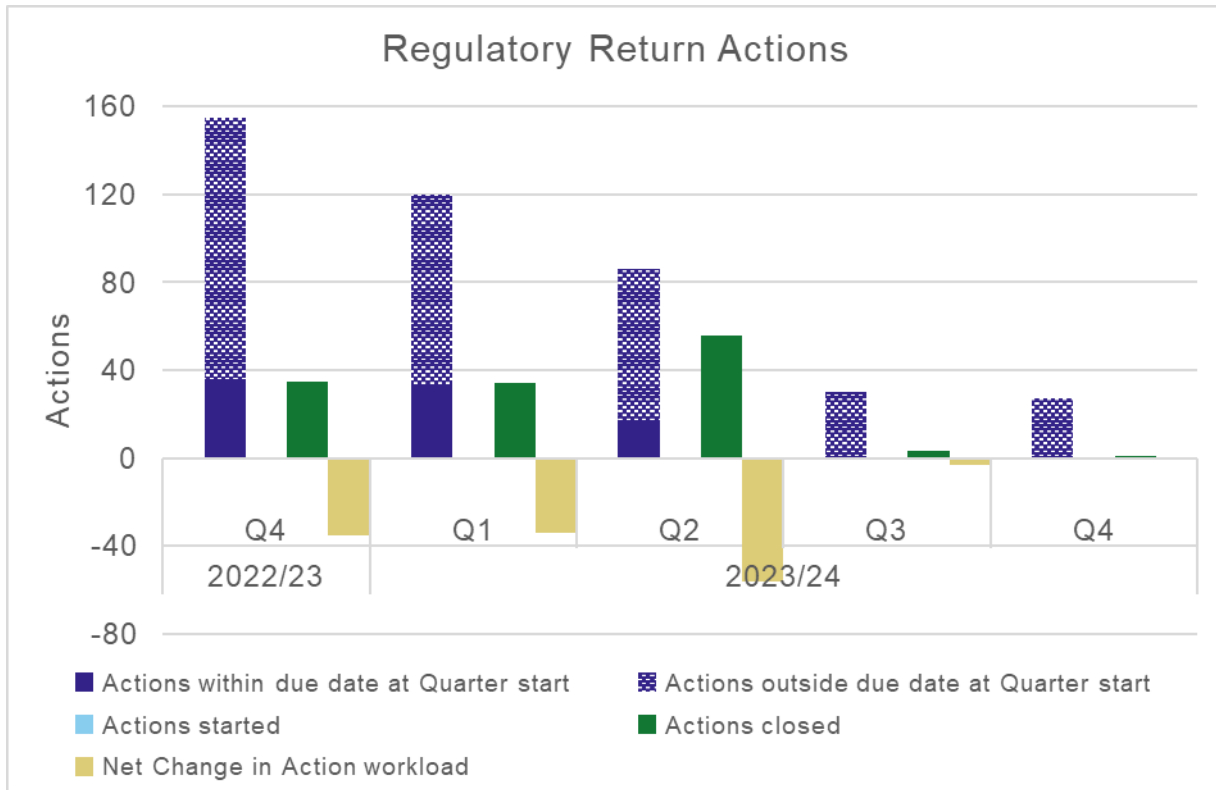


53. Workload increased slightly in quarter 4, however in the year since March 2023 it has reduced by 17%.

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



54. The number of actions open at the start of the quarter has reduced since the same quarter of 2022/23, but the number outside due date has increased.



55. The reduction in Regulatory Return cases and corresponding actions reflects the concerted work of the team over the course of this year to conclude this piece of work.

Commentary

56. Following a visit from the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) in November 2023, in quarter 4 a significant proportion of team resource at more senior level has been dedicated to responding to the assessment findings letter and associated action plan. Progress on the 5 Anti-Money Laundering (AML) cases (a thematic review of compliance by predominantly tax chambers) was therefore paused. This work has now resumed and visits to inspect files are currently being set up.
57. In addition to the above, Vocational AETO visits to Bar Training Course providers to review their admissions policies and processes to obtain assurance that they meet the standards required in the Authorisation Framework, and to obtain assurance that they enable standards to be maintained once a student is admitted so that each student develops to their full potential, have taken up additional team resource this quarter.

Business Plan Summary		
Aim	Activity	Status
1. Efficiency	End-to-end review of enforcement	
	Conclude authorisations review and begin implementation	
	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	
	Review the role of the Independent Reviewers in our enforcement and authorisations processes	
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	
	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. Governance	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	10	General enquiries addressed (5 days) - 80%	General enquiries referred (3 days) - 80%	Concluded or referred (8 weeks) - 80%
<10% below target	0	96%	99%	58%
>10% below target	5			
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%
88%	64%	100%	N/A	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%
38%	50%	59%	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%		100%	100%	

Financial Summary				
Category	Q4 YTD Actual (k)	Q4 YTD Budget (k)	Variance (k)	Index¹
Income	15,999	15,307	691	105
Expenditure	16,149	15,919	230	101
Category	FY Forecast (k)	FY Budget (k)	Variance (k)	Index¹
Income	15,999	15,307	691	105
Expenditure	16,149	15,919	230	101

Corporate Risk Summary (Action Priority)				
Period	High	Medium-High	Medium	Low
Q3 23/24	5	7	11	0
Q4 23/24	3	6	12	6

Directorates	% of occupied posts	
CPE	Communications and Public Engagement	100%
G&CS	Governance & Corporate Services	100%
LED	Legal & Enforcement	92%
ROD	Regulatory Operations	97%
S&P	Strategy & Policy	94%
Standards	Standards	95%

Service Complaints Summary				
Q4 Received	12	YTD Received / Upheld (fully or partly)	52 (received)	36 (33 fully and 3 partly)

Performance and Strategic Planning Committee (PSP) Year End Report (November 2023 to March 2024)

Recommendation to PSP

1. The Committee is invited to **comment** on this draft Year End Report of the Performance and Strategic Planning Committee (PSP) before it is presented to the Board in public session in May. The Committee's Terms of Reference now require it to report to the Board at least twice a year, the first bi-annual report was the mid-year report presented in November 2023.

Introduction

2. The PSP 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 three-year Strategic Plan and annual Business Plan 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 three times since the last report in November 2023.
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. Apologies were received from just three members (Gisela Abbam FRSA for one meeting, Emir Feisal JP for one meeting and Irena Sabic KC for two meetings) during this period. No apologies were received from the Chair and the other members.
6. Invitations are extended to the executive, but attendance is not always required. When staff have been required to attend our records indicate that they have done so.

Executive Summary

7. 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).

Terms of Reference

8. Terms of Reference are reviewed annually, and the Committee considered the document in February 2024 and agreed amendments to paragraph 20a in respect of the strategic plan ('three-year' replaced 'five-year') and paragraph 20j was amended to include 'and on the delivery of organisational reform programmes' at the end of the first sentence.
9. The Committee also made further suggestions for amendments to paragraphs 11 (make attendance of the Director General at PSP meetings mandatory, not optional as currently implied), 20b (replace the term 'service levels' with 'operational performance') and 20e (revise the text to *take account of* rather than identify risk when considering future strategy) to reflect comments received from the January Board.
10. The Committee agreed that it should provide an *initial qualification* on horizon scanning, providing ideas for the Board's consideration in developing its strategy. The Committee determined that the Board owns the BSB 'strategy' and as such the Committee does not oversee the development of the strategy but should advise on it.

Strategic Plan (2025-30), Business Plan and budget for 2024-25

11. The Committee's views were sought on the process/priorities for developing the BSB Strategic Plan (2025/26 – 2029/30) prior to entering the stakeholder engagement phase.
12. The Committee's scrutiny of the draft Business Plan for the coming year included consideration of resources and capacity and the Board's commitment to prioritise performance in our core regulatory operations. It endorsed the proposals of the executive that the Business Plan for the coming year focuses on the completion of ongoing strategic projects and improving operational performance.
13. The Committee agreed to amend the text of the business plan about *promoting the regulatory objectives* in performing the BSB's regulatory functions. and recommended that the Board approve the final version for publication. Further amendments were sought under strategic aim 5, the figure for PCF income (to read £14,227), and removal of duplicated text.
14. The Committee scrutinised the budget proposals in the context of the strategic and business plan to satisfy itself that the financial plan is fair and reasonable before proposing it to the Board.
15. Subject to further scrutiny by the Executive the Committee agreed to recommend the revised budget (which included an increase and the year-on-year upward trend in the cost of regulation) to the Board for approval on 21 March. It should be noted that the increased costs were non-recurrent and somewhat contingent on the Post Office Inquiry.
16. The Committee had oversight of the effectiveness of implemented pay reforms and impact of those reforms on staff turnover alongside the staff survey results.

17. The January Board agreed that the PSP provide oversight to the BSB's reform programme, which includes the regulatory reform programme which was previously named 'transformational change'.

Oversight of performance

18. 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 PSP is to undertake closer scrutiny and analysis of performance trends and any systemic causes for those, and to make recommendations to the Board.
19. The Committee considered KPI and Performance Monitoring. It agreed to set target metrics at 95% and that a suitable benchmark figure be identified based on performance criteria set by other regulators. It also discussed the external communication about the balanced scorecard.
20. The Committee noted that the GRA receives annual thematic report on service complaints and suggested it consider a six-monthly cycle to have earlier sight on emerging trends.
21. The Committee oversaw the development of a BSB-wide balanced scorecard capturing performance across the organisation and with a focus on key corporate objectives. This included the consideration of the 'critical path analysis', which highlighted the dependencies of timeliness and productivity as well as timeliness and quality.
22. The Committee recommended that the Executive provide a clear summary to the March Board regarding current and intended future reporting practice for KPIs, outlining the benefits and challenges arising from the new model and a 'roadmap' for the next 12-15 months.
23. The Committee agreed that a pilot programme to monitor the new arrangements run alongside the existing KPI reporting model.

Financial performance and accounting

24. 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.
25. The Committee scrutinised the year-end accounts for the 2023-24 financial year and had oversight of the five-year forecast alongside the financial reports.
26. It agreed in February that the Committee focuses in future on financial strategy and planning and suggested monitoring transformational change programmes which need to drive long-term efficiencies rather than just add cost. It was also suggested that the PSP keep a check on key drivers/cost of revenue and year-on-year costs so that increases to the PCF are reasonable and affordable.

27. The committee discussed and noted the pension schemes offered by the GCB (currently and previously). It asked to be provided with further detail in a future report on the pension schemes available to current and former staff members.

Other Business

28. In February the PSP reviewed the PSP Effectiveness Survey Report (2023) and agreed to support the proposals to address points raised in the report and asked that the Executive action as necessary.
29. The Committee received a report in March from the BSB's People Team, which discussed the fall in staff turnover rates, the number of days sickness absence and the effect of flexible working on staff retention. The PSP were given information on the BSB's talent acquisition and succession planning within the organisation, women centred employment policies (eg Menopause Policy), and when the next People Survey was to be published.
30. The Committee referred to published research about home working. This suggests that individuals in high pressure/customer facing roles do benefit from a team approach because ideas and experiences can be shared more directly. This can increase productivity.
31. The Committee has not held any in-person meetings during this reporting period with meetings being held remotely (using Microsoft Teams).

Forward View

32. As well as the routine business defined by its terms of reference, the Committee will focus on evaluating the effectiveness of the balanced scorecard for reporting in more detail on performance of our core regulatory operations and any refinements that might be required following results of the pilot. The Committee will continue to monitor timeliness without lessening its scrutiny on quality, productivity, and service.
33. In addition, and in line with the decision at the January Board meeting the Committee will now lead on oversight of reform programmes and receive progress reports for the Regulatory Reform Programme (formerly the LSB Transformational Change) project instead of the Board.
34. The Committee will consider the BSB Strategic Plan (multi-year strategy) 2025/26 to 2029/30 and monitor progress against the Business Plan 2024/25.
35. The Committee will carry out horizon scanning exercises to take account of risks to the regulatory objectives and recommend priorities for the 2025/26 Business Plan for the first year of the Strategic Plan.
36. The Committee will consider any recommendations of the executive on the provision of corporate services, including where the executive 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).

37. The next PSP Mid-year Report will be presented to the Board on Thursday 28 November 2024.

Lead responsibility

Steven Haines, Chair, Performance and Strategic Planning Committee (PSP)
Sam Jensen, Corporate Services Manager

Meeting:	Board	Date:	23 May 2024
Title:	Committee Terms of Reference, Appointments policy and governance policies		
Author:	Rebecca Forbes		
Post:	Head of Governance and Corporate Services		

Paper for:	Decision: <input checked="" type="checkbox"/>	Discussion: <input type="checkbox"/>	Noting: <input type="checkbox"/>	Other: <input type="checkbox"/> (enter text)
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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
<input type="checkbox"/>	Paper does not principally relate to Regulatory Objectives

Purpose of Report

1. This paper presents the Board with proposed revisions to Terms of Reference for the Nomination Committee, minor changes to Terms of Reference for the other Committees, and consequential and other changes to the Appointments Policy. It also details the amendment proposed following the Board's discussion of its Code of Conduct at the March 2024 meeting. Approval of amendments to these documents is reserved for the Board.

Recommendations

2. The Board is invited to **approve**:
 - the Terms of Reference for the Nomination Committee and the Performance and Strategic Planning Committee, and the generic changes to the Terms of Reference for all Board Committees (giving all Board members the right to observe meetings and amending the stated process for appointment of Board Members to Committees);
 - the revisions to the Board Appointments Policy;
 - the revisions to the Terms of Reference for the Centralised Examination Board and
 - the amendment to the Board's Code of Conduct.

Background

3. Until May 2020, it was for the Appointments Panel (as convened for the appointment of new Board members) to make appointments and reappointments of Board members. This was the governance arrangement that had been in place since we were first constituted. The Appointments Panel had been streamlined by 2020 (from that which was in place at the time of our

inception, which then included a nominee of the Lord Chief Justice, the Chair of the Bar Council ex officio, the Chair of the BSB ex officio, a nominee of the Council of the Inns of Court, a member nominated by the Chair of the BSB, and two independent lay members).

4. In November 2019, the Bar Council gave the BSB’s Board the authority to make and amend its own Constitution. That was necessary to comply with the revised Internal Governance Rules 2019 (that the regulatory bodies must have regulatory autonomy, including control over their own governance). In May 2020, we then changed the processes for Board member reappointments (including the Chair) so that it was wholly within the Board’s gift. At this time, the power to appoint new Board members remained with the Appointments Panel.
5. The first reappointment considered by the Board once that was wholly within its gift was that of the previous Chair, Baroness Blackstone. That was at an extraordinary Board meeting in early September 2020, timed to allow (just) enough time to recruit if that was to be needed. Subsequent reappointment processes have been considered by the Chair (in consultation with the Vice Chair and the Director General) in sufficient time to run a recruitment exercise but have not been put to the Board until much closer to expiry of the relevant members term. That would have meant any decision of the Board not to reappoint a member would have left us with a vacancy for some short period and that is clearly not optimal.
6. In February 2022, the Board approved the creation of the Nomination Committee. We convened the first meeting of the Committee that month to agree terms of reference and to set in hand the process for appointing the Chair of the BSB. We also then committed to drafting an Appointments Policy.
7. In July 2022, we undertook a substantive review and revision of our governance documents. The new suite of documents included a significantly amended Constitution as the pre-eminent governance document, and the Governance Manual with appendices including the Appointments Policy and Terms of Reference for the BSB’s Committees and other Decision-making Bodies. We restructured the Constitution and removed the previous Schedules to the Constitution (including Schedule A which had until then set out the processes for Board appointments and reappointments). The content of Schedule A (Appointments to the BSB) was then contained either within the body of the Constitution or within the separate Appointments Policy.
8. The Appointments Policy agreed in July 2022 set out that Appointments Panels for the selection of Board members now made recommendations to the Board for appointment (rather than the Panel itself having the power to make appointments as was the previous process).

Points for discussion

9. BSB Committee Terms of Reference all require committees to “at least annually, review these terms of reference to ensure it is operating effectively and to recommend any changes it considers necessary to the Board for approval”. Terms of Reference for the Nomination Committee were considered

by that Committee in March for the purposes of that annual review and also with some proposed substantive changes, both in response to suggestions of a Board member and following review of current good practice primarily as set out in the model Terms of Reference from the Chartered Governance Institute (CGI - formerly ICSA, the Institute of Company Secretaries and Administrators).

10. When the Board considered the reappointments of two lay Board members in November 2023, it noted that the reappointment process could have occurred earlier in the year and that would be a better model to follow for the future. The Board Member who raised this point then suggested that a number of changes to process would be desirable. In addition to those suggestions from a Board Member, we reviewed examples of good practice including the model Terms of Reference for the Nomination Committee from the Chartered Governance Institute. We agreed with the suggestions put forward and have either used wording from the model Terms of Reference or have drafted amendments.
11. The Nomination Committee resolved to recommend our proposed changes to the Board (as detailed below) subject to the following further amendments requested by the Committee:
 - that the Terms of Reference deletes reference to a minimum number of meetings. The Committee might aim to meet at least twice a year, but this should not be stated as a requirement; the Committee should rather meet (or not) as is necessary.
 - that the Appointments Policy specifies that all panels must be diverse both in terms of sex and race.
12. When the Board considered other appendices to the Governance Manual at its meeting in March 2024, it agreed that:
 - the Code of Conduct should include provision to proactively challenge racism and discrimination;
 - any declaration of interests arising during appointment should be investigated by the Chair and (not or) the Director General;
 - all Board Members should have a right to observe any Committee meeting; and
 - the Performance and Strategic Planning Committee should have a right to call upon external advice should it deem that necessary.
13. We propose the following wording to be included in the Code of Conduct to give effect to the request for a provision to proactively challenge racism and discrimination, having adapted the wording currently used in the General Council of the Bar's *Dignity at Work policy* which sets out expectations of Directors and managers:
 - You should be observant and responsive, acting promptly to stop discriminatory behaviour, including bullying or harassment, and attempting to prevent actions from escalating into discrimination or potential bullying or harassing behaviour.
 - You should report any complaint or incident of discrimination or bullying or harassment you witness.

14. This would follow the existing provision that requires Board members to promote an inclusive and diverse culture in the BSB and that their actions should help create an environment where different perspectives and backgrounds are encouraged and valued.
15. The *Dignity at Work policy* states that bullying or other unwanted behaviour linked to a protected characteristic would be classed as harassment (a form of discrimination). On the basis that race is a protected characteristic (and that includes colour, nationality, and ethnic or national origin), we have not specified this particular protected characteristic in the proposed inclusion.
16. We updated the policy on Declaration of Interests as requested by the Board, to state that any declaration of interests arising during appointment should be investigated by the Chair **and** (not **or**) the Director General.
17. We have amended the following generic paragraph in all Committee Terms of Reference so that it now affords all Board members the right to observe any Committee meeting:

~~The Chair and Vice Chair~~Board members have the right to receive papers and to attend meetings of the Committee.
18. We have replicated the clause that was in the Governance, Risk and Audit Committee Terms of Reference in those for the Performance and Strategic Planning Committee: to facilitate the Committee's discharge of its responsibilities in relation to particular items of business, it may procure specialist ad-hoc advice at the expense of the BSB.

Nomination Committee Terms of Reference

19. We have corrected references to the Senior Leadership Team (as it was previously known as the Senior Management Team). We have proposed amendment to paragraph 6 to clarify that the Chair of the Board shall not take part in any discussion relating to succession planning **for the Chair of the Board** or any reappointment to that office.
20. We have inserted new paragraph 8 setting out that a Committee member shall not take part in any discussion relating to their term of office, including reappointment.
21. As requested by the Nomination Committee, we have amended paragraph 15 (new numbering) to state that the Committee shall **usually** meet twice a year but only as required.
22. We have amended paragraph 21g) (new numbering) to clarify that the Nomination Committee will endorse the role description for a Board Member recruitment before an Appointments Panel is convened (rather than before an appointment is made). We have also inserted additional text from the CGI model Terms of Reference setting out the instructions that the Committee shall give to the Appointments Panel.

23. In paragraph 21 (new numbering), we have reverted the wording so that it states that the Committee **shall** make recommendations to the Board on the reappointment of Board Members (rather than it **may** do so, at the invitation of the Chair). We have inserted an additional point, that the Committee shall make recommendations to the Board on the appointments of Board Members to BSB Committees. A similar provision had existed in the first version of the Terms of reference for the Nomination Committee and then had been deleted by the Board in December 2022. That was because the Appointments Policy stipulated that it was for the Chair of the BSB, in consultation with the Vice Chair and the Director General, to appoint Board Members to Committees. We have now proposed that the Appointments Policy and all Committee Terms of Reference be amended to reflect this changed process.

Appointments Policy

24. We have made consequential changes to the Appointments Policy so that this aligns with the Committee's Terms of Reference, and also for currency and correctness. That includes insertion of Lady Chief Justice where references were previously to the Lord Chief Justice (so it now states the Lady Chief Justice or the Lord Chief Justice).
25. At the request of the Nomination Committee, we have inserted new paragraph 4.5 requiring that Appointments Panels (for recruitment of Board Members) must be diverse in respect of sex and race. As stated when this was raised by the Committee, we note that this merely codifies our existing practice.
26. We have clarified that if the Chair nominates an alternate for an Appointments Panel convened for selection of Board Members, then that alternate must be a Board Member. We have also clarified that if the Board appoints a serving Member as Vice Chair rather than convening an Appointments Panel, then that will be on the recommendation of the Nomination Committee rather than the Chair.
27. As set out above, we have amended the process for appointment of Board Members to the posts of Committee Chairs and members of BSB Committees so that it is for the Board on the recommendation of the Nomination Committee (rather than for the Chair in consultation with the Vice Chair and Director General).
28. All Committee Terms of Reference should then have the following generic clause amended as proposed (with the wording already used in the Terms of Reference for the Nomination Committee):

Appointments of Board Members to the Committee are made by the Board on the recommendation of the Nomination Committee Chair of the BSB in consultation with the Chair of the Committee (the "Committee Chair"). Appointments and shall usually be coterminous with membership of the Board.

29. Wherever the Chair of the BSB has power in the Appointments Policy to make appointments, we have amended that to also include the Vice Chair so that we are not dependent on the availability of one individual.

30. We have amended paragraphs 7.3 and 7.4 so it is for the Board to consider reappointment of Board Members on the recommendation of the Nomination Committee. We have also proposed that the filling of casual vacancies should be on the recommendation of the Nomination Committee.
31. We propose amendment of paragraph 7.7 so that appointments of Committee members who are not also Board Members shall be for a fixed period of **up to four years** (rather than up to three years). This now only applies to the two non-Board independent members of the Governance, Risk and Audit Committee. This would be consistent with the appointment of Board Members and would still allow us to make appointments for shorter terms (in part so that we avoid the current situation where the two non-Board members must both stand down within six months, and in part because it takes some time for these independent members to become conversant with the Committee’s remit given our unique governance arrangements).
32. We have corrected an apparent error, that whilst members of the Centralised Examinations Board are appointed for three years, they could then be reappointed for only two years.
33. For members other than Board members who are covered by the Appointments Policy, we have amended reference to “appraisals” to “quality control”. This reflects a change in terminology and process that helps to ensure these individuals can continue to engage with us as self-employed contractors.

Centralised Examinations Board

34. We have taken the opportunity to make minor amendments to the Terms of Reference for the Centralised Examinations Board (CEB). We have updated references to the previous post of Director of Regulatory Operations to now be to the Director of Standards.
35. We propose deletion of the standard text in the reasons for cessation of membership that states a person shall cease to be a CEB member if they were appointed as a lay person and cease to be a lay person, or were appointed as a practising barrister and cease to be a practising barrister. Whilst these are meaningful for our Committees and the Independent Decision-making Body, members of the CEB are not appointed into one of these categories.
36. We propose an amendment to the paragraph stating that other individuals such as the Director General, senior management and external advisers may be invited to attend for all or part of any meeting to also explicitly include the BSB’s Examinations team.

Annexes

- Annex 1 – Revised Terms of Reference for the Nomination Committee
- Annex 2 – Revised Appointments Policy

Appendix 4: Nomination Committee Terms of

Reference Role

1. The Nominations Committee is established to advise the Board on fair, inclusive and transparent approaches to recruitment to the Board and senior executive roles and to oversee on behalf of the Board some aspects of the recruitment process. Specifically, the Committee will:
 - a) advise the Board on succession planning, including the range of experience on both the Board and the Senior Management Leadership Team (SMTSLT);
 - b) ensure inclusivity and equality in the BSB's approach to filling senior appointments;
 - c) oversee, where relevant, the appointment of recruitment agencies in support of Board and SMTSLT appointments;
 - d) advise on the composition of selection panels to undertake appointments.

Membership

2. The Committee shall comprise between four and seven Board members, which should include both lay persons and practising barristers. There must be a lay majority.
3. A member of the Bar Council or any of its representative committees may not be a member of the Committee.
4. A member of the Committee may not be appointed as a member of the Advisory Pool of Experts.
5. Appointments of Board Members to the Committee are made by the Board on the recommendation of the Nomination Committee and shall usually be coterminous with membership of the Board.
6. The Board shall appoint the Committee Chair, who is usually the Chair of the Board. The Chair of the Board shall not chair the Committee or take part in any discussion or decision relating to succession planning for the Chair of the Board or to any appointment or reappointment to that office.
7. In the absence of the Committee Chair or where the Committee Chair has declared an interest for a specific item, the remaining members present shall elect one of themselves to chair the meeting or item.
- 7.8. A Committee member shall not take part in any discussion relating to their term of office, including reappointment.
- 8.9. All Board and Committee members must complete BSB equality and diversity training within three months of taking up an appointment with the BSB.

9-10. A person shall cease to be a Committee member if:

- a. the period for which they were appointed expires (and their appointment is not renewed);
- b. they resign their membership by notice in writing;
- c. they were appointed as a lay person and cease to be a lay person;
- d. they were appointed as a practising barrister and cease to be a practising barrister or become a member of the Bar Council or one of its representative committees;
- e. they fail to attend meetings with sufficient frequency and regularity to be able to discharge their duties and the Committee or Board resolves that they should cease to be a member; or
- f. the Board resolves that they are unfit to remain a Committee member (whether by reason of misconduct or otherwise).

Secretary

10-11. The Head of Governance and Corporate Services, or their nominee, shall act as the secretary to the Committee and will ensure that the Committee receives information and papers in a timely manner to enable full and proper consideration to be given to issues.

Attendees

11-12. Only members of the Committee have the right to attend Committee meetings. However, other individuals such as the Director General, senior management and external advisers may be invited to attend for all or part of any meeting, as and when appropriate.

12-13. ~~The Chair and Vice Chair of the~~ Board members have the right to receive papers and to attend meetings of the Committee.

Quorum

13-14. The quorum for meetings of the Committee is three members.

Frequency

14-15. The Committee shall usually meet ~~at least~~ twice a year ~~and otherwise but only~~ as required.

Notice of meetings

15-16. Meetings of the Committee shall be called by the secretary of the Committee at the request of the Committee Chair or any of its members.

[46-17](#). Unless otherwise agreed, notice of each meeting confirming the venue, time and date, together with an agenda of items to be discussed, shall be forwarded to each member of the Committee and any other person required to attend at least four working days before the date of the meeting. Supporting papers shall be sent to Committee members and to other attendees, as appropriate, at the same time. With the consent of the Committee Chair, shorter notice may be given.

Minutes of meetings

[47-18](#). The secretary shall minute the proceedings and decisions of all Committee meetings, including recording the names of those present and in attendance.

[48-19](#). Draft minutes of Committee meetings shall be circulated to all members of the Committee. Once approved, minutes should be circulated to all other Board Members and the Director General unless, exceptionally, it would be inappropriate to do so.

Written resolutions

[49-20](#). The Committee may pass a resolution in writing provided that the written resolution has the consent of at least two-thirds of members of the Committee who would have been eligible to vote on the matter at a meeting. Consent may be given in any written form, including electronically, for example by email. The resolution must then be ratified at the next Committee meeting and minuted as such.

Responsibilities

[20-21](#). Paying due regard to all relevant statutory, regulatory and best practice requirements, the Committee will carry out the duties below for the BSB.

To make recommendations to the Board in the following:

- a) Regularly review the structure, size, diversity and composition (including the skills, knowledge, experience and diversity) of the Board and make recommendations to the Board with regard to any changes;
- b) Keep under review the leadership needs of the organisation, both executive and non-executive, with a view to ensuring the continued ability of the BSB to independently discharge its regulatory functions in the public interest;
- c) Review the results of the Board evaluation process that relate to the composition of the Board and succession planning;
- d) Recommend appointment of members to Appointments Panels for each recruitment as and when required;

To take decisions with the delegated authority of the Board in the following:

- e) Oversee the appointment of any external recruitment agency to support appointments to the Board and SMT, and with regard to an agencies approach to achieving inclusivity and equality;
- f) Ensure plans are in place for orderly succession to Board and senior management positions, taking into account the challenges and opportunities facing the BSB, and the skills and expertise needed on the Board in the future; and
- g) Before ~~any appointment is made by an~~ Appointments Panel is convened for selecting and recommending Board Members to the Board, evaluate the balance of skills, knowledge, experience and diversity on the Board, and in the light of this evaluation, endorse a description of the role and capabilities required for a particular appointment and the time commitment expected. In identifying suitable candidates, the Committee shall instruct the Appointments Panel to:
 - Use open advertising or the services of external advisers to facilitate the search, as applicable;
 - Consider candidates from a wide range of backgrounds; and
 - Consider candidates on merit against objective criteria, having due regard to the benefits of diversity on the Board and taking care that appointees have enough time available to devote to the position.

~~At the invitation of the Chair, t~~The Committee ~~may~~shall also make recommendations to the Board concerning:

- h) The reappointment of Board ~~m~~MMembers for a second or further term, where the ~~m~~MMember has performed to the standard to be expected of the office held and it is in the interest of the BSB to renew the appointment; and
- ~~h~~i) Appointments of Board Members to the Governance, Risk and Audit Committee, the Nomination Committee, the Performance and Strategic Planning Committee and the Remuneration Committee, in consultation with the Chairs of those Committees-

Reporting responsibilities

~~21-22.~~The Committee Chair shall report to the Board on its proceedings at least annually on all matters within its duties and responsibilities, but more often if required.

~~22-23.~~The Committee shall make whatever recommendations to the Board it deems appropriate on any area within its remit where action or improvement is needed.

Other matters

~~23.~~24. The Committee shall:

- a) ensure the periodic evaluation of the Committee’s own performance is carried out;
- b) have access to sufficient resources in order to carry out its duties;
- c) oversee any investigation of activities which are within its terms of reference; and
- d) at least annually, review these terms of reference to ensure it is operating effectively and to recommend any changes it considers necessary to the Board for approval.

~~24.~~25. To facilitate the Committee’s discharge of its responsibilities in relation to particular items of business, if necessary, procure specialist ad-hoc advice at the expense of the BSB.

Reviewed;
Board 23 May 2024

Appendix 10: Appointments Policy

1. Purpose

- 1.1 This policy is designed to ensure orderly succession for the appointment of members of the Board, its Committees and Decision-Making Bodies and sets out a transparent and fair selection and appointment process, which promotes diversity and protects the independence of the BSB.

2. Board composition and succession

- 2.1 The BSB is committed to the principle that its Board should broadly reflect the diversity of society. The Nomination Committee, on behalf of the Board, shall regularly review the structure, size, diversity and composition (including the skills, knowledge, experience and diversity) of the Board and make recommendations to the Board with regard to any changes necessary to effectively fulfil its duties.
- 2.2 Due regard will be given to the desirability of ensuring Members (between them) have experience in or knowledge of an appropriate range of relevant fields and any particular requirements identified by the BSB.
- 2.3 The Board and Nomination Committee should ensure plans are in place for orderly succession to Board, Director General and other senior executive positions, taking into account the challenges and opportunities facing the BSB, and the skills and expertise needed on the Board in the future.

3. Criteria and eligibility

- 3.1 Before any Board appointment is made, an evaluation of the current balance of skills, knowledge, experience and diversity should be undertaken by the Nomination Committee, in accordance with its terms of reference.
- 3.2 The competencies required of Board Members shall be those as agreed by the Nomination Committee. Any equality and diversity policy in force should be complied with.
- 3.3 A member of the Bar Council or any of its representative committees may not hold office as a Board Member or as a member of any of the BSB's Committees, the IDB, or the CEB.
- 3.4 A person who has been responsible for a representative function shall not thereby be ineligible for appointment as a Board Member or as a member of any of the BSB's Committees, the IDB, or the CEB, but in considering whether to appoint any such person, a Panel shall take account of their responsibility for a representative function, when that responsibility ended and any implications for the observance of the overarching duty and prohibition on dual roles as set out in the Internal Governance Rules 2019.

3.5 A person cannot be both a Board Member and a member of the IDB. A person cannot be both a Board Member and a member of the CEB.

4. Board appointment process

4.1 The Board shall convene an Appointments Panel (a “Panel”), which shall be responsible for selecting and recommending Board Members to the Board for appointment, as required for each recruitment.

4.2 For the appointment of the Chair, a Panel shall consist of:

- a. a member of the judiciary nominated by the Lady Chief Justice or the Lord Chief Justice;
- b. two Board Members nominated by the Board, one of whom must be a practising barrister and one of whom must be a lay person; and
- c. a lay person who is independent of the Bar Council and the BSB, with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office. This panel member shall be the Chair of the Panel (the “Panel Chair”) and shall be appointed by the Board.

4.3 For the appointment of Board Members other than the Chair, a Panel shall consist of:

- a. the Chair, ex officio, who shall be the Panel Chair;
- b. two Board Members nominated by the Board; and
- c. a lay person who is independent of the Bar Council and the BSB, with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office. This panel member shall be appointed by the Board.

4.4 A Panel must be convened with equal numbers of lay members and barrister members, or with a majority of lay members. The nominee of the Lady Chief Justice or the Lord Chief Justice will not be considered to be either a lay member or a barrister member for a Panel convened to appoint the Chair.

4.44.5 A Panel must be convened to be diverse in respect of sex and race.

4.54.6 The Chair of the BSB may nominate an alternate, who shall be a Board Member, to take their place for any Panel convened which they are unable to attend.

4.64.7 For the appointment of the Vice Chair, the Board may, on the recommendation of the Nomination Committee, Chair, appoint a serving Board Member without convening a Panel.

5. Committee members appointment process

- 5.1 The BSB appoints and reappoints all Chairs, Vice Chairs and members of its Committees, IDB and CEB on merit.
- 5.2 Appointments of Board Members to the posts of BSB Committee Chairs and members of BSB Committees are made by the Board on the recommendation of the Nomination Committee. ~~Chair of the BSB in consultation with the Vice Chair of the BSB and the Director General, with the exception of the appointments of members of the Nomination Committee which are made by the Board.~~
- 5.3 Appointments of new members of BSB Committees (who are not Board Members) are made by the Chair or the Vice Chair of the BSB on the recommendation of a selection panel, convened as required for each recruitment.
- 5.4 The BSB may convene a panel, which will be responsible for selecting and recommending any new Committee member who is not currently a Board Member.
- 5.5 The composition of the selection panel shall be:
- a. an independent person with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office; and
 - b. two Board Members (of whom one should be the Chair of the Committee).

6. IDB and CEB appointment process

- 6.1 Appointments of new members and chairs of the IDB and CEB are made by the Chair or the Vice Chair of the BSB on the recommendation of a selection panel, convened as required for each appointment.
- 6.2 The composition of the selection panel shall be as prescribed below, depending on the position the panel has been convened for:
- (i) Panel composition for recruitment of the IDB Chair:
 - a. an independent person with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office;
 - b. at least one and a maximum of two Board Members; and
 - c. a member of senior staff of the BSB, as delegated by the Director General.
 - (ii) Panel composition for recruitment of the IDB Vice Chair or member of the IDB:
 - a. an independent person with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office;
 - b. The IDB Chair or, in the absence of the IDB Chair an IDB Vice Chair; and
 - c. a member of senior staff of the BSB, as delegated by the Director General.

- (iii) Panel composition for recruitment of the CEB Chair:
- a. an independent person with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office;
 - b. at least one and a maximum of two Board Members. If the Board does not include a Board Member with expertise in higher education and/or assessment, then a person with such expertise shall be appointed in place of one of the Board Members; and
 - c. a member of senior staff of the BSB, as delegated by the Director General.
- (iv) Panel composition for recruitment of the CEB members:
- a. the CEB Chair or, in the absence of the CEB Chair one of the Chief Examiners;
 - b. one of the Chief Examiners (who would usually be in the subject area being recruited to when recruiting assistant chief examiners); and
 - c. a member of senior staff of the BSB, as delegated by the Director General.

7. Reappointment Criteria

7.1 The criteria to consider for reappointments is as follows:

- a. the person has performed to the standard to be expected of the office held, and
- b. it is in the interests of the BSB to renew the appointment, (together the “Reappointment Criteria”).

Board Members Term of office

7.2 All appointments made to the Board shall be for a fixed period of up to four years.

7.3 The Board may, on the recommendation of the Nomination Committee, renew the appointment of the Chair or other Board Members for a further fixed period of up to four years without holding a competition, if the person has met the Reappointment Criteria, and that person remains eligible to be a Board Member. The Chair and other Board Members may not take part in any discussion or decision of the Board relating to their own reappointment.

7.4 ~~The Board may renew the appointments of other members of the Board for a further fixed period of up to four years on the recommendation of the Chair, who will have consulted the Vice Chair and Director General considering the Reappointment Criteria. It is the for the Chair, who will have consulted the Vice Chair and the Director General, to propose reappointment of other Board Members to the Nomination Committee. The Vice Chair shall not be consulted on their own reappointment. It is for the Vice Chair, who will have consulted the Director General, to propose reappointment of the Chair to the Nomination Committee.~~

- 7.5 With the exception of the Chair and Vice Chair, casual vacancies may be filled by the Board on the recommendation of the Nomination Committee but any appointment so made will last only for the remainder of the current term of office of the Board Member who they have replaced, or such reasonable time as is necessary for a Panel to be convened and recommend an appointment in accordance with the provisions of this policy, whichever is the shorter.
- 7.6 A person may not serve more than:
- a. eight years as a Board Member only; and
 - b. twelve years in total as a Board Member and the Chair or twelve years in total as a Board Member and the Vice Chair.

Non-Board Committee members and members of the IDB

- 7.7 All appointments of Committee members who are not Board Members shall be for a fixed period of up to four years. ~~and Appointments of Committee members who are not Board members may be renewed for a further fixed period of up to four years without holding a competition, if the Chair of the Committee concerned is satisfied that the Reappointment Criteria has been met.~~ All appointments of members of the IDB shall be for a fixed period of up to three years. Appointments of members of the IDB may be renewed for a further fixed period of up to three years without holding a competition, if ~~the Chair of the Committee concerned or~~ the Chair of the IDB is satisfied that the Reappointment Criteria has been met.
- 7.8 In exceptional circumstances, the BSB may resolve to offer an extension of an individual person's or group of persons' appointment beyond the maximum six-year period of appointment permitted above. Any resolution to make a limited offer of extension must:
- a. allow for an extension of no more than 18 months in duration;
 - b. be made by offer in writing, and
 - c. be made for a specific reason that is articulated in the offer of extension.
- 7.9 The Chair or the Vice Chair of the BSB may appoint temporary members of the IDB for the purpose of taking decisions in a specific case. The power to appoint temporary members can only be exercised where there are insufficient IDB members to form an impartial IDP due to the number of members of the IDB who:
- a. have a conflict: and/or
 - b. could be perceived to have a real possibility of bias.
- 7.10 Any appointments made by the Chair or the Vice Chair under the above paragraph must be in writing and specify the decision(s) which the temporary IDB members are appointed to decide. The appointments will cease once the decision(s) have been taken, and any consequential matters arising have been concluded.

Members of the CEB

- 7.11 All appointments made by the Chair or the Vice Chair shall be for a fixed period of up to three years. Appointments may be renewed for further fixed periods of up to ~~two~~ three years without holding a competition, if the Chair of the CEB is satisfied that the Reappointment Criteria has been met and it will allow the BSB to continue to discharge its regulatory functions.

8. Cessation of membership

- 8.1 A person shall cease to be a member of the Board, a BSB Committee or other Decision-making Body if:
- a. the period for which they were appointed expires (and their appointment is not renewed);
 - b. they resign their membership by notice in writing;
 - c. they were appointed as a lay person and cease to be a lay person;
 - d. they were appointed as a practising barrister and subsequently cease to be a practising barrister or become a member of the Bar Council or one of its representative committees;
 - e. they fail to attend meetings with sufficient frequency and regularity to be able to discharge their duties and the Committee or Board resolves that they should cease to be a member;
 - f. the Board resolves to disestablish or substantively restructure a Committee or Body of which a person is a member so as to be inconsistent with continued office by that person, upon three months' notice; or
 - g. the Board resolves that they are unfit to remain a member (whether by reason of misconduct or otherwise).

9. Appraisal and quality control process

- 9.1 All Board Members, Committee members and members of the IDB and CEB are subject to a minimum of a review of performance within eighteen months of appointment and a review of performance preceding any decision on their reappointment at the end of their term of office. Board Member appraisals are to be carried out by the Chair of the BSB. Appraisals-Quality control of Committee members who are not Board Members ~~are~~ to be carried out by the Committee Chair. IDB and CEB member ~~appraisals are~~ quality control is to be carried out by their respective Chairs and/or Vice Chair for the IDB.

Reviewed;
Board 23 May 2024

Bar Standards Board – Director General’s Strategic Update – 23 May 2024

For publication

Chambers

1. We have now concluded our second sequence of roundtables and brought our consultation on expectations of chambers to a close. Both the roundtables and consultation responses have yielded important insights and confirmed the desirability of clarifying regulatory expectations of barristers’ practice management responsibilities. We expect to announce our decisions in the early Autumn and, meanwhile, have been pleased to see the Bar Council’s initiative to consolidate its guidance to chambers.

ReciteMe

2. I am delighted to report that we have now become the first legal regulator in England and Wales to introduce the cloud based [ReciteMe software](#) to [our website](#) to enhance accessibility and inclusivity. ReciteMe will help those with visual impairments and people with neurodivergent conditions like dyslexia to access our website in the way that suits them best, for example through the options to have content read out aloud and to change font size and colours. The software can also translate content into over 100 languages, increasing the reach of the website to the now 10% of the UK population who do not speak English as a first language. The translation offered is AI based so more sophisticated than some other online translation tools. Do please experiment with the software which you can access by clicking on “Accessibility” in the top right hand corner of the BSB homepage. This will then launch a separate accessibility toolbar. Do please also contact the Comms Team if you want to offer any feedback or encounter any problems.

Mark Neale

Director General

Chair’s Report on Visits and External Meetings from 21 March 2024**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****Meetings**

11 April	Attended special Board meeting
16 April	Met with Kevin Grix, Financial Ombudsman Service who introduced, the Senior Clerk, Five Paper
16 April	Attended Bar Council meeting
17 April	Attended IDB induction session
18 April	Met with Independent Audit re BSB Board Effectiveness Review
29 April	Met with Independent Audit re BSB Board Effectiveness Review
1 May	Attended All BSB meeting

1-2-1 Meetings

18 April	Met with Barrister
1 May	Met with Bridging the Bar – follow up from roundtable meeting
1 May	Met with Institute of Barristers’ Clerks - follow up from roundtable
2 May	Met with Barrister
7 May	Met with Chancery Bar Association - follow up from roundtable
14 May	Met with the Legal Practice Management Association (LPMA)
20 May	Catch up with Alison Allden OBE
20 May	Catch up with Leslie Thomas KC
21 May	Catch up with Steve Haines
21 May	Catch up with Stephen Thornton CBE
21 May	Catch up with Irena Sabic KC
21 May	Catch up with Jeff Chapman KC
22 May	Catch up with Emir Feisal JP
22 May	Catch up with Gisela Abbam

Events

25 April	Attended on-line Newcastle roundtable
22 May	Attended BSB Knowledge Share Session with Simon Lewis