

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



REGULATING BARRISTERS

Meeting of the Bar Standards Board

Thursday 30 March 2023, 5.00 pm

via 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

				Page
1.	Welcome / announcements (5.00 pm)		Chair	
2.	Apologies		Chair	
3.	Members' interests and hospitality		Chair	
4.	Approval of minutes from the last meeting (26 January 2023)	Annex A	Chair	3-7
5.	a) Matters arising & Action List	Annex B	Chair	9
	b) Forward agenda	Annex C	Chair	11
6.	Director General's Report:			
	a) Performance Report Q3	BSB 009 (23)	Mark Neale	13-37
	b) Strategic Update (5.05 pm)	BSB 010 (23)	Mark Neale	39
7.	Bar Standards Board – Business Plan and final budget 2023/24 (5.15 pm)	BSB 011 (23)	Mark Neale	41-71
8.	BSB review of governance documents (5.30 pm)	BSB 012 (23)	Rebecca Forbes	73-134
9.	Handbook amendments (5.40 pm)	BSB 013 (23)	Ewen Macleod	135-142
10.	Chair's Report on Visits & External Meetings (5.50 pm)	BSB 014 (23)	Chair	143
11.	Any other business		Chair	
12.	Date of next meeting • Thursday 25 May 2023			
13.	Private Session (5.50 pm)			

John Picken
Governance Officer
23 March 2023

<p>BAR STANDARDS BOARD</p>

REGULATING BARRISTERS

Part 1 - Public
Minutes of the Bar Standards Board meeting
Thursday 26 January 2023 (5.00 pm)

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

- Present:** Kathryn Stone OBE (Chair)
Alison Alden OBE
Jeff Chapman KC
Emir Feisal JP (items 6-11)
Steve Haines
Simon Lewis
Andrew Mitchell KC
Irena Sabic
Professor Leslie Thomas KC
Stephen Thornton CBE
- By invitation:** Nick Vineall KC (Chair, Bar Council) (items 3-11)
Lorinda Long (Treasurer, Bar Council)
Sam Townend KC (Vice Chair, Bar Council)
Malcolm Cree (Chief Executive, Bar Council)
James Wakefield (Director, COIC)
- BSB Executive in attendance:** Christopher Fitzsimons (Communications Manager)
Rebecca Forbes (Head of Governance & Corporate Services)
Oliver Hanmer (Director of Regulatory Operations) – via Teams
Teresa Haskins (Director of People, BSB) – via Teams (items 6-11)
Sara Jagger (Director of Legal and Enforcement)
Ewen Macleod (Director of Strategy & Policy)
Ben Margerison (Research & Evaluation Officer) – via Teams (items 2-7)
Mark Neale (Director General)
John Picken (Governance Officer)
Wilf White (Director of Communications & Public Engagement)
- Press:** Dan Bindman, Legal Futures

Item 1 – Welcome / Announcements

1. The Chair welcomed those present to the meeting in particular Jeff Chapman KC and Simon Lewis who were both attending their first meeting as barrister Board Members. She also congratulated the following:
 - Nick Vineall KC in becoming Chair of the Bar Council;
 - Sam Townend KC in becoming Vice Chair of the Bar Council;
 - Irena Sabic for her recommendation for the award of King's Counsel;
 - Andrew Mitchell KC for his appointment as a Deputy High Court Judge;
 - James Wakefield for his Honorary KC award (*note: these congratulations were extended after the meeting*)
2. **Item 2 – Apologies**
 - Gisela Abbam
 - Oliver Jackling (Research and Evaluation Manager)

Item 3 – Members' interests and hospitality

3. None.

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

4. The Board approved the Part 1 (public) minutes of the meeting held on 1 December 2022.

Item 5a – Matters arising & Action List

5. There were no matters arising. The Board **noted** that actions from the previous meeting had all been completed.

Item 5b – Forward agenda

6. The Board **noted** the forward agenda.

Item 6 – Director General’s Report: Strategic Update

BSB 001 (23)

7. Mark Neale introduced his paper and acknowledged recent criticisms of the BSB which had appeared in the legal press. These primarily focused on investigations. He stated that:
- our actual performance profile is mixed. The high quality of our regulatory decisions has been maintained throughout, but timeliness has suffered due to a mix of rising caseloads (both number and complexity), recruitment issues and a major cyber attack;
 - our action plan to improve turnaround time is working. There is no longer a backlog of cases awaiting acceptance for investigation and we are on track to meet the performance target for case closure in the second quarter of the new financial year;
 - productivity has increased substantially. To its great credit, and following a prolonged period of intensive work, the Investigations Team closed 61 cases in Q3 (this equals the combined total for Q1 and Q2);
 - one effect of clearing long running cases is for the key performance indicator (KPI) to appear worse in the short term due to how it is formulated. We expect to hit the target during Q2 of 2023/24 when these older cases are replaced by newer ones;
 - we are taking additional action to improve efficiency for the short and medium term ie:
 - ❖ a consultant-led review of operational work in the assessment team to identify any quick wins for better case management, customer care and communication;
 - ❖ an independent review of our end-to-end enforcement process.
8. He also referred to other criticisms but highlighted the apparent contradictory nature of these, insofar as they claim that the BSB is either over- or under- regulating depending on the source. He confirmed his intention to give a speech in the Spring setting out his views about the proper regulatory role of the BSB. For the meantime, he commented that:
- we shall continue to make independent decisions about the risks to the public interest at the Bar and take action to mitigate these, either through direct regulation or by working in collaboration with stakeholders;
 - the risks we identify will reflect the circumstances of the Bar and will not necessarily accord with those of other legal professions and, though we shall always be ready to work with other legal services regulators, we must reach decisions that are independent of their judgements as well.
9. The Chair underlined the Board’s commitment to ensure that the BSB discharges its statutory duties properly, fairly, and expediently and to maintain its independence as a regulator. At the same time, it remains interconnected to the “ecosystem of the Bar” and will continue to promote standards that help preserve the Bar’s global reputation for excellence.
10. Simon Lewis stated that, as a new Board Member, he will look to a variety of sources for assurance that performance improvements are delivered. He added that:
- he would find it helpful to:
 - ❖ observe a meeting of the BSB’s People Forum;
 - ❖ see the results from the last staff survey;
 - ❖ have a briefing about the BSB’s wellbeing offer for its employees;
 - he welcomed the focus on the Code of Conduct set out in the report which follows from the ethical standards seminar with Professor Richard Moorhead (7 December 2022).

11. Stephen Thornton referred to Mark Neale's earlier comments (cf. min 7). He emphasised the need to continue with the implementation of the action plan even though we can expect performance data to get worse before it gets better.
12. Alison Alden noted the successful recruitment of additional staff in the Investigations Team and enquired about progress with training. In response, Sara Jagger stated that:
- some new colleagues have only recently joined but training plans are already in place and they have adapted well to their new roles;
 - we were able to attract a high calibre of candidates at recruitment stage and are pleased with the appointments made.
13. At the Chair's invitation, Nick Vineall KC commented as follows:
- the Bar Council is appreciative of the openness with which the BSB has shared its recovery plan;
 - he still considers it right to be cautiously optimistic on the delivery of this plan, as he expressed in his inaugural address to the Bar on 10 January 2023.
14. **AGREED**
- a) to note the report
 - b) to ask Teresa Haskins to contact Simon Lewis in respect of the HR related issues raised at the meeting (cf. min 10).

TH

Item 7 – Annual Diversity Data Report

BSB 002 (23)

15. Ewen Macleod commented on the annual diversity report which is an essential point of reference in delivering our regulatory objective of encouraging an independent, strong, diverse and effective legal profession. It shows that:
- the Bar is continuing slowly to become more diverse;
 - disclosure rates are steadily rising. Those relating to sexual orientation, type of school attended and caring responsibilities for children are now at a level which makes the findings statistically more reliable;
 - we still need to improve disclosure rates for some areas ie religion / belief, gender identity, first person in the family to attend university and other caring responsibilities. We shall again encourage barristers to provide these data as part of the annual authorisation to practise process;
 - around 60% of pupils are female, though representation of women at senior levels in the profession remains lower. Likewise, representation of barristers from minority ethnic backgrounds is also disproportionately lower at more senior levels;
 - on ethnicity, the report suggests the experience of Black barristers is different from those of Asian backgrounds;
 - one longer-term trend is that the Bar is ageing, and we shall need to consider the consequences of that for the future.
16. Simon Lewis referred to data on disability. He stated that:
- the data suggests an underrepresentation compared to figures for the general public;
 - it would help to understand the extent of the questions asked about disability and what, if any, associated guidance is provided. There may be an element of underreporting;
 - based on his experience of other Boards, when the questions on disability were more specifically stated, the subsequent responses produced very different results. It may be useful to compare what we ask with that of other regulators.
17. Ewen Macleod confirmed that the questions are reasonably standard for this type of survey and that we provide guidance for what we mean. Nevertheless, it would be helpful to raise this further with the Disability Task Force and include Simon Lewis in this discussion.

18. Members also commented as follows:
- in respect of the percentage of female pupils at the Bar, Alison Alden queried why the report that this was “likely to be” the highest proportion of female pupils. This was primarily because our reliable data only extend from 1990 onwards. The report might therefore say that this was the “highest recorded” proportion of female pupils;
 - the number of pupillages has reduced compared to last year. It would help to understand the reasons for this;
 - the report states that 20.7% of male barristers have caring responsibilities for children but is not clear if this figure is an increase or decrease compared to previous years;
 - outside of a planned review of the Equality Rules, it would be helpful to know how else the data will be used by the BSB.

The Executive accepted the first point. The following comments were made about the rest:

- 2021 was unusual for pupillages because there was a big rebound from 2020, which was badly affected by the pandemic. The figures for 2022 are more typical of longer term trends;
 - the number of barristers with caring responsibilities for children appears to have increased for both genders. Compared to five years ago, the figure for men has increased by 5%. That said, we need to take care in making definitive statements because in previous years the non-disclosure rate was higher making true comparisons more difficult to establish;
 - the data inform our decision making for:
 - ❖ our equality impact assessments;
 - ❖ our future policies / equality strategy eg findings about the varying experiences between different minority ethnic groups;
 - ❖ clarifying our expectations of chambers (given that many of the issues identified by the report can be addressed through chambers rather than regulation).
19. Nick Vineall KC referred to the report findings on the ageing of the Bar (cf. min 15). He stated that:
- the overall conclusion about an ageing Bar is true but we should be aware of other historical factors which help explain the pattern. Around 25 years ago, after extensions to legal aid, the size of the Bar suddenly increased;
 - numbers subsequently fell back but those who began practising during that period remained. This created a disproportionately higher number of barristers for a particular age bracket and members of this group are now approaching retirement.

20. **AGREED**

- a) to note the report.
- b) to refer the survey questions about disability to the Disability Task Force and to include Simon Lewis in this discussion.

EM

Item 8 – Chair’s Report on Visits and External Meetings

BSB 003 (23)

21. Kathryn Stone referred Members to her report. She also mentioned forthcoming roundtable discussions in Cardiff, Birmingham, Bristol, Newcastle and Leeds. She emphasised the importance of liaison with the Circuits and Specialist Bar Associations and looked forward to meeting them at these events. She also encouraged fellow Board Members to attend.
22. **AGREED**
to note the report.

Item 9 – Any Other Business23. Bar Council induction programme for lay Board Members

Nick Vineall KC updated the Board on the above topic which was raised at the previous meeting. He stated that:

- the date for the event has been set for 28 February 2023 and the BSB Chair has already confirmed her attendance together with one other lay member;
- two more places are available so other lay Members are invited to attend;
- it would be particularly useful to have feedback because, if successful, a similar invite will be extended to lay Members of the Legal Services Board.

24. The Chair thanked Nick for taking this forward. Alison Allden also confirmed her wish to be included.

**NV to
note**

Item 10 – Date of next meeting

25. Thursday 30 March 2023.

Item 11 – Private Session

26. The Board resolved to consider the following items in private session:

- (1) Approval of Part 2 (private) minutes – 1 December 2022.
- (2) Matters arising and action points – Part 2.
- (3) Accelerating investigations.
- (4) Business Plan 2023/24.
- (5) Relations with the Legal Services Board.
- (6) Maintaining standards at the Bar.
- (7) Director General's Strategic Update – Private Session.
- (8) Any other private business.

27. The meeting finished at 5.40 pm.

BSB – List of Part 1 Actions
30 March 2023
(This includes a summary of all actions from the previous meetings)

Min ref	Action required	Person(s) responsible	Date of action required	Progress report	
				Date	Summary of update
14b (26/01/23) – DG strategic update	contact Simon Lewis in respect of the HR related issues raised at the meeting	Teresa Haskins	before 30 March 2023	Feb 2023	Completed - requested information sent to Simon
20b (26/01/23) – Annual Diversity Data Report	refer the survey questions about disability to the Disability Task Force and to include Simon Lewis in this discussion	Ewen Macleod	before 30 March 2023	22/02/23	To be completed - the next meeting of the Task Force will be in April (exact date TBC) and we will invite Simon.

Forward Agenda

Thursday 25 May 2023

- Scoping paper: Part 5 Review of Handbook
- Corporate risk report - summary
- Director General's Report (performance report and strategic update)
- Year-end report of the Performance & Strategic Planning Committee (PSP) 2022/23
- Feedback from roundtable meetings
- Governance: policies on declaration of interests and gifts and hospitality
- BSB approach to supervision
- Public legal education strategy
- Balanced scorecard
- Accelerating Investigations – update on progress
- Conduct in Non-Professional Life
- Code of Conduct Review
- Board reappointments

Thursday 6 July 2023 (Board Away Day)

Thursday 27 July 2023

- Annual Report 2022-23 and Cost Transparency Metrics
- Handbook amendments
- LSB Regulatory Performance Assessment – new approach – information request and BSB's self-assessment on performance against LSB Regulatory Performance Framework
- Director General's Report (performance report and strategic update)
- Review of the Independent Reviewer process

Thursday 5 October 2023

- Consolidated Risk Report
- Budget proposal – 2024 / 25 financial year
- Director General's Report (strategic update)

Thursday 30 November 2023

- IDB Annual Report
- The Bar Standards Board Equality and Diversity Strategy 2022 to 2025: update on progress
- Regulatory Decisions Annual Report 2022/23
- Mid-year report from the PSP Committee
- GRA Annual Report
- Annual report – Bar Training
- Corporate Risk Report (summary)
- LSB Regulatory Performance Assessment, and BSB's self-assessment on performance against LSB Regulatory Performance Framework
- Director General's Report (performance report and strategic update)

Thursday 25 January 2024

- Annual Diversity Data Report
- Corporate Risk Report - summary
- Director General's Report (strategic update)

Thursday 21 March 2024

- BSB Business Plan 2024/25
- Consolidated Risk Report
- Director General's Report (performance report and strategic update)

Meeting:	Board	Date:	30 March 2023
Title:	Performance Report: quarter 3		
Author:	Mark Neale		
Post:	Director General		

Paper for:	Decision: <input type="checkbox"/>	Discussion <input checked="" type="checkbox"/>	Noting <input type="checkbox"/>	Other: <input type="checkbox"/>
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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 updates on performance to the end of the third quarter in December 2022.

Operational Performance

2. As the Board knows our Key Performance Indicators (KPIs) major heavily on speed and, because of the way they are constructed, tend to show a marked deterioration when significant numbers of cases become overdue and a backlog has to be clawed back. Because of these features of the current KPIs, we also monitor the quality of our decisions, productivity – how many cases we are clearing - and the responsiveness of our service. We expect these aspects of performance to feature in a balanced scorecard to be piloted in 2023/24. Meanwhile, information about performance in all dimensions is set out in Annex A.

Productivity and timeliness of regulatory operations

3. The analysis shows that productivity in handling reports on barristers and in dealing with authorisation applications both deteriorated marginally in the third quarter. This means that both teams have a backlog of overdue cases which will overhang the timeliness of KPI for at least the next quarter and possibly longer.
4. In both cases, the main cause of the deterioration was lack of resilience in the face of the loss of key people, including the loss of heads of both teams – one as a result of an internal move and one as a result of an untimely death. Given the challenges, it is a tribute to the team members who remained that productivity was only marginally down on the previous quarter and higher than in some previous quarters of 2023/24.
5. Both teams now have recovery plans in place.
6. The appointment of a new Head for CAT has brought stability to the team during a very challenging period. The new Head has worked with our external delivery expert, Jimmy Barber, on an action plan to clear the backlog, to improve operational efficiency and to enhance customer care. We are using a combination of out-sourcing and over-time to address the backlog and have also authorised the recruitment of an additional administrative assistant to deal with straightforward cases which clearly do not engage regulatory issues. The team has also revised its approach to triaging cases and is referring substantially fewer cases to the Independent Reviewers.

7. The work of the Authorisations Team is more seasonal and in the third quarter was affected by the priority accorded, rightly, to re-authorising providers of pupillage. We are taking steps to establish a pool of experienced consultants who can be called in response to fluctuations in the volumes of work. This will provide resilience which is currently lacking, but in a cost-effective way.
8. Looking to the medium-term, we expect to receive shortly the recommendations of the review of the Authorisations process. This will yield further efficiency improvements. And we have now advertised the new role of Assistant Director to assume overarching responsibility for the operational work of the Regulatory Operations Directorate.

Investigations

9. There is a fuller and more-to-date report on progress in accelerating investigations for discussion on the private side of the agenda. The third quarter numbers confirm the marked improvement in productivity, with 61 investigations concluded – equal to the number concluded in the first and second quarters combined. We are also now exceeding the service level for dealing with the initial referral of cases for investigation.

Quality of decisions

10. The quality of our decisions remains high. The Independent Reviewers provide an independent mechanism for quality assuring regulatory decision-making. This includes quarterly audits of randomly selected samples¹ of cases and the review of decisions which have been challenged by the subjects of those decisions.
11. Randomly selected samples of decisions are determined as either ‘appropriately made’ or ‘not made appropriately’. During this period none of those sampled decisions were considered ‘not made appropriately’.
12. Where decisions have been challenged the Independent Reviewer will determine whether those decision are ‘Upheld’, ‘Partially Upheld’ or ‘Not Upheld’. During this quarter the I&E Team had no requests for review and 26 of 27 decisions made by the CAT were determined as ‘Decision Upheld’.

Progress against the Business Plan

13. Overall progress against the milestones during Q3 has been as expected with 8 of the 23 activities being considered fully ‘on track’ during this period and others subject to some delay.
14. We do not, however, consider that these delays to our original forecasts reflect serious detriment to the strategic objectives. For example, although our roundtables on the role of chambers have been set back by rail strikes and other issues, we have in practice made good progress.
15. It should also be noted that the ‘review of the Equality Rules’, also considered high priority work, will inform and feed into our work on the expectations of chambers.
16. Similarly, other significant discrete projects such as, ‘the regulation of conduct in non-professional life’, are moving forward for consideration by the Board, albeit to a slightly later timetable to allow for the orderly consideration of the feedback to our consultation.

¹ 10% or a minimum number of decision made by Authorisations the CAT and I&E Team are randomly selected for the purpose of audit. Decisions are assessed as either ‘Appropriately Made or Not Appropriately Made’

17. Other projects, for example, progress on apprenticeships are dependent on the collaboration of other stakeholders. We should be happy to answer questions about the progress of specific projects.

Annexes

Annex A – Quarter 3 Performance against KPIs

Annex B – Business Plan & Performance Dashboard Q3

Mark Neale
Director General

2022-23 Quarter 3 Performance report – Regulatory Operations and Legal and Enforcement Departments

For the last two quarters we have included an adjusted KPI figure in the performance tables for each section, to reflect the impact of the cyber-attack to which we were subject in April 2022. In this quarter the adjusted and actual KPIs performance were identical for every team, so we have not included that calculation.

Contact & Assessment

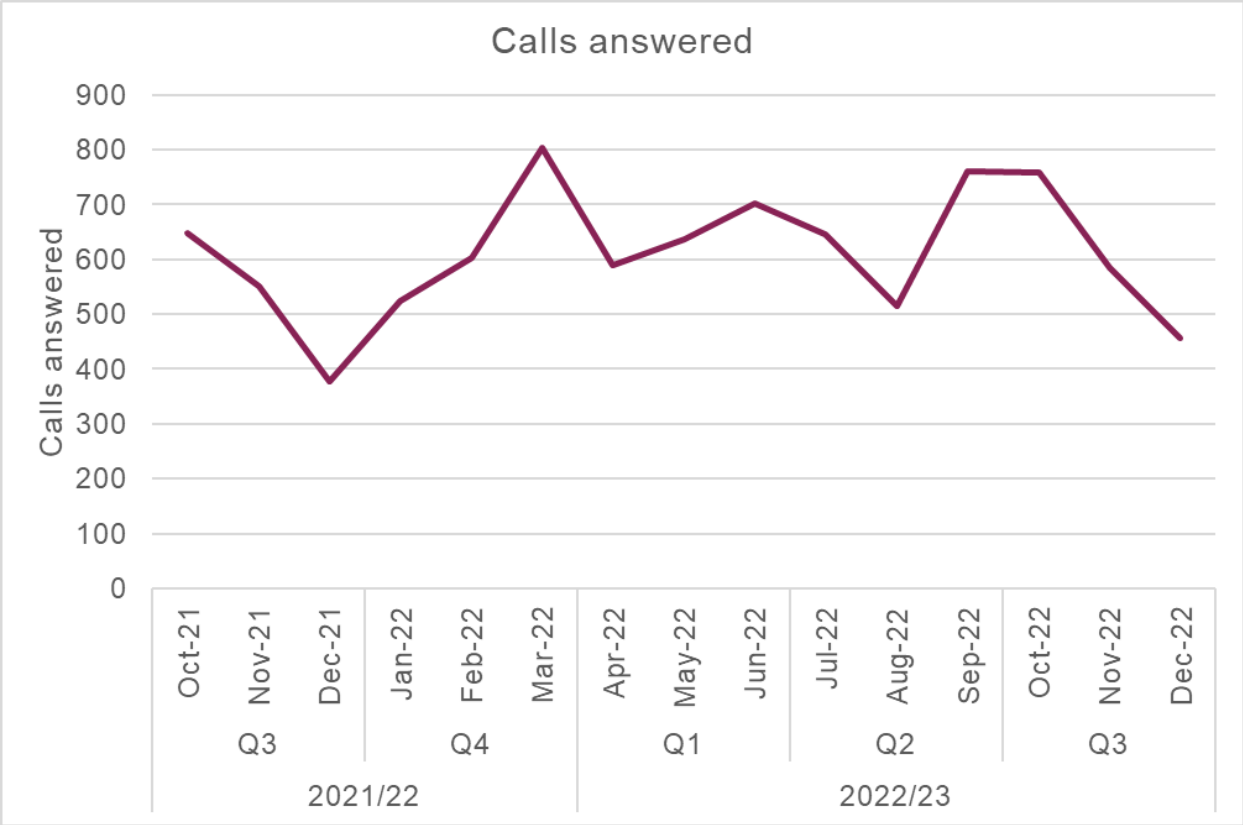
Key points

- Performance against two of the four KPIs has been impacted by significant staffing challenges in the team during this quarter.
- Responses to general enquiries by CAT has only narrowly fallen short of the KPI target.
- The KPI relating to the quality of decision-making has continued to exceed the target set.

KPIs & performance data

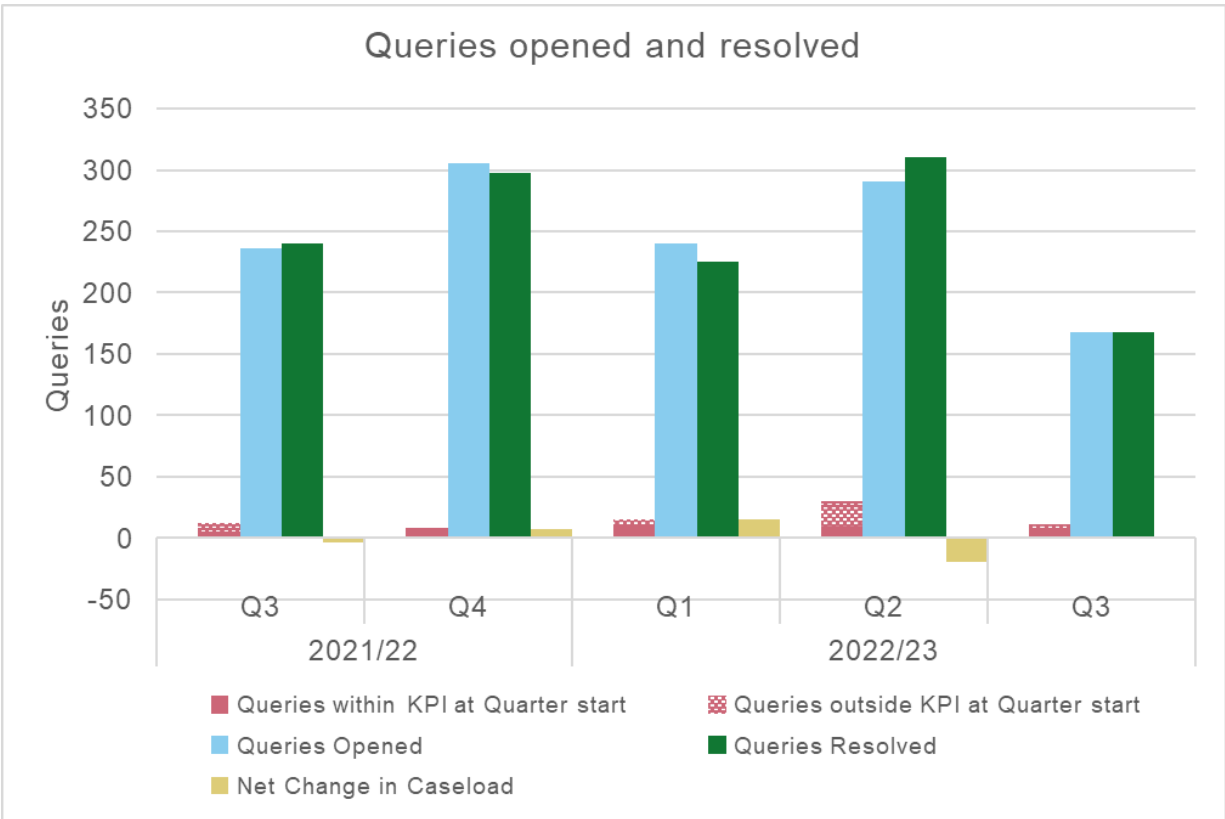
KPI	Target	Performance Q3
General Enquiries		
The percentage of substantive responses to general enquires, that can be addressed by CAT, provided within 5 working days.	80%	79.7%
The percentage of general enquiries, which cannot be answered by CAT, that are referred to another team within 3 working days.	80%	62.1%
Initial Assessment		
The percentage of reports assessed and concluded by CAT, or referred to another team for action, within eight weeks.	80%	58.5%
Quality indicators		
Percentage of cases where the Independent Reviewer upholds the original decision following a request for review.	95%	96.3%

Number of calls received per month



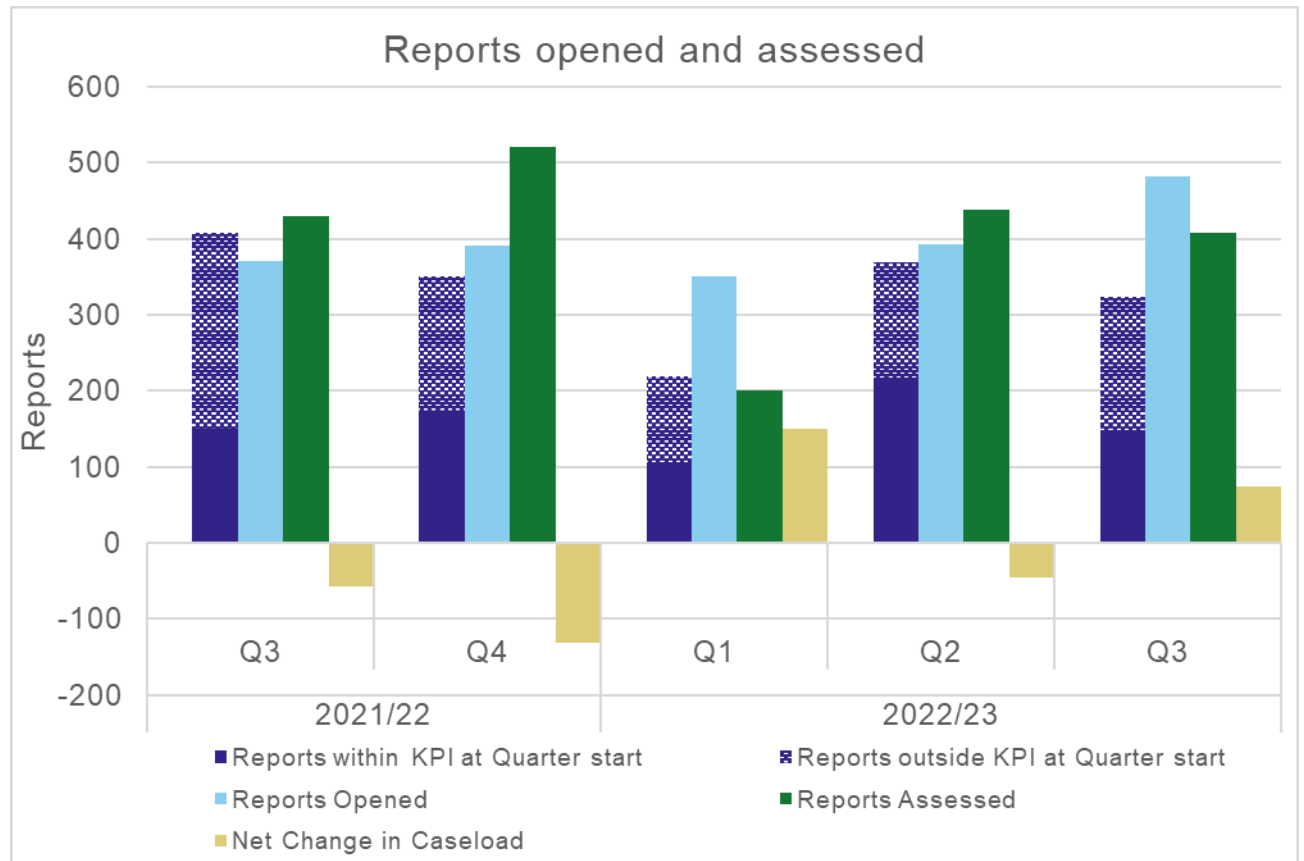
- The team experienced a spike in calls during the first two months of the quarter. The drop in volume in December is typical and reflects the office closure over the holiday period.

General Enquiries



- Queries resolved this quarter kept pace with queries opened, resulting in a reduction in both the numbers of queries outside KPI at quarter start and overall caseload.

Reports opened vs Reports resolved



Commentary

- In quarter 3 the team had serious resource challenges. Two members of staff were absent because of illness for several months, another temporary team member of transferred to a different department and in mid-November the Head of Conduct Assessment passed away unexpectedly. The team has thus been working at significantly reduced capacity until the start of quarter 4 and as a result is carrying a backlog of around 200 cases, all of which are over eight weeks old. This will impact on performance in quarter 4 as the backlog is cleared. The overdue cases have been screened according to risk, but there is likely to be an increase in cases referred for investigation during quarter 4.
- This quarter five Customer Satisfaction surveys were returned, one in relation to a general enquiry, three relating to reports, and one for which the categorisation was unclear.
- For the ease of access questions, 12 of 12 (100%) had positive responses. For quality of communication questions, 11 of 15 (73%) had positive responses, and another five questions did not receive any response. Finally, for timeliness questions, 5 of 7 had positive responses (71%) and another three questions did not receive a response.

Authorisations

Key points

- The combination of absences (through staff using up accumulated leave and through sickness absence), vacancies and changes of personnel at manager, officer and administrative level, and the induction of new team members within the Authorisations team has resulted in low performance against KPI this quarter.
- The main areas of focus for the team in this quarter have been the processing of applications from Pupillage providers and Transferring Qualified Lawyers and the seasonal peak in pupillage registration and certification processes.
- We expect to see a reduction in performance against KPI in quarter 4 while the team focusses on clearing a backlog of overdue applications, with positive movement towards hitting KPI in March 2023.

KPIs and performance data

KPI	Target	Performance Q3
Authorisation, Exemptions and Waivers		
The percentage of applications determined within six weeks of receipt of the complete application.	75%	33.6%
The percentage of applications determined within eight weeks of receipt of the complete.	80%	39.7%
The percentage of applications determined within twelve weeks of receipt of the complete application.	98%	55.6%
Entity (including ABS) Authorisation		
The percentage of authorisation decisions made within six months of receipt of the application and associated fee.	90%	66.7%
The percentage of authorisation decisions made within nine months of receipt of the application and associated fee.	100%	66.7%

Cases closed

(as a % of the total number of applications determined)

KPI	2021/22		2022/23		
	Q3	Q4	Q1	Q2	Q3
Authorisation, exemptions and waivers					
Applications determined within six weeks of receipt of the complete application	190 (65%)	105 (52%)	61 (36%)	97 (36%)	72 (34%)
Applications determined within eight weeks of receipt of the complete application	242 (83%)	157 (77%)	78 (46%)	130 (49%)	85 (40%)
Applications determined within twelve weeks of receipt of the complete application	277 (95%)	193 (95%)	124 (73%)	230 (86%)	119 (56%)
Entity (including ABS) Authorisation					
Authorisation decisions made within six months of receipt of the application and associated fee	3 (100%)	3 (100%)	1 (100%)	2 (40%)	2 (67%)
Authorisation decisions made within nine months of receipt of the application and associated fee	3 (100%)	3 (100%)	1 (100%)	4 (80%)	2 (67%)

6. An additional application is now included in the Q2 totals, it was decided in the 7–9-month bracket so the % performance for the first KPI decreased from 50% (2 of 4) to 40% (2 of 5), and for the second KPI it increased from 75% (3 of 4) to 80% (4 of 5).

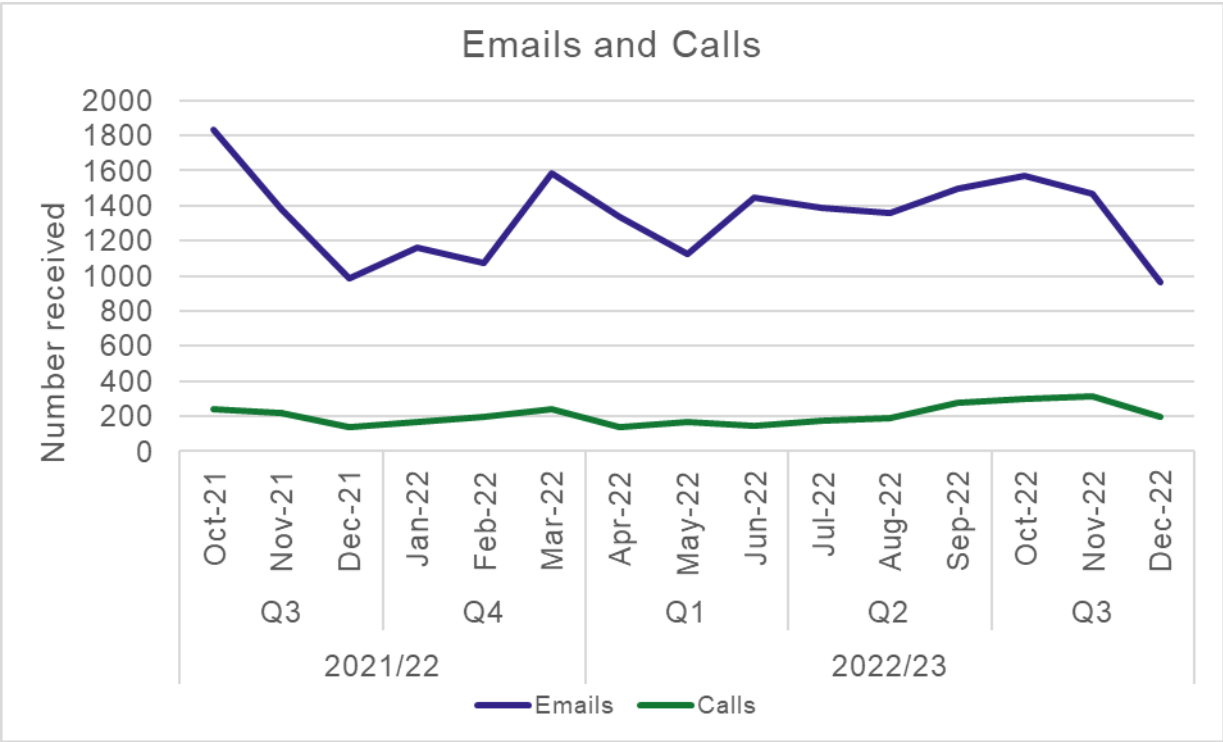
Live cases

Snapshot at the close of Q3 of 2022-23

Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
Waiver applications			
Decisions to be made (target 12 weeks)	248	76	31%
Total	248	76	31%

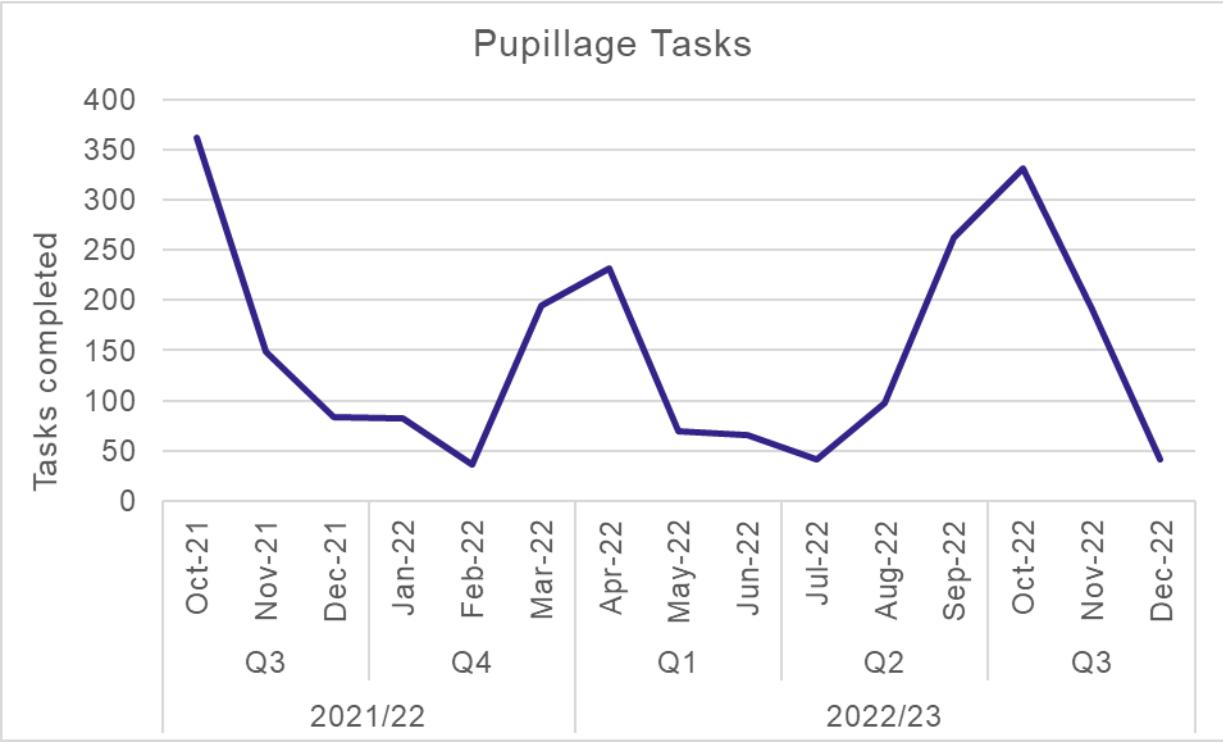
7. The percentage of applications over-running has increased from 12% in quarter 2.

Emails and calls



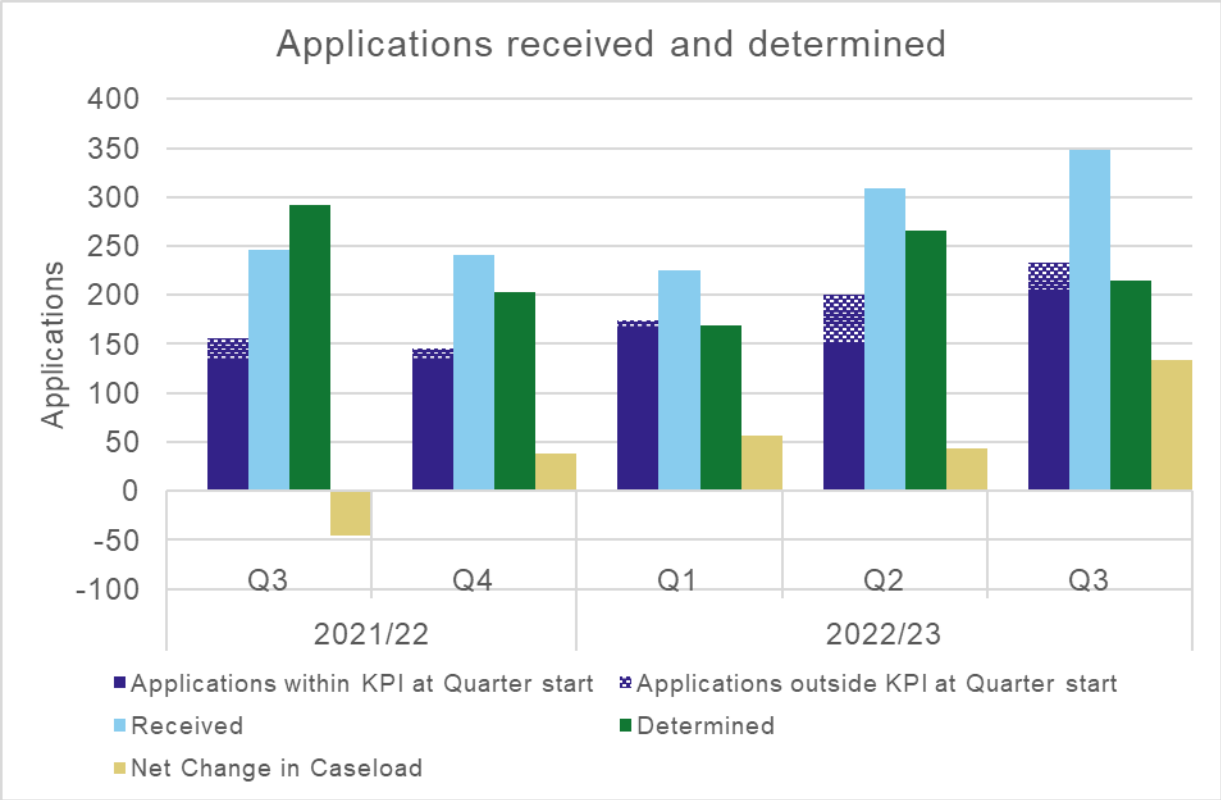
8. The volume of emails and telephone calls has been higher than in previous quarters; however, the recruitment of additional fixed-term administrative resource within the team during this quarter will strengthen the team’s resilience. A significant proportion of enquiries by both email and telephone relate to outstanding applications so as those are reduced, traffic should be less.

Pupillage Tasks



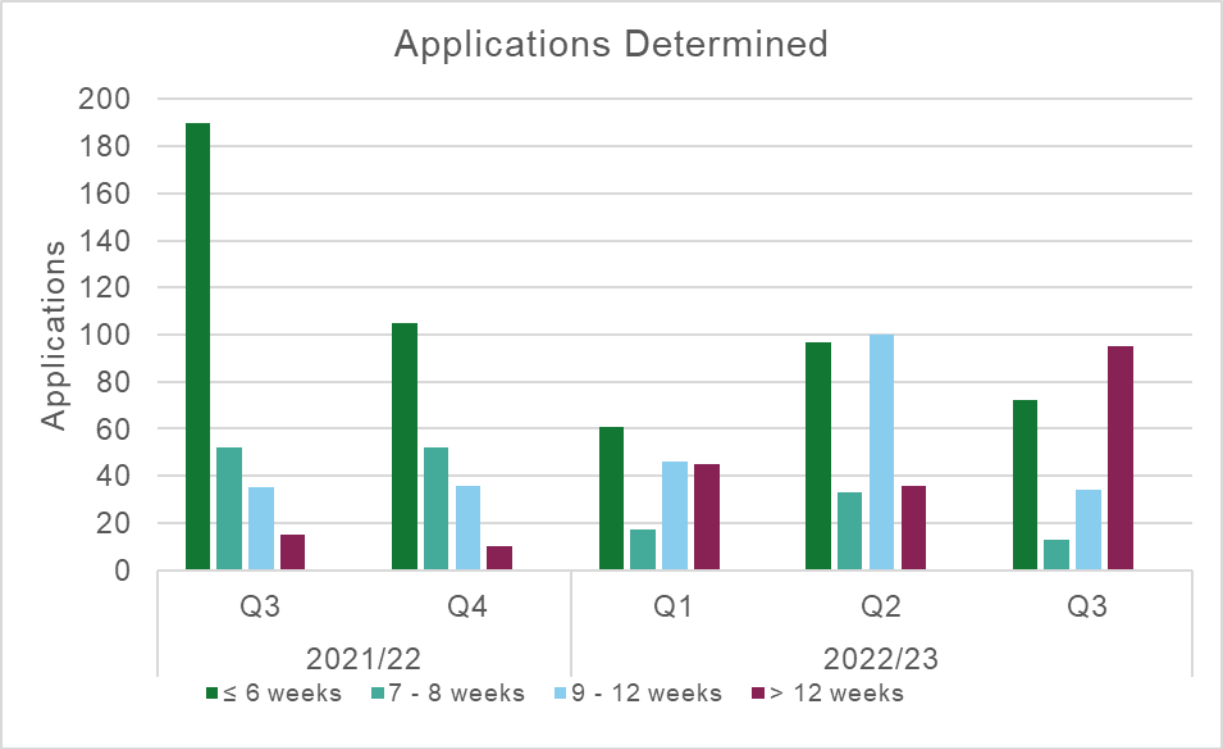
9. Pupillage tasks peaked at the start of the quarter before reducing sharply. The next pupillage sign-off peak will take place towards the end of quarter 4 of 2022-23 and the beginning of the first quarter of next year. The high volume of pupillage tasks also has an adverse impact on the volume of application decisions taken during the quarter as administrative resource is diverted to pupillage registration and certification, requiring other team members to take on some of the general administrative responsibility within the team.

Applications received and determined



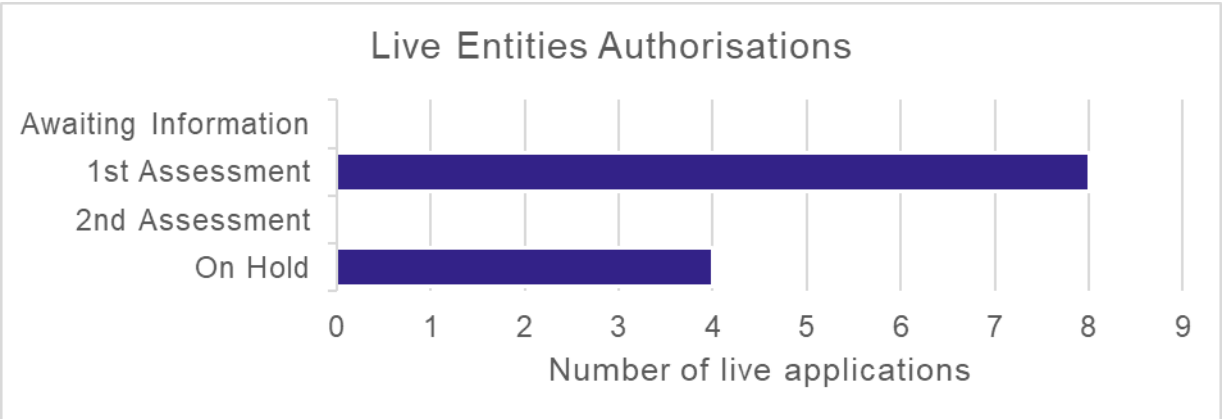
10. The number of exemption and waiver applications received this year has been broadly similar to previous years, although there was a significant increase in the number of applications received during Q3 of 2022-23 compared to the same quarter of the previous year. This has resulted in a larger than usual net increase in caseload for the quarter even though productivity was higher than in two of the previous three quarters.

Applications determined



11. The team is also dealing with heavy proportion of overdue applications as they work to clear the backlog of cases. There has been an increase in the number of requests for reviews of decisions; thus numbers requiring referral to the Independent Decision-Making Body have increased. The majority of these requests for review have now been submitted to IDB Panels. In general, they relate to conditions applied to Transferring Qualified Lawyer applications or to applications for a reduction in pupillage.

Live Entities Authorisations



12. The number of applications at the ‘first assessment’ stage has more than doubled from the previous quarter. There is no obvious cause for this – these applications tend not to be cyclical and can be submitted at any time throughout the year. This is the first quarter this year in which there are no applications awaiting information but there are no obvious reasons for this – it is more a matter of chance and so is not significant statistically.

Commentary

13. The Authorisations team has also experienced resource challenges this quarter because of the departure of the Authorisations Manager. This has resulted in the team needing to backfill several posts while also recruiting temporary staff as agreed to assist with the increase in workload. This recruitment and the resulting training for four new staff has inevitably impacted capacity within the team. All vacant posts have now been filled and the additional administration resource will create capacity at officer level to take decisions. In addition to the impact of the vacancies and recruitment during this quarter, there was also a higher than normal amount of absence within the team through both leave and sickness.
14. The team still have a dedicated person working on pupillage provider assessments, who will continue working on this area during quarter 4. This quarter, the team have prioritised applications which have been fully submitted. Existing pupillage providers with current pupils have had their Pupillage Training Organisation status extended to allow processing of their applications. Existing pupillage providers with current pupils that had not submitted applications were encouraged to apply and given an extended deadline of the end of the calendar year. Any who did not apply prior to the deadline ceased to be pupillage providers from 1 January 2023 (104 out of 423). This however includes historic pupillage providers (ie those which had not provided pupilages for many years) which were removed as part of the process. 199 existing providers have now been authorised. The team is aiming to begin issuing formal agreements to organisations that have been authorised by the end of quarter 4 as a fixed-term resource allocated to this project will reach the end of contract before the start of quarter 1 of 2023-24. A full update was provided via the Annual Board report on Bar Training.

Investigations and Enforcement

Key points

- Performance against the KPI target for acceptance of cases has been exceeded this quarter and stood at 100% of cases accepted within the two-week target.
- The percentage of investigations concluded has increased slightly, from 38.7% last quarter to 41%.
- The number of investigations concluded in the quarter increased substantially with 61 cases closed - double the number closed in the previous two quarters.
- The number of live investigations open reduced from 176 at the beginning of the quarter, to 126 at the end.
- There were no Investigation decisions considered by the Independent Reviewer this quarter. Similarly there were no appeals against Disciplinary Tribunal decisions. The only appeal against an administrative sanction was successful.

KPIs and performance data

KPI	Target	Performance Q3
Referral of cases		
The percentage of cases referred by CAT to another team for regulatory action that are accepted or referred back to CAT within 2 weeks.	80%	100.0%
Investigation of allegations		
The percentage of investigations of allegations of breaches of the Handbook completed, and a decision taken on disposal, within 25 weeks of acceptance.	80%	41.0%
Quality indicators		
Percentage of cases where the Independent Reviewer upholds the original decision following a request for review.	95%	n/a
Percentage of appeals against the imposition of administrative sanctions which were successful.	0%	100.0%
Percentage of appeals of Disciplinary Tribunal decisions which were successful due to procedural or other error by the BSB or discrimination in the decision-making process.	0%	n/a

Cases closed

(% of this total that were within the KPI or service standard)

KPI	2021/22		2022/23		
	Q3	Q4	Q1	Q2	Q3
Referral of cases					
Accepted or referred back (2 weeks)	28 (21.4%)	46 (10.9%)	29 (6.9%)	85 (21.2%)	21 (100%)
Investigation					
Decision on disposal (25 weeks)	32 (31.3%)	38 (15.8%)	29 (37.9%)	31 (38.7%)	61 (41.0%)

Service Standard	2021/22		2022/23		
	Q3	Q4	Q1	Q2	Q3
Determination by Consent					
Process completed (93 working days)	1 (100%)	1 (0.0%)	2 (0.0%)	0	0
Disciplinary Tribunal					
Cases concluded (197 working days)	8 (25.0%)	6 (33.3%)	4 (25.0%)	4 (50.0%)	6 (16.7%)

15. Performance against the investigations KPI is at its highest level for 12 months, and almost 10% higher than in the same quarter of 2021-22.

Live cases

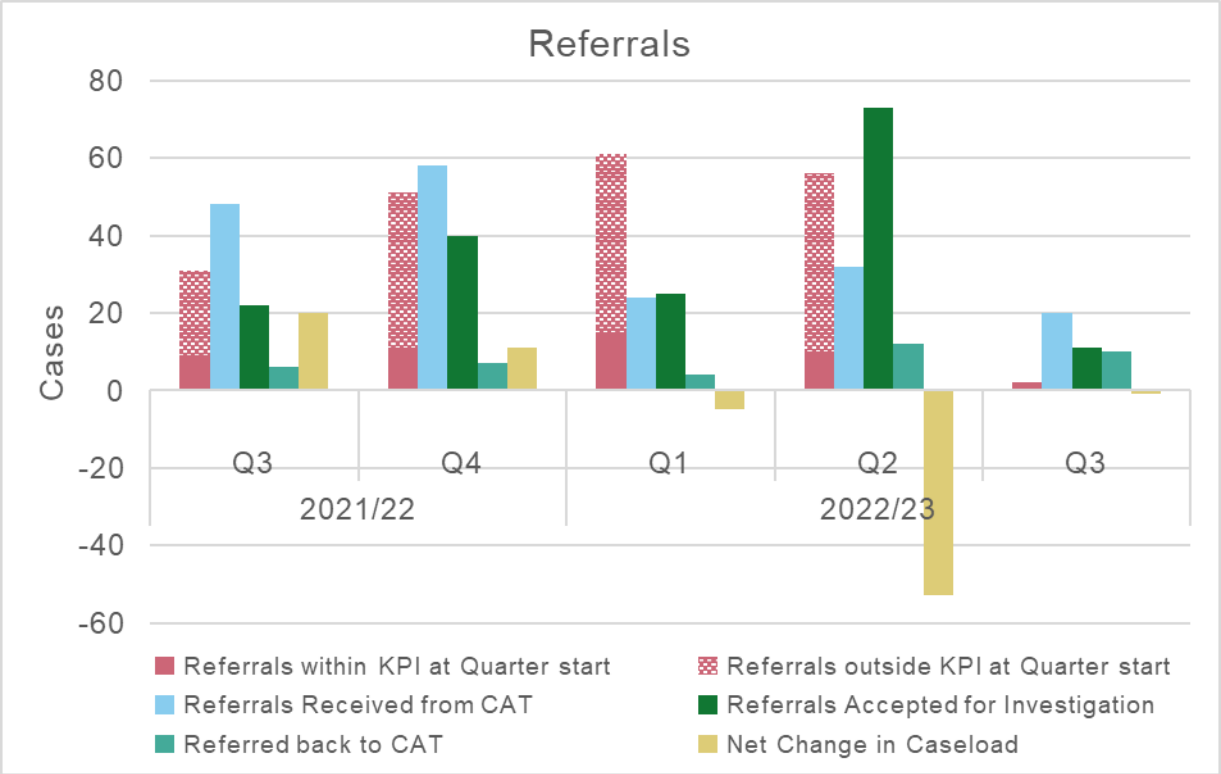
Snapshot at the close of Q3 of 2022-23

Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
Referral of cases			
Cases to be accepted or referred back (target 2 weeks)	1	0	0%
Investigation			
Investigations to be concluded (target 25 weeks)	125	45	36%
Total	126	45	36%

Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
Determination by Consent			
Cases to be concluded (target 93 working days)	2	0	0%
Disciplinary Tribunal			
Cases to be concluded (target 197 working days)	42	10	24%
Total	44	10	23%

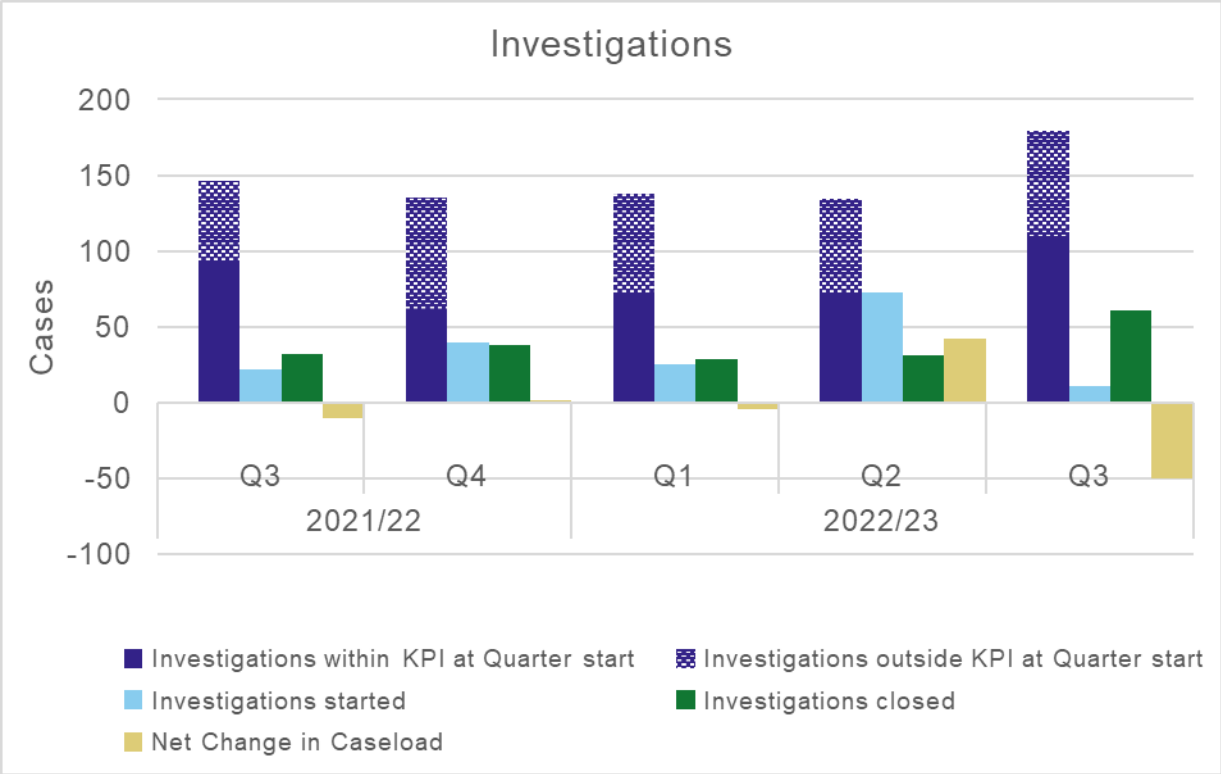
16. The percentage of live cases over-running the KPI or service standard has reduced when compared to last quarter for both the Investigation (down from 40% to 24%) and Disciplinary Tribunal (down from 38% to 36%) stages.

Referrals (Pre-investigation)



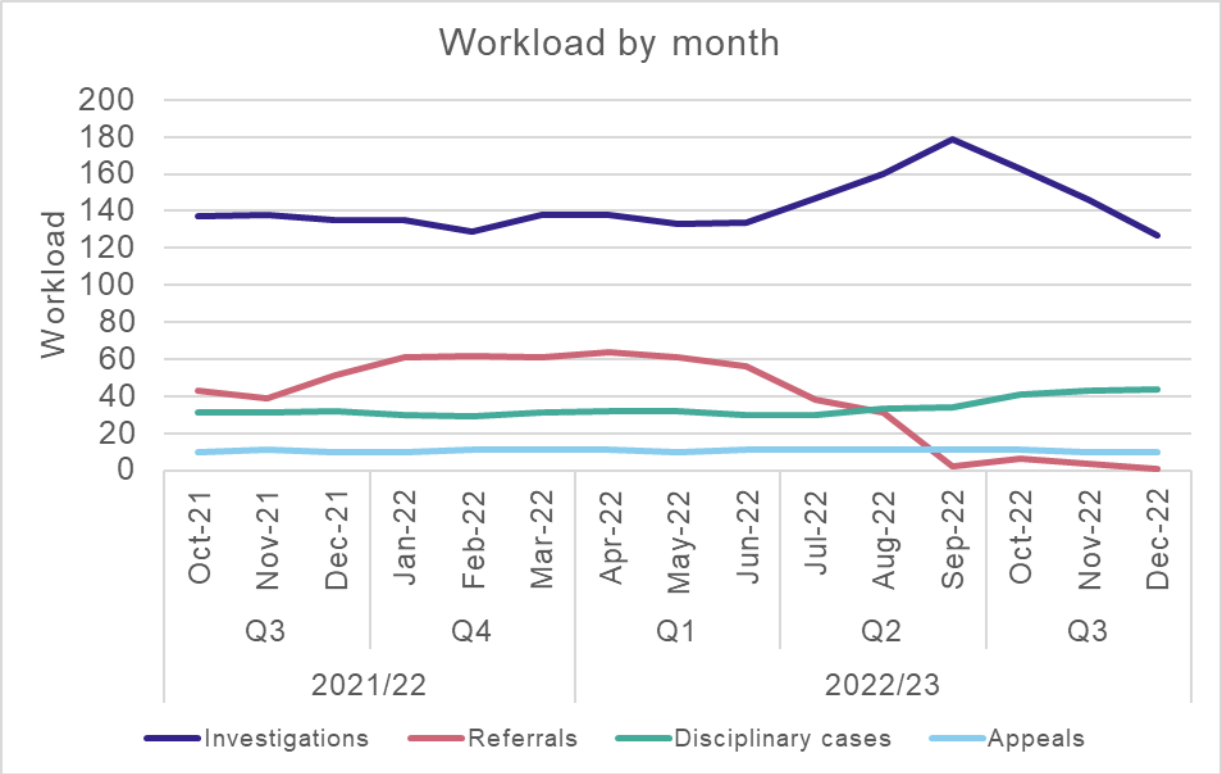
17. The number of new referrals during this quarter was lower than in previous quarters, partly for the reasons outlined at paragraphs 3 and 7 above. We are monitoring this situation but given the backlog at the CAT stage it is difficult to be gauge at this stage whether this represents an ongoing trend related to the nature of reports received or is a reflection of the backlog.

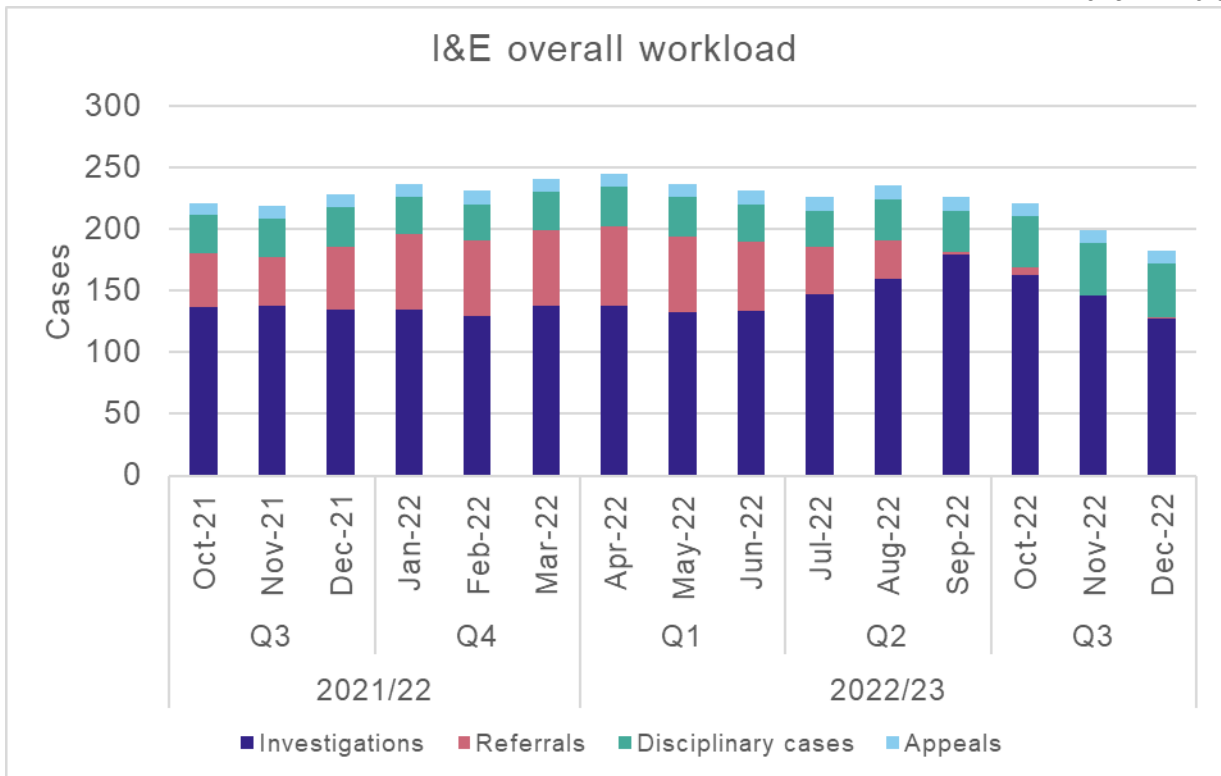
Investigation cases



18. Clearing the backlog of cases at the referral stage in Q2 led to a substantial increase in the number of live investigations at the beginning of the quarter. However, the very high number of cases closed during the quarter produced a significant net reduction in the caseload. The investigation caseload reduced by 50 cases during the quarter, down from 176 to 126. It is positive that so many cases were closed and that a high proportion of them were older cases. However, as the older cases were already outside the KPI, this had a negative impact on the KPI performance which remained low. Inevitably, the closure of older cases will continue to impact negatively on the timeliness indicator until the older cases are cleared from the system. Indeed, the higher the proportion of older cases closed in one quarter, the lower the performance against the KPI will be.
19. We are predicting that we will close a number of the older cases in Q1 of 2023/24 and thus reduce to 20% or under the proportion of older cases in the system. This will be a very positive improvement although it will produce a significant temporary drop in performance against the KPI in that quarter.

Investigations and enforcement workload





- 20. Due to increase in throughput at the investigations stage, Disciplinary Tribunal cases have increased by almost 25%, a third of cases decided at investigation were referred to DT which is higher than in previous quarters. This is unlikely to be trend but more a consequence of the increased throughput of older cases that took longer to investigate due to their complexity and the seriousness of the allegations. The marked increase in Tribunal cases will have an impact on the workload within the team.

Commentary

- 21. The accelerated investigations plan put in place in September 2022, has been successful in creating the capacity needed to move investigations forward at a greater pace and in higher volumes. This is reflected in the performance figures set out above.
- 22. The KPI for accepting cases for investigation is now being exceeded (100% against a target of 80%). The slight improvement in the performance against the KPI for concluding investigations belies the significant improvement in the throughput of cases: the number of cases closed in the quarter stood at 61, almost double the number closed in the previous two quarters. While performance against the KPI will remain low in the next two quarters, and is likely to dip substantially in Q1 of 2023/24 due to the closure of older cases, we are predicting that the KPI target of 80% will be met in Q2 of the next reporting year.
- 23. Recruitment to the vacant posts in team concluded during the quarter and by the end of the quarter the team was up to its full staff complement. Combined with the reduction in overload caseload this puts the team on course to be able to handle the enforcement caseload in a timely manner going forward. However, the accelerated investigation plan will remain in place until at least the end of Q1 of 2023/24 while the new staff are trained and become fully productive.

24. Alongside the improvement in progressing the investigations caseload, more Disciplinary Tribunal cases were concluded in this quarter than in the last two quarters. The BSB is working with the Bar Tribunal and Adjudications Service to identify areas where the improvements can be made in the timeliness of concluding tribunal cases.
25. In relation to the successful appeal against an administrative sanction, the appeal panel disagreed with the view of an Independent Decision-Making Panel that the barrister was sufficiently culpable for some of the alleged conduct to make the conduct a breach of the Handbook. In respect of the other allegations, the appeal panel considered there was sufficient evidence of a breach but the imposition of an administrative sanction was not appropriate or proportionate in all the circumstances. They therefore allowed the appeal.

Supervision

Key points

- The team has exceeded all its KPIs this quarter.
- Supervision have opened 31 cases in this period due to a thematic review of sanctions compliance, which has caused an increase in caseload.

KPIs and performance data

KPI	Target	Performance Q3
Allocations		
Cases assigned within 3 working days of the team receiving the referral from CAT.	80%	100.0%
Regulatory Response		
Cases for which a regulatory response was agreed within 20 working days of the case being assigned.	80%	100.0%
Visits		
Visit report letters issued within 5 working days of a visit to an organisation.	80%	100.0%

Cases actioned

(% of this total that were within service standard)

KPI	2021/22		2022/23		
	Q3	Q4	Q1	Q2	Q3
Allocations					
Cases assigned (3 days)	24 (87.5%)	30 (100.0%)	3 (100.0%)	28 (100.0%)	20 (100%)
Regulatory Response					
Response agreed (20 days)	74 (95.9%)	43 (81.4%)	11 (54.5%)	24 (91.7%)	57 (100%)
Visits					
Letters issued (5 days)	1 (100.0%)	1 (100.0%)	0	1 (0.0%)	1 (100%)

Live cases

Snapshot at the close of Q3 of 2022-23

Case Type	Total Open
All Excluding Regulatory Reports	
All cases	113
Of which have 'Hold – I&E' status	17
Regulatory Returns	
All cases	102

26. The majority of open cases are “Business as Usual” – either opened by Supervision or referred by CAT.
27. All cases marked “hold - I&E” have been assessed by Supervision to determine whether any Supervision action should proceed whilst awaiting I&E action. Cases are usually put on hold where it is more appropriate for the I&E investigation to first determine the validity of the report, typically these are:
 - while witness statements are obtained in relation to harassment or discrimination cases (in some of these cases, initial action has been taken by Supervision to ensure that the alleged victim is not vulnerable to further harassment);
 - scope of practice, authorisation to practice or client money breaches are assessed based on an investigation of the facts; or
 - Supervision action has already been taken and the case has been put on hold for further action pending completion of the I&E case.

Three cases, relating to two barristers, have now been taken off hold and we are progressing with Supervision action, following discussion with I&E.
28. 31 cases relate to sanctions compliance testing (see below).

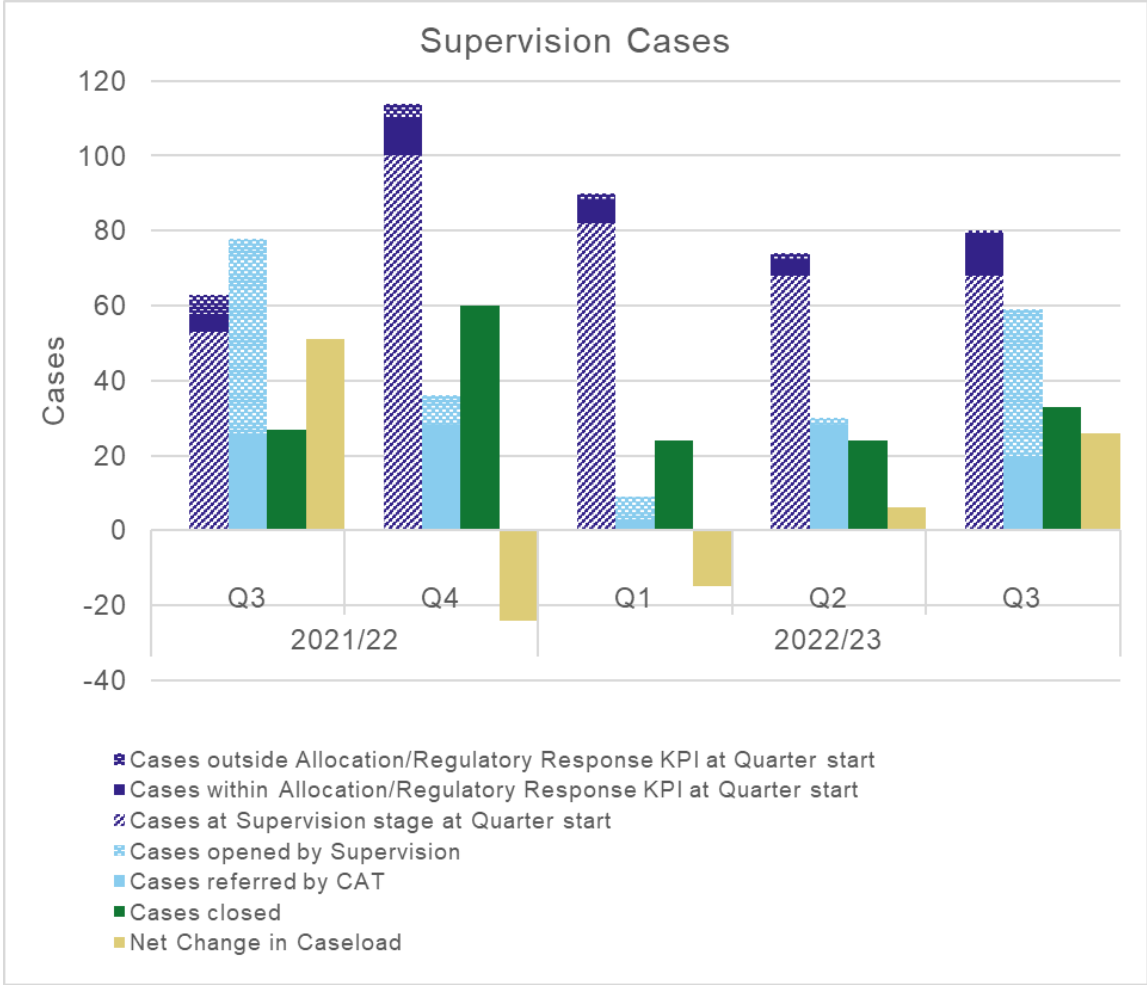
29. 6 cases relate to follow-up of transparency non-compliance from earlier spot checks. One that has failed to co-operate has been referred for possible enforcement action and others are likely to be referred shortly.

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					
2022/23	Q3	50	42	2 (4.0%)	11
Regulatory Returns					
2022/23	Q3	176	176	81 (46.0%)	44

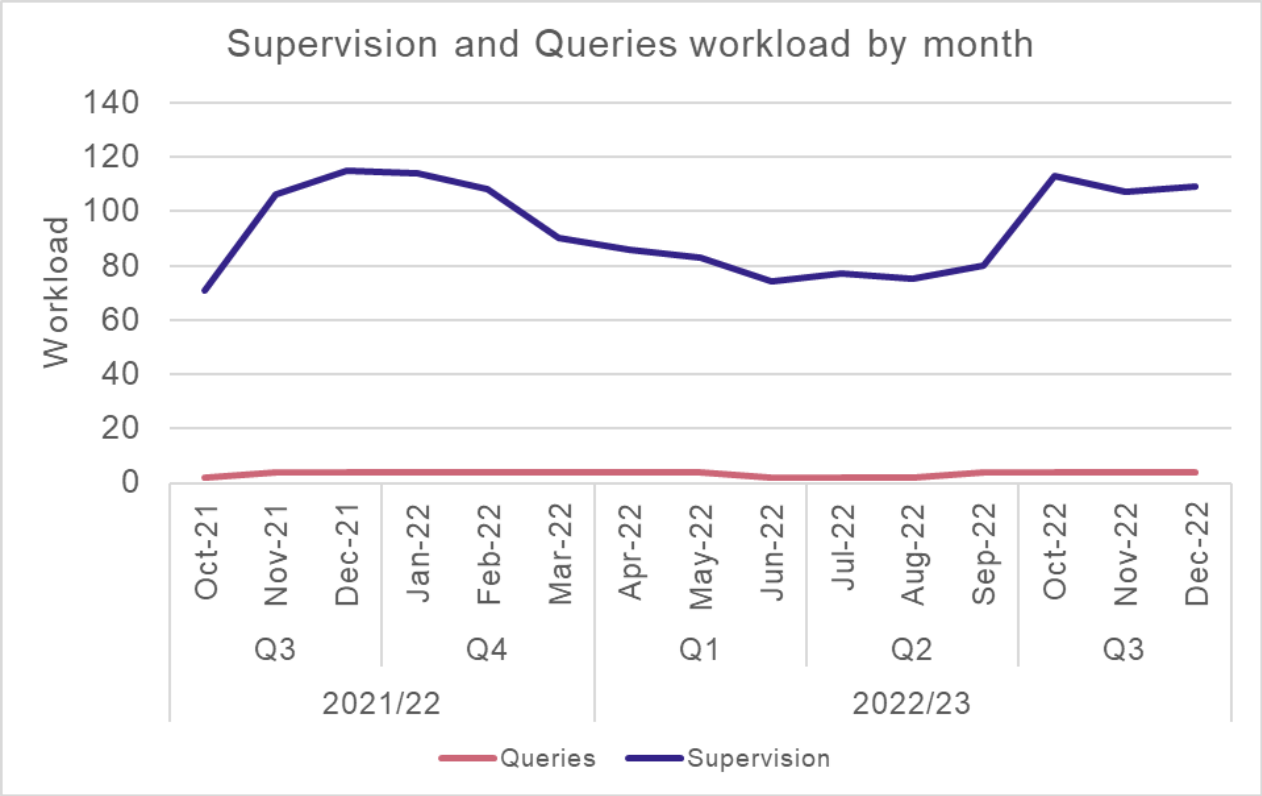
30. Regulatory Return open actions have been reduced from 233 at the close of quarter 2 and the team have been working to reduce the number of open actions further in January (as of mid-January there are about 150 open actions with more anticipated to be cleared shortly). There are currently four chambers with more than ten actions outstanding and 22 with less than five actions each outstanding.

Supervision open case volumes excluding Regulatory Returns



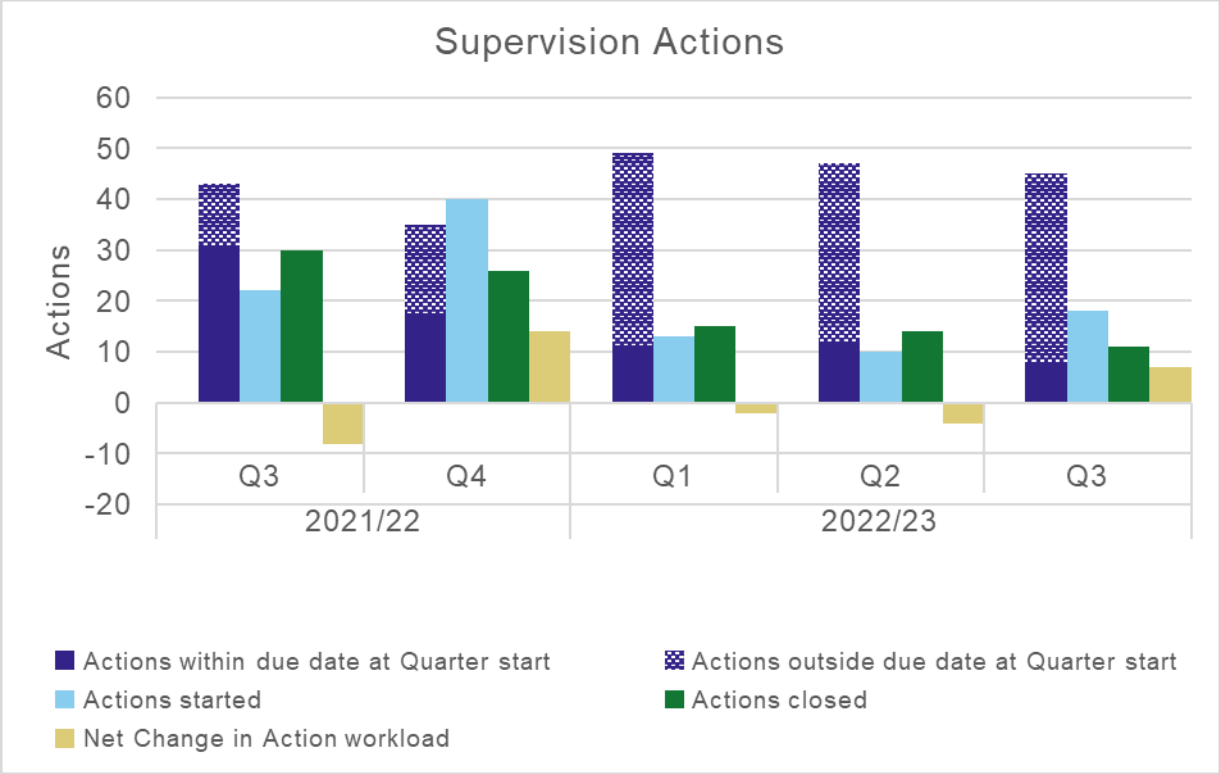
- 31. The larger proportion of cases opened by Supervision this quarter reflects the 31 cases that were opened in relation to a thematic review of sanctions compliance by chambers practising at the commercial Bar. This addresses national concern about legal sector compliance following the imposition of sanctions against Russian designated persons, and is an area of focus for the LSB. Initial questionnaire responses have been assessed and visits are currently underway to the 11 assessed as highest risk, as a result of insufficient assurance about policies and processes in place, with actions set for those assessed as medium risk.
- 32. CAT referrals were at broadly typical levels.

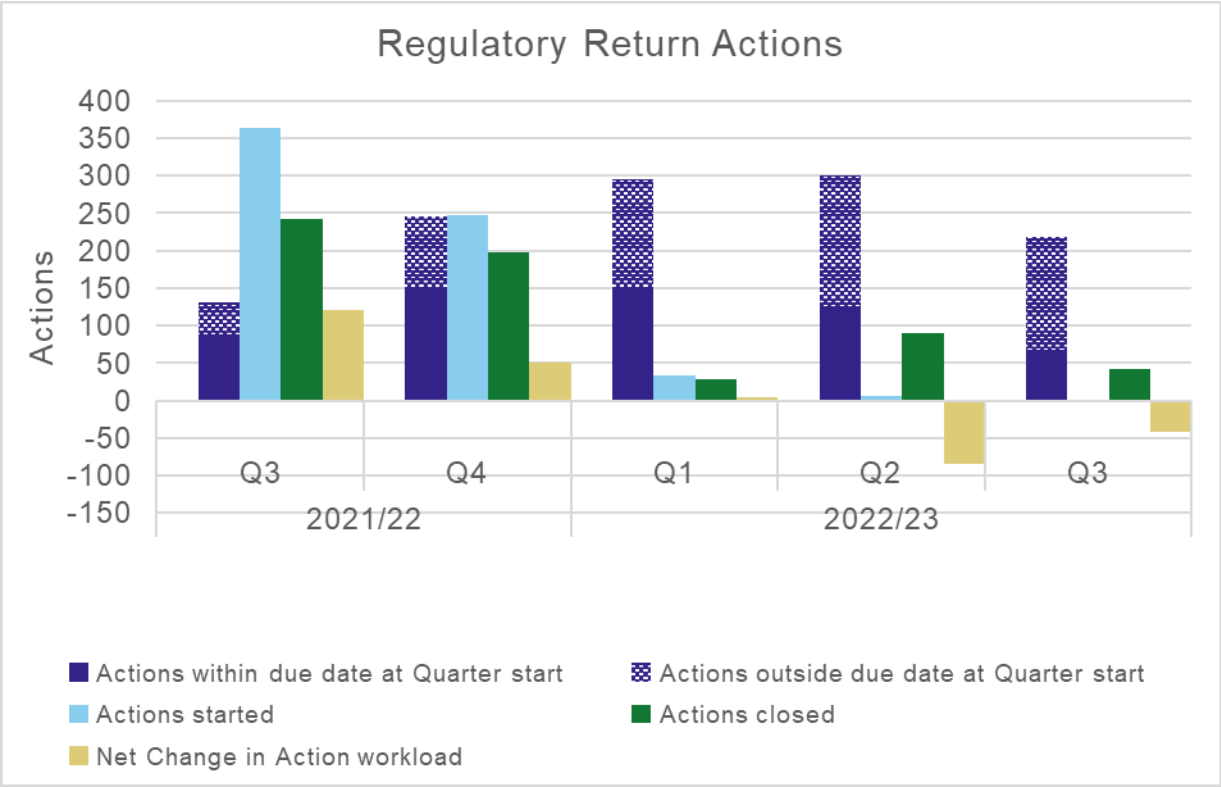
Total caseload by month excluding Regulatory Returns



33. The team has experienced its highest supervision workload since the corresponding quarter of 2021-22.

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





34. As noted above, the team has made good progress with Regulatory Return cases, reducing outstanding actions. The team is continuing to write and publish a series of thematic reports.

Commentary

35. Two new Supervision Officers commenced in post in the third quarter, meaning that the team is now up to full complement for this financial year. Senior Officers have been supporting their induction training, particularly in relation to case administration, inbox management and some case and thematic work. In time, this has the potential to free up Senior Officer time for more complex case and thematic work. Recruitment for another Senior Officer will commence in Q4, to start in the next financial year.

Business Plan Summary	
Activity	Status
3. Conduct in non-professional life	
4. Rules on how barristers market services and receive instructions	
5. Code of Conduct: reviewing the Core Duties	
6. Clarifying the rules around cyber security and PII (CLOSED)	
7. Regulatory Operations review	
8. Reviewing authorisations framework	
9. Review of CRM	
10. Scoping the review of our Enforcement Regulations	
5. Evaluation of reforms to Bar training	
6. Assessment of negotiation and advocacy	
7. Review of BCAT (COMPLETED- TO BE CLOSED)	
8. Assuring standards at the Bar - CPD	
9. Evaluation of our work on Coroner's Courts	
10. Assuring standards at the Bar - EYP	
11. Regulatory Return	
12. Expectations of chambers	
5. Tackling bullying, discrimination and harassment at the Bar	
6. Equality and diversity in AETOs	
7. Apprenticeships	
8. Good practice disability case studies	
9. Review of Equality Rules	
10. Equality and Diversity - best practice in chambers	
5. Unbundling legal services	
6. Digital Comparison Tools (CLOSED)	
7. Regulatory Information Service	
4. Reviewing reward and recognition	
5. Promoting wellbeing (CLOSED)	
6. Learning and development	
7. Promoting diversity and inclusion	
8. Putting our values into action	
9. Reviewing the case for incorporation (ON HOLD)	
Note/s 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. 2 Status field greyed out where there is no milestone for this quarter.	RAG On Track Delayed < 3months Delayed 3 to 6 months Delayed > 6 months On Hold Closed Cancelled

KPI Summary		C&A - General Enquiries		C&A - Initial Assessment
On target	5	General enquiries addressed (5 days) - 80%	General enquiries referred (3 days) - 80%	Concluded or referred (8 weeks) - 80%
<10% below target	0	80%	62%	59%
>10% below target	9			
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%
100%	41%	N/A	100%	N/A
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%
34%	40%	56%	67%	67%
Supervision - Allocations		Supervision - Reg. Response	Supervision - Visits	
Cases assigned after referral from CAT (2 days) - 80%		Regulatory response agreed (20 days) - 80%	Visit report letters issued (5 days) - 80%	
100%		100%	100%	

Financial Summary				
Category	Q3 YTD Actual	Q3 YD Budget	Variance	Index ²
Income	4,550	4,177	373	109
Expenditure	2,119	1,981	138	107
Category	FY Actual	FY Forecast	Variance	Index ²
Income	10,871	14,300	373	76
Expenditure	5,377	8,261	138	65

Corporate Risk Summary (Action Priority)				
Period	High	Medium-High	Medium	Low
Q3 22/23	6	4	9	4
Q2 22/23	6	3	10	4

Directorates		% of occupied posts
CPE	Communications and Public Engagement	100%
G&CS	Governance & Corporate Services	100%
LED	Legal & Enforcement	92.31%
ROD	Regulatory Operations	96%
S&P	Strategy & Policy	73.68%

Service Complaints Summary				
Q3 Received	14	YTD Received / Upheld	35	15

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

For publication

Chambers

1. We have continued to take forward our initiative to clarify the role of chambers in overseeing standards, equality and access with a successful roundtable in Newcastle earlier this month. We shall undertake roundtables in remaining circuits this Spring, with a view to bringing a paper to the Board at its July meeting. We expect this to be followed by a wider consultation. Suffice it to say that we continue to hear strong support for consolidating guidance for chambers in one place and look forward to working with the profession on the best ways of achieving this.

Bar Training

2. We published three reports relating to our Bar training reforms which all suggested that we have had some success in making Bar training more flexible, accessible, and affordable while maintaining high standards. The Reports also show the variation in pass rates between different providers and explain some of the factors that may lead to these variations. We will be examining this issue in our forthcoming thematic review of providers’ admissions arrangements which will also look at how they ensure that standards are maintained once a student is admitted and what systems are in place to ensure that a student develops to their full potential.

The Digital Comparison Tools pilot

3. We had a useful meeting with the Black Barristers Network to discuss this pilot on 21 March. We are making clear that how DCTs factor in equality concerns if they offer client reviews will be an important issue for us to consider.

Mark Neale

Director General

Bar Standards Board – Business Plan and final budget 2023/24**Public****Purpose**

1. This paper seeks the Board's agreement to a business plan for 2023/24 which reflects consultation with stakeholders, and approval of the final budget after scrutiny by the Performance and Strategic Planning Committee. The plan carries forward transformative reforms of BSB itself, while also prioritising continuing improvements in the delivery of our core regulatory operations and further progress in implementing our three year strategy to promote high standards, equality and access at the Bar.

Recommendation

2. The Board is invited to:
 - i. approve the business plan for publication in the first week of April;
 - ii. approve the associated budget for 2023/24 which has been scrutinised and endorsed by the Performance and Strategic Planning Committee (PSP);
 - iii. note that we have separately extracted from the business plan the reforms of the Bar Standards Board itself to form a self-standing action plan in response to the concerns expressed by the Legal Services Board.

Background

3. The Board agreed at its meeting in January that we should produce an integrated business plan for the year ahead which enabled the Bar Standards Board both to make progress with our strategic priorities and to implement reforms of our regulatory approach in response to the concerns expressed by the Legal Services Board. Following the January meeting, the Chair wrote to her counterpart at the Legal Services Board on 31 January outlining this approach and foreshadowing the main lines of the reforms we envisaged. That letter is attached as annex A. After one or two clarificatory exchanges, the Legal Services Board supported this approach, provided that we did indeed come forward with a separate action plan to address its concerns following the March Board.
4. Since January we have engaged in intensive work to draw up a manageable business plan for 2023/24 which:
 - i. puts performance first by giving our key operational teams the space they need to get on top of the existing KPIs and to support the delivery and implementation of our reviews of the current processes;
 - ii. enables us to deliver on the other commitments to the Legal Services Board outlined in the Chair's letter of 31 January;
 - iii. make continuing progress with our existing strategic initiatives on standards, equality and access and to finish off reforms to which we are already committed such as our review of standards in non-professional life and of our social media guidance; and
 - iv. is manageable within the budget and resources approved by the Board in September and re-presented now with marginal adjustments approved by the Performance and Strategic Planning Committee

5. To that end, we have over the last six weeks:
 - i. built up a good understanding of the resource demands across the Bar Standards Board of the various projects and programmes which might find a place in next year's business plan, but focusing on the priorities outlined above;
 - ii. sought the views of the Performance and Strategic Planning Committee on the priorities and secured its support to marginal adjustments to the budget approved by the Board last September; and
 - iii. consulted the Legal Services Board and Legal Services Consumer Panel on the emerging priorities for the business plan and, in the former case, on the reforms intended to respond to the LSB's expressed concerns about our regulatory approach.

The resulting Business Plan

6. The resulting business plan necessarily strikes a balance.
7. As the foreword draws out, we have a clear end destination. We want the Bar Standards Board to be operationally excellent, delivering our core services promptly and responsively, while maintaining the high quality of our decision-making. We want to be on the front foot as a regulator, drawing on intelligence to anticipate risks before they arise. We aim to continue our strategic programmes of work to sustain standards at the Bar and to promote equality and access. And we want the Bar Standards Board itself to be self-confident and independent, with a culture of continuous improvement grounded in our corporate values.
8. The top priority on the way to to this destination is to improve operational performance. Accordingly, the business plan ensures that our key operational teams have the space and resources they need to focus on improving performance. There are two aspects to this. First, we have tried to ensure that the operational teams have as few competing claims on their time and attention in the first quarter of 2023/24 so that they can focus on the short-term actions needed to clear backlogs and to implement quick efficiency and customer care wins. The parallel paper on performance in the third quarter has more to say about this. Second, these teams will also be crucial in supporting and implementing the current review of the authorisations process, which is now coming to an end, and the independent end-to-end review of the enforcement process to which we are committed in the year ahead.
9. We cannot, however, entirely insulate the operational teams from other work. Precisely because these teams are, to some large extent, the BSB's eyes and ears and hold our corporate knowledge about regulatory practice, we need their input both to reforms of our regulatory approach and to our strategic initiatives to enhance standards, equality and access across the Bar. There are, in other words, inevitable trade-offs to be made in constructing our business plan. If we focus exclusively on operational performance, we shall be inhibited in the work we can do to advance the regulatory objectives, including in supporting initiatives endorsed by the Legal Services Board. If we commit to too many projects and programmes aimed at regulatory change, we shall divert unacceptably from the performance focus.
10. The solution is, therefore, largely to confine our work on standards, equality and access to the completion of continuing programmes of work rather than to initiate new interventions. We propose in 2023/24 to:

Standards

- continue and complete our existing programme of work on the continuing competence of barristers throughout their careers, including work to review regulatory requirements during the early years of practice and on Continuing Professional Development;
- take forward work to implement – no earlier than 2024 – the assessment of advocacy and negotiation skills during pupillage which will round off the Future Bar Training reforms;
- undertake a thematic review of the quality of Bar training, as agreed by the Board in December 2022;
- complete our review of the regulation of standards in non-professional life in the light of the recent consultation.

Equality

- review the existing Equality Rules;
- undertake research with pupillage providers to investigate the recruitment outcomes of different approaches aimed at increasing diversity.

Access

- complete and evaluate our existing pilot of on-line comparison to assess its potential contribution to improving consumers' ability to navigate the Bar;
- review the role of intermediaries in brokering access for consumers to barristers and the associated regulations bearing on barristers' relationships with intermediaries (the association rules).

11. With these programmes completed in the year ahead, we expect in 2024/25 – the last year of the current strategy – to be able to initiate new and important work. This will likely include projects on the future supply of barristers, on the choice offered to consumers by the current referral arrangements and on the opportunities and risks associated with further work on the take-up of technology at the Bar.
12. Confining our strategic work to the conclusion of existing programmes also frees up capacity to take forward reforms of our regulatory approach and to continue our important work to build a self-confident culture of continuous improvement within the Bar Standards Board itself. The key actions in these respects are:

Regulatory approach

- clarifying our expectations of chambers – particularly in promoting high standards, access and equality – and working with the Bar Council to create a hub or hubs setting out those expectations and associated guidance on good practice;
- taking forward essential amendments to the Code of Conduct and Handbook, including amendments flowing from other priority work programmes;
- reforming our approach to capturing, collating and analysing data and intelligence;
- reviewing the BSB risk framework;
- reviewing the role of the Independent Reviewers in the BSB enforcement and authorisations processes.

Culture and capability

- taking forward our programme of work on culture and capability, including actions agreed in response to the People Survey 2022.

13. We are confident this business plan is deliverable within the proposed budget. It will enable us to bring about transformative change of the Bar Standards Board, including reforms of our operational processes which will deliver quicker outcomes with no loss of quality. The reforms of our regulatory approach will, in turn, ensure that the Bar Standards Board is proactive, not reactive, in protecting the public interest in a high quality, diverse and independent Bar.

Budget 2023/24

14. The Board agreed in September 2022, in principle, the overall budget for the BSB for the next financial year. The details of this were fed into the calculation of the Practising Certificate Fee (PCF) and the subsequent consultation with the profession. Despite extensive marketing of the consultation by both the Bar Council and the BSB, we received only 15 individual negative responses from barristers.
15. The executive has refined the budget since September, including by seeking PSP's approval to implement some of the recommendations of the review of processes in the Contact and Assessment Team. The revised budget scrutinised by the PSP in early March includes an additional 2% in staff costs and 12% in non-staff costs from the version originally approved by the Board in September. The increase in non-staff costs reflects the need to provide for the next triennial independent review of the Board in 2024, the costs associated with higher numbers of tribunal hearings as we accelerate investigations, higher internal audit costs and an increase to the research budget to fund additional consumer-facing research.
16. PSP has scrutinised detail of all proposed changes to the budget and has agreed that it should be recommended to the Board for approval. This budget is what is detailed in the attached Business Plan.

Conclusion

17. Are Board members happy to approve the business plan for publication in the next week.

Annex

Annex 1: Chair's letter of 31 January to the Legal Services Board
Annex 2: Business Plan for 2023 - 24

Mark Neale
Director General



BY EMAIL ONLY

Dr Helen Phillips
Chair
Legal Services Board
3rd Floor
The Rookery
2 Dyott Street
London WC1A 1DE

31 January 2023

Dear Helen

REFORMING THE BAR STANDARDS BOARD

As you asked in your letter of 15 December, I am writing on behalf of the Bar Standards Board to set out how we intend radically to transform the organisation in the year ahead. In doing so, I reiterate the determination of all Board members and of its Senior Management Team to ensure that the Bar Standards Board regulates independently and proactively in the public interest. In framing our plans, we have had regard to the feedback provided by the Legal Services Board in your letter of 29 November and in the November 2022 Regulatory Performance Assessment published on 12 January of this year.

Underlying our plans is a commitment to continuous improvement of BSB's performance, regulatory approach and culture and capability. The changes to which we are committed will ensure that, in future, the BSB is more proactive as a regulator, not simply reactive when things go wrong.

We shall build these changes into our business plan for 2023/24 on which we shall be consulting you and other stakeholders in the course of February and March. This letter, therefore, sets out the principal elements of our reforms. The business plan will set detailed objectives and timescales which reflect the responses to our consultation and to the internal planning process. We want to ensure that we can deliver what we promise and that what we promise delivers.

Performance

My Board and I regard improving operational performance as our top priority. Doing so will re-establish BSB's credibility with its stakeholders and fulfil our fundamental duty to protect the public by sustaining the quality and independence of the Bar. The reforms needed to improve performance will also contribute to wider cultural transformation.

We are not starting from ground zero. Aspects of our operational performance have always been strong, particularly the quality of decision-making, as attested by our Independent Reviewers. We have already markedly improved productivity, particularly in concluding investigations, as a result of the action plan put in place last Summer. In the last three months of 2022 (Q3 2022-23) we closed 61 investigations, double the number of each of the previous two quarters (31 in Q2 and 29 in Q1). (These productivity improvements will not, however, show up in the headline timeliness KPI until 2023/24 while we clear overdue investigations. Indeed, the KPI may get worse before it gets better.)

We now intend to build on these foundations in 2023/24. Deloitte is currently undertaking an independent review of the fitness for purpose and longevity of our key operating systems. We shall also commission in the year ahead an independent review of our end-to-end enforcement process with a view to the achievement of sustained improvements in productivity, speed of processing and customer service, but with no loss of quality. The scope of that review is outlined at annex A.

We also intend to pilot in 2023/24 a balanced scorecard of measures of operational performance which captures: the quality of decisions; productivity and efficiency; the speed of our decisions; and customer service. This scorecard, set by the Board, will significantly enhance the transparency of our public reporting, as well as the ability of the Board to hold the executive team to account. (We do, however, note that our transparency is already extensive: we hold discussions of performance in public session and we distinguish between performance in assessing the initial reports we receive on barristers and, separately, in undertaking investigations where these are warranted.)

Regulatory approach

Continuous improvement to our regulatory approach will involve promoting strategic change at the Bar, improving our collection and analysis of intelligence and data and reforming our Handbook and rules.

Strategic change

The three year strategy adopted by the Board in April 2022 aims to bring about sustained improvements in the Bar's standards, equality and accessibility. We regard these as central to the public interest and to the realisation of the regulatory objectives.

At the heart of this work is our initiative to clarify our expectations of chambers and to provide support to chambers in meeting those expectations. As part of this work, we shall clarify our expectations of chambers' governance itself, including the roles and responsibilities we would expect to be assumed by senior members of chambers. Feeding into this work will be our parallel initiatives to:

- I. assure the competence of barristers throughout their working careers by improving feedback to barristers on their performance from a range of stakeholders and by encouraging chambers to be proactive in brokering that feedback. (We are making a parallel submission to the LSB on how our plans here measure up to your recent policy statement on ongoing competence);
- II. overhaul the *Equality Rules* to tighten up the inclusive outcomes and management practices we expect all barristers to pursue through their chambers' governance arrangements; and
- III. improve access to barristers, including through our measures to promote transparency which our recent evaluation has shown are already increasing the extent to which potential clients shop around. We are also currently running our pilot of on-line comparison which we expect to conclude and to evaluate in 2023/24. In taking forward this work, we shall continue to have regard to the LSB's policy statement on empowering consumers and report regularly on progress.

Intelligence & data

Alongside this proactive strategic agenda, we shall also push ahead with the reforms, initiated last year, of our capacity to collect, collate and analyse intelligence to ensure that the BSB is quick to identify and respond to emerging risks to the regulatory objectives. This work will incorporate the lessons learned from the *Absolute Barrister* case where we acknowledge we failed to join up what we knew.

This work will see both system and culture change at the BSB. A more structured approach to intelligence analysis alongside a change in emphasis in how, and on what basis, we take regulatory decisions and make targeted interventions.

Reforming our Handbook & rules

We expect that the agenda outlined above will entail the need for changes to our rules and associated guidance. In taking forward these changes, we shall reflect on the ethical challenges highlighted by the Post Office case and by the LSB's own conference last Autumn. We initiated work last Spring on guidance to employed barristers on their ethical responsibilities to the Court and to the rule of law. We shall bring that work to fruition. Following a useful internal seminar with Professor Richard Moorhead last month, we are also considering whether our rules need to be revised to place a stronger responsibility on barristers, consistent with access to justice, to undertake due diligence on prospective clients, particularly in the provision of advice, as opposed to representation in Court.

Culture & capacity

We want everyone working at the Bar Standards Board to embrace continuous improvement. To that end, our Senior Management Team has committed to lead a change of culture by:

- strengthening and embedding our organisational values of *fairness & respect, independence & integrity, and excellence & efficiency and ensuring the values promote continuous improvement*: our People Conference in April, when we shall be discussing the results of the 2022 People Survey, will be a catalyst for this work;
- recognising colleagues who exemplify our values or deliver marked improvements in our regulatory functions as part of our wider reforms of pay and reward; we shall be consulting BSB people about this in coming weeks; and
- continuing our work to reinforce the independent identity of the BSB itself.

We undertook a root and branch review of our capabilities as part of the adoption of a new three year strategy in 2022 and provided for a significant strengthening of our operational teams. That strengthening is now largely in place, although recruitment to some legal and policy roles proved very difficult at prevailing pay rates. The difficulty in filling these vacant places was itself a significant factor in the challenges we faced last year in completing investigations to time. Our reforms of pay and reward to bring remuneration at the BSB into line with the average of regulators for equivalent roles are already making an important difference in this respect and the continuing implementation of these reforms will be vital in sustaining our ability to recruit and retain people of the right calibre.

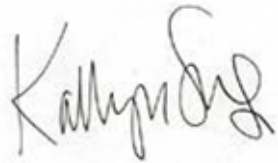
We do not judge that, in the short term, we need to increase our workforce, but we shall keep this under review and we are strengthening within an unchanged headcount in key respects to support our transformation of operational performance. Our review of decision making processes will ensure that we are operating efficiently and making the best use of the resource available. To this end we are also contracting with a respected independent delivery expert to support immediate operational efficiencies and improvements to customer care. We are also considering other steps

to strengthen our delivery expertise and, in the process, promote an internal culture of high performance and strong customer service.

Next steps

I hope I have reassured you that the BSB Board and Senior Management Team are intent on systemic change to our culture, capability and performance. We are at your disposal to discuss these changes and, as I have indicated, will be reflecting them in a detailed business plan for adoption by the Board at its meeting on 30 March.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kathryn Stone', written in a cursive style.

Kathryn Stone OBE
Chair

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Business Plan 2023-2024

Our organisational values are:

Fairness and Respect

We strive to achieve equal access and equal treatment, valuing and respecting our differences

Independence and Integrity

We are objective and evidence-based, open, honest and accountable, and we expect everyone to meet these same ethical standards.

Excellence and Efficiency

We are committed to learning and improving, seeking to maximise our effectiveness by making the best possible use of our resources

If you would like a version of this publication in an alternative format, please contact the Equality and Access to Justice (E&AJ) Team by telephone on 020 7611 1305 or: equality@barstandardsboard.org.uk

The Bar Standards Board regulates barristers and specialised legal services businesses in England and Wales in the public interest.

Foreword



The Bar Standards Board regulates the Bar in the public interest by promoting high standards, equality and access to justice. Our annual business plan sets out what we shall be doing in the year ahead to further this vision.

We are very conscious that achieving the vision makes demands of us as the Regulator. So the business plan also sets out transformative reforms of the Bar Standards Board itself.

These reforms are grounded in a culture of continuous improvement, but have a clear destination in view. We want the Bar Standards Board to be operationally excellent in delivering its core regulatory services. We already take consistently high quality decisions. We have markedly improved our productivity in the last year, particularly in concluding investigations. To high quality decision-making and high productivity we want to add consistently prompt and responsive service so that members of the public or barristers who use our services can be sure we shall take the right decision and do so efficiently and quickly.

We want the Bar Standards Board to be on the front foot as a regulator, anticipating risks and opportunities, not just reacting to them. This means reforming our approach to capturing and analysing intelligence about the Bar. It means joining up the information we receive to build up a picture of emerging risks and empowering our front-line teams to act on the risks we identify. And it means gaining assurance that chambers - to which most barristers belong - are themselves effective in overseeing standards, equality and access. The result of this regulatory approach will be an engaged and proactive regulator which addresses risks to the public interest before the public sees or suffers any harm.

We want the Bar Standards Board to be a force for change in the service that the Bar provides to the public. That means that the BSB deals not just with regulatory operations, but develops a broad and evidence-based understanding of the standards and skills the Bar will need to meet the future needs of consumers and the administration of justice. This aspiration is well expressed by our current strategic priorities of standards, equality and access. We shall take forward strategic change in collaboration with the profession, where that makes sense, or through targeted and proportionate regulation where necessary.

We want the BSB to be a collaborative regulator working closely with other legal regulators, with consumer groups and with the profession because we know we can achieve more through collaboration than by acting unilaterally. We shall, of course, regulate and take enforcement action where necessary but we know that a culture in which the public interest always comes first cannot be achieved through regulation alone.

Finally, we want the Bar Standards Board to be a self-confident and well-respected independent regulator. We shall achieve that by embedding a culture of continuous improvement which advances our values of *fairness and respect, independence and integrity and excellence and efficiency*. We shall see it reflected in our organisational performance results, the results of our annual People Survey and in the credibility the BSB commands among its stakeholders.

Introduction

The Bar Standards Board regulates barristers and specialised legal services businesses in England and Wales in the public interest. Our work is governed by the regulatory objectives set out in the Legal Services Act 2007¹.

Our Regulatory Objectives are:

- protecting and promoting the public interest;
- supporting the constitutional principle of the rule of law;
- improving access to justice;
- protecting and promoting the interests of consumers;
- promoting competition in the provision of services;
- encouraging an independent, strong, diverse and effective legal profession;
- increasing public understanding of citizens' legal rights and duties; and
- promoting and maintaining adherence to the professional principles (which are acting with independence and integrity; maintaining proper standards of work; acting in the best interests of clients; complying with one's duty to the court to act with independence in the interests of justice and keeping the affairs of clients confidential).

We fulfil those objectives in part by undertaking a number of key regulatory functions which support continuing high standards at the Bar. These focus on the qualification of barristers and on the enforcement of professional standards.

We also fulfil them by ensuring that the profession as a whole - now and in future – will be able to meet the public interest in a high quality, diverse and competitive profession which supports the rule of law.

¹ The Economic Crime and Corporate Transparency Bill 2022 also contains a provision to add a new regulatory objective to the Legal Services Act 2007 focusing on promoting the prevention and detection of economic crime.

Our current assessment of risks and opportunities highlights the following significant challenges:

- Continuing pressures on public funding and a lack of understanding of the legal services market are making it harder for people to access legal services
- Innovation and new technology offer new opportunities for the delivery of legal services, but can also raise regulatory challenges, new training needs and problems for the digitally excluded. Meanwhile the rise in remote working has weakened the support which chambers can give to pupils and junior barristers.
- While the Bar is now a more diverse and inclusive profession for those beginning their careers, career progression and the retention of barristers who are women or from minoritised communities remains a challenge. Addressing all forms of bullying, harassment and discrimination is also still a vital objective.
- Although the total number of practising barristers continues to rise, the profession is ageing and there is continuing pressure on the numbers of barristers and pupils at the publicly funded Bar.

In the light of these challenges and risks we have set five strategic aims for the current three year strategy running from 2022/23 to 2024/25. These are set out in our 2022-25 Strategic Plan and are:

Efficiency	delivering our core regulatory operations quickly, economically and to a high standard
Standards	ensuring that barristers provide a high quality and responsive service throughout their careers
Equality	promoting equality, diversity and inclusion at the Bar and at the BSB and the profession's ability to serve diverse consumers
Access	promoting consumer understanding of legal services and choice and good value in using those services (covering both the supply of, and demand for, barristers' services) and
Independence	strengthening the BSB's independence, capability, self-confidence and credibility.

Many of our activities contribute to more than one regulatory objective and more than one strategic aim. For example, our work to clarify our expectations of the role which chambers should play in support of our regulatory objectives includes overseeing standards, promoting equality and facilitating access for consumers.

The Business Plan has also been written having regard to the LSB's strategy for [Reshaping Legal Services](#), which sets out the LSB's three strategic themes of "fairer outcomes, stronger confidence and better services".

Our business plan also sets out our budget for 2023-24. We are very conscious that we are funded by the profession and we always seek to maximise our value for money.

You will be able to see how we performed against this business plan in our 2023-24 Annual Report.

Our Regulatory Approach

In support of our five strategic priorities, we shall be taking forward reforms of our regulatory approach which aim to ensure that the Bar Standards Board is able to identify and manage risks to the Regulatory Objectives before they lead to detriment to the public interest. Central to this work will be an overhaul of our approach to the gathering, collation and analysis of the intelligence we receive from a wider range of sources. We want the Bar Standards Board to look forward, not backwards, and to intervene, where necessary, proactively, not reactively. Linked to this, we also intend to review our current risk framework to make sure that intelligence is joined up and that our front-line teams have more discretion to act promptly in response to emerging risks.

We are conscious that the Bar Standards Board necessarily operates at a distance from individual barristers. Most barristers work in chambers and the best chambers already take a very active role in promoting standards, equality and access. We want to see all chambers and the employers of barristers sharing best practice. With that in mind, we shall be carrying forward our work to clarify our regulatory expectations of barristers' practice management responsibilities and, working with the profession, to identify good practice in chambers' oversight and in the discharge of those responsibilities. The greater the assurance we can take as regulator from the work of chambers, the more proportionate and targeted will be our regulatory interventions.

Finally, many of the reforms and initiatives outlined in this Business Plan will entail changes to our Handbook and Code of Conduct. We expect to consult on such changes as they come to fruition rather than in one fell swoop. However, we are also conscious of the need, in revising the Handbook, to ensure that it is easily navigable and easily understood by both barristers and the public alike. We shall be making design changes to the layout of the Handbook and Code of Conduct with this in mind.

In summary, we shall:

- clarify our expectations of chambers – particularly in promoting high standards, access and equality – and work with the Bar Council and the profession to consolidate those expectations and to promote good practice;
- take forward essential amendments to the Code of Conduct and Handbook, including amendments flowing from other priority work programmes;
- reform our approach to capturing, collating and analysing data and intelligence;
- review the BSB risk framework.

Strategic Aim 1 – Efficiency: improving our performance

Delivering our core regulatory operations quickly, economically and to a high standard

Our regulatory decision-making is the very core of what we do. In 2021-22, we receive around 2,200 reports on barristers of growing complexity and had to assess the risks they presented. We launched over 160 investigations in the light of these reports and we opened over 200 supervisory cases. We also dealt with over 2,000 applications for authorisations ranging from requests for waivers from our rules to approvals to provide Bar training or pupillage. Although the quality of our decision-making remains high, our priority is to improve its timeliness. We intend to ensure that the increase which we have made in investment in this area will enable us to meet key service standards, which are set out in detail at the end of this document.

We are very conscious that we need to review our policies and processes in this area to ensure that they are the best they can be. So over the coming year we will:

- conduct an independent end-to-end review of our enforcement policies and processes and overhaul the key IT systems which support these processes to reflect the recommendations of a recent review by Deloitte;
- conclude the ongoing review into our decision-making processes for authorisations and begin implementing its recommendations; and
- review the role of the Independent Reviewers in our enforcement and authorisations processes.

We believe that these reviews will not just ensure that the improvement to our performance can be sustained but that they will also contribute to the cultural transformation of the BSB.

At the time of writing in March 2023 our productivity is already improving with more investigations having been concluded in the last three months of 2022 than in the previous six months. But our current key performance indicators focus primarily on the speed of decision-making and have the perverse effect of suggesting a deterioration in performance when overdue cases are concluded. We will therefore be reviewing our current KPIs to ensure that we set standards in future through a balanced scorecard approach which captures the quality of our decision-making, and our timeliness, productivity, and service more comprehensively. This scorecard will be set by our Board, will make our public reporting more transparent and will improve the ability of the Board to hold the Executive team to account. And we shall continue to review our performance in the public sessions of our Board meetings to which all are welcome, and which are regularly attended by members of the Press.

Strategic Aim 2 – Standards

Ensuring that barristers provide a high quality and responsive service throughout their careers

At the BSB we are responsible for setting the standards expected of those training to be barristers and ensuring that they are met and maintained throughout their careers. We do so through a range of measures, including:

- regulating those who provide vocational training and pupillage
- setting the curriculum for training as a barrister and managing the centralised assessments in civil and criminal litigation and professional ethics
- assuring standards across the Bar by supervising chambers and regulating specialised legal services businesses known as “entities” to ensure that they are meeting our rules, and targeting regulation where we see evidence that standards need to improve – in recent years, for example, we have set out new guidance for those working in the [Youth Courts](#) and [Coroners Courts](#)
- continuing to meet our obligations under the Money Laundering Regulations and under the regulations relating to financial sanctions and liaising with relevant stakeholders, including other regulators, the Office for Professional Body Anti-Money Laundering Supervision (our oversight regulator for money laundering), the Office of Financial Sanctions Implementation (OFSI), HM Treasury and law enforcement agencies and
- maintaining the BSB Handbook, which defines the core duties and rules relating to practice at the Bar.

Over the next year we will be seeking steps to strengthen these arrangements through measures including:

- continuing our existing programme of work on assuring the competence of barristers throughout their careers, including work to review regulatory requirements during the early years of practice and those that relate to Continuing Professional Development;
- developing arrangements for the assessment of advocacy and negotiation skills during pupillage as the final part of our reforms to Bar training
- undertaking a thematic review of the quality of vocational Bar training providers, how they ensure that standards are maintained once a student is admitted and what systems are in place to ensure that a student develops to their full potential, whatever their starting point
- completing our review of the regulation of standards in non-professional life and of barristers’ use of social media in the light of our recent consultation.

Strategic Aim 3 – Equality

Promoting diversity and inclusion at the Bar and the BSB and the profession's ability to serve diverse customers

We want the Bar at all levels of the profession and in all specialisms to be more truly representative of the public whom we serve. To this end we published last year our new Equality Strategy which sets out four main objectives.

These are to:

- clarify the BSB's expectations of the Bar concerning equality, diversity and inclusion and to highlight opportunities for change;
- hold the Bar to account for reducing racial and other inequalities across the profession;
- promote a culture of inclusion at the Bar and in legal services more generally; and
- build a diverse and inclusive workforce ensuring that the BSB is itself an example of the approach the BSB is promoting.

Our regular research into the diversity of the Bar suggests that those beginning their careers are indeed now more diverse but at the senior levels of the Bar women and those from minoritised backgrounds continue to be under-represented. Our work to review our Equality Rules and, in partnership with the profession, to ensure compliance with those rules, is therefore very important. It is also vital that we continue our work to eliminate bullying, discrimination and harassment at the Bar.

Our Religion and Belief, Race Equality and Disability taskforces, which are made up of barrister and lay experts in these areas, will also continue their work to advise us as to how best we can promote equality and inclusion.

Our key project for the coming year will be to review the Equality Rules to ensure that they remain fit for purpose and clearly set out minimum standards for chambers' and employers' oversight of diversity, including appropriate governance. We shall also be undertaking research with pupillage providers to investigate the recruitment outcomes of different approaches aimed at increasing diversity.

Strategic Aim 4 – Access

Promoting consumer understanding of legal services and choice and good value for those who use those services

As a public interest regulator, we must ensure that the Bar as a profession works well for consumers now and in the future and can effectively support the administration of justice. This means that we must ensure that the future supply of barristers across all specialisms will sustain choice and competition. It also means that consumers must be able to exercise choice effectively and to understand and navigate the legal services which will meet their needs.

With these aims in mind, our work in 2023/24 will focus on promoting public legal education in collaboration with our fellow regulators and with other frontline providers of help to those in legal need. We shall also continue to ensure that our transparency rules are being complied with and are being effective. Our most recent review of our transparency rules suggests that there is a high level of compliance with the rules and that they are indeed helping consumers to shop around, while reducing the number of complaints made about costs and about the availability of information. But we shall continue to keep our rules, and compliance with them, under review.

In the coming year we will be continuing our examination of the role of new technology in the legal services market and our participation in the work of LawtechUK and we will also be looking at whether consumers' interests can be well served by online comparison or by other intermediaries offering to broker access to barristers. We approach our pilot of online comparison with an open mind, conscious of the potential risks, but also aware of the growth of such comparison sites in many other areas of professional life. We will also be looking at our "association rules" which regulate how barristers interact with intermediaries which provide information about their services.

Then in 2024-25 we also intend to look at the extent to which solicitors offer their clients a choice of barrister and at whether access to justice in future may be threatened by a lack of barristers as the profession ages.

In pursuing our activities in this area we are mindful of the LSB's [Statement of Policy on Empowering Consumers](#) and of the findings of the Competition and Markets Authority that competition is not working well in the legal services sector for individual consumers and small businesses.

Strategic Aim 5 – Independence: culture and capability

Strengthening the BSB's independence, capability, self-confidence and credibility

We want to ensure that the BSB has the culture, values and associated policies appropriate for an independent regulator and that everyone is committed to continuous improvement.

Our Senior Management Team will be leading this work by ensuring that everyone demonstrates the behaviours underlying our organisational values of fairness & respect, independence & integrity, and excellence & efficiency. We will recognise those who exemplify our values or deliver marked improvements in our work through reforms to our systems of recognition and reward.

When we set our new three year strategy in 2022 we thoroughly reviewed our capabilities and decided to strengthen our operational teams. We have also now reformed our reward system in response to the difficulties we experienced in recruiting new people for legal and policy roles. This problem was exacerbating the problems we were facing in completing timely investigations of alleged professional misconduct.

Our reviews of decision-making processes will ensure that we are operating efficiently and we are also seeking to make more immediate improvements to the efficiency of our operations and to our customer service with advice from a respected independent delivery expert. We are determined to ensure that we have a culture of high performance, continuous improvement and strong customer service.

With these objectives in mind, our core work throughout the year will also focus on:

- our periodic review of our implementation of the Internal Governance Rules, which govern the relationship between regulators and professional bodies, with the aim of enhancing regulatory independence within the current legislative framework. We want to ensure that our arrangements can continue to guarantee our independence and that we do not duplicate the work of the Bar Council.
- continuing to pursue the governance reforms in our Well Led Action Plan and in our action plan in response to the LSB's Regulatory Performance Review; and
- promoting engagement and collaboration with consumer organisations, the profession and other regulators.

Meeting our Regulatory Objectives

The tables below show how our work will help us to meet our regulatory objectives:

The Regulatory Objectives

Our planned work in 2023-24	Protecting and promoting the public interest	Supporting the constitutional principle of the rule of law	Improving access to justice	Protecting and promoting the interests of consumers	Promoting competition in the provision of services	Encouraging an independent, strong, diverse and effective legal profession	Increasing public understanding of citizens' legal rights and duties	Promoting and maintaining adherence to the professional principles
STRATEGIC AIM 1: EFFICIENCY								
1. Assessing reports of potential professional misconduct and risks to our regulatory objectives, taking enforcement or other action where necessary	●	●	●	●		●		●
2. Dealing with requests for authorisation, exemptions and waivers	●	●	●	●	●	●		●
3. Commissioning an independent end-to-end review of our enforcement processes	●	●	●	●		●	●	●
4. Concluding and commencing implementation of the recommendations from our review of authorisations decision-making	●	●	●	●	●	●		●
5. Reviewing the processes followed by our Independent Reviewers	●	●	●	●	●	●		●
6. Implementing the recommendations from the Deloitte operating systems review	●	●	●	●	●	●		●
7. Developing a balanced scorecard	●	●	●	●	●	●		●

The Regulatory Objectives

Our planned work in 2023-24	Protecting and promoting the public interest	Supporting the constitutional principle of the rule of law	Improving access to justice	Protecting and promoting the interests of consumers	Promoting competition in the provision of services	Encouraging an independent, strong, diverse and effective legal profession	Increasing public understanding of citizens' legal rights and duties	Promoting and maintaining adherence to the professional principles
STRATEGIC AIM 2: STANDARDS								
1. Regulating training providers	●	●	●	●		●		●
2. Regulating the Bar training curriculum and centralised exams	●	●	●	●	●	●		●
3. Assuring standards through supervision of chambers, authorising new entities and taking targeted regulatory action where necessary	●	●	●	●	●	●		●
4. Continuing to meet our obligations under the Money Laundering Regulations and the sanctions regime	●			●		●		●
5. Reviewing regulatory requirements during the early years of practice and for CPD	●			●	●	●		●
6. Strengthening our intelligence gathering and sharing	●			●	●	●		●
7. Developing arrangements for the assessment of advocacy and negotiation skills during pupillage	●		●	●	●	●		●
8. Conducting a thematic review of the admission arrangements of authorised training providers, how standards are maintained and how students can develop to their full potential	●	●	●	●	●	●		●
9. Concluding our review of the regulation of barristers' non professional conduct and their use of social media and issuing new guidance	●	●	●	●	●	●		●

The Regulatory Objectives

Our planned work in 2023-24	Protecting and promoting the public interest	Supporting the constitutional principle of the rule of law	Improving access to justice	Protecting and promoting the interests of consumers	Promoting competition in the provision of services	Encouraging an independent, strong, diverse and effective legal profession	Increasing public understanding of citizens' legal rights and duties	Promoting and maintaining adherence to the professional principles
STRATEGIC AIM 3: EQUALITY								
1. Promoting equality, diversity and inclusion at the Bar with the support of our Taskforces	●		●	●	●	●		●
2. Ensuring that chambers are implementing the actions set out in our Anti-Racism Statement	●		●	●	●	●		●
3. Tackling bullying, discrimination and harassment	●		●	●	●	●		●
4. Reviewing the Equality Rules	●		●	●	●	●		●
5. Undertaking research into pupillage recruitment with pupillage providers to investigate the recruitment outcomes of different approaches aimed at increasing diversity	●	●	●	●	●	●		●

The Regulatory Objectives

Our planned work in 2023-24	Protecting and promoting the public interest	Supporting the constitutional principle of the rule of law	Improving access to justice	Protecting and promoting the interests of consumers	Promoting competition in the provision of services	Encouraging an independent, strong, diverse and effective legal profession	Increasing public understanding of citizens' legal rights and duties	Promoting and maintaining adherence to the professional principles
STRATEGIC AIM 4: ACCESS								
1. Developing and delivering our public legal education strategy	●	●	●	●	●	●	●	●
2. Ensuring compliance with our transparency rules	●		●	●	●	●	●	●
3. Examining the role of new technology in the legal services market and taking part in the work of LawtechUK	●		●	●	●	●	●	
4. Researching whether online Digital Comparison Tools offer benefits for the public in choosing a barrister	●		●	●	●	●	●	
5. Reviewing the role of intermediaries and our association rules	●		●	●	●	●	●	●
STRATEGIC AIM 5 : INDEPENDENCE								
1. Embedding our values and behaviours to deliver continuous improvement	●	●	●	●	●	●	●	●
2. Periodic IGR review	●	●		●		●		
3. Pursuing the governance reforms in our Well Led Action Plan	●	●	●	●	●	●	●	●
4. Promoting engagement and collaboration	●	●	●	●	●	●	●	●

Our 2023-24 budget

Our budget year runs from 1 April 2023 to 31 March 2024 and we expect our total running costs - including our share of the costs of services which we share with the Bar Council – to be £14,732k.

Setting our budget

We independently set our own budget with regard to the forecasts for both the Practising Certificate Fees, which barristers pay annually in order to be authorised to practise, and other income streams. We always seek to ensure that our expenditure delivers value for money and we carefully prioritise our work as part of our business planning.

The Practising Certificate Fee (PCF)

Our income from the PCF is not within our direct control but is forecast using the latest available market data. The PCF is collected by the General Council of the Bar (GCB) and the income is divided as follows:

- 64.7% for the BSB (£11,995k)
- 27.0% for the Bar Council for some of its functions (as permitted under s51 of the Legal Services Act) (£5,012k) and
- 3.5% is paid to fund GCB pensions (£650k) and
- 4.8% is paid to the Legal Ombudsman and the Legal Services Board (£892k) to fund their services.²

The PCF income which we receive for regulation accounts for 85.0% of our total funding. Following consultation with the profession, the PCF for 2023-24 has received approval from the Legal Services Board.

Other sources of income

Our income streams other than the PCF come from charges we make for the specific services we provide to individuals and organisations, and we use historical and market data to forecast what we expect to receive. These income streams include the fees from Bar training providers, and the Bar Transfer Test (BTT), which is taken by qualified lawyers from other jurisdictions, qualified UK solicitors and others who wish to qualify to practise at the Bar of England and Wales as a condition for being granted exemptions from our standard training requirements. We can also draw on the General Council of the Bar reserves to meet any deficit and unexpected in-year calls on resources.

² This share of the PCF income is split proportionately between the BSB and Bar Council; the BSB income and expenditure for these items is not included in the tables below.

Income (£k)	
Total PCF income	11,995
Entity Regulation and ABS	80
Authorisations - Waivers and Accreditation	280
Bar Transfer Test	40
Bar Training fees	1,350
Training provider authorisations	8
Prosecution costs	40
Public access	1
Total non-PCF income	1,800
Share of estimated GCB investment income	372
Total BSB Income	14,167

Budget controlled directly by the BSB (£k)			
Department	Staff costs	Non-staff costs	Total
Regulatory Operations	2,698	935	3,633
Legal and Enforcement	1,597	416	2,013
Strategy and Policy	1,260	226	1,486
Communications and Public Engagement	298	96	394
Governance and Corporate Services	726	338	1,064
People (HR)	338	55	393
Project Management	197	158	355
Totals	7,114	2,224	9,338
BSB contribution to shared services			5,394
Total Expenditure³			14,732

³ Capital expenditure is not included in this figure. The BSB's direct capital expenditure in 2023-24 will be £224k and our portion of shared capital projects will be £637k

The BSB's key service standards

Our key service standards for our regulatory operations are set in the form of Key Performance Indicators (KPIs) and they are as follows:

Contact and Assessment – this team handles incoming reports of potential professional misconduct, requests for authorisations, waivers and exemptions and other general enquiries.

General Enquiries

- General enquiries addressed within 5 days (Target 80%)
- General enquiries referred within 3 days (Target 80%)
- Initial Assessment concluded or referred within 8 weeks (Target 80%)

Quality Indicator

- Percentage of cases where the Independent Reviewer upheld the original decision following a request for review (Target 95%)

Investigations and Enforcement – this team investigates reports of potential professional misconduct which our Contact and Assessment Team believe warrant further investigation and take enforcement action as appropriate.

Referral of cases

- Accepted or referred back within 2 weeks (Target 80%)

Investigation

- Decision on disposal within 25 weeks (Target 80%)

Quality Indicator

- Percentage of cases where the Independent Reviewer upheld the original decision following a request for review (Target 95%)
- Successful appeals against administrative sanctions (Target 0%)
- Successful appeals against disciplinary tribunal decisions attributable to BSB error or discrimination (Target 0%)

Authorisation, exemptions and waivers – authorising specialised legal services businesses and Bar training providers and granting exemptions and waivers from our rules where appropriate.

- Applications determined within six weeks of receipt of the complete application (Target 75%)
- Applications determined within eight weeks of receipt of the complete application (Target 80%)
- Applications determined within twelve weeks of receipt of the complete application (Target 98%)

Entity (including ABS) Authorisation

- Authorisation decisions made within six months of receipt of the application and associated fee (Target 90%)
- Authorisation decisions made within nine months of receipt of the application and associated fee (Target 100%)

Supervision – supervising barristers, chambers, BSB entities and other organisations that train pupils and monitoring their compliance with our rules.

- Cases assigned within 3 working days of the team receiving the referral from CAT (Target 80%)
- Cases for which a regulatory response was agreed within 20 working days of the case being assigned (Target 80%)
- Visit report letters issued within 5 working days of a visit to an organisation (Target 80%)

Further reading

To obtain a fuller picture of who we are, what we do, and the context in which this Business Plan was produced, please visit the following pages on our website:

- This Business Plan is designed to be read in conjunction with our [2022-25 Strategic Plan](#).
- More information about our work around [equality and diversity](#) can be found here.

Contacting us

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

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

Contact us:

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

Tel: 020 7611 1444

Email: ContactUs@BarStandardsBoard.org.uk

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

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

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

Meeting:	Bar Standards Board	Date:	30 March 2023
Title:	BSB review of governance documents		
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

- Approval of key governance documents, including all listed in and attached to this paper, is a matter reserved to the Board. This report brings together a range of proposals which variously give effect to specific requests of the Board or its committees or otherwise as a result of our routine periodic review.

Recommendations

- The Board is invited to:
 - approve** the proposed amendments to the BSB Constitution, its Scheme of Delegations, the Terms of Reference for the Performance and Strategic Planning Committee (PSP), the Terms of Reference for the Independent Decision-making Body, and the Standing Orders for joint Committees of the General Council of the Bar and the BSB;
 - approve** the proposed generic changes to Terms of Reference for the BSB's Committees and other Decision-making Bodies;
 - to **confirm** its preference for the format of the Scheme of Delegations (the existing tabular format or a matrix spread sheet format);
 - consider and agree** delegation of authority to the Senior Management Team to approve additional members of staff where that is within the approved budget.

Background

Constitution

- At its meeting in July 2022, when the Board approved the policy on complaints against Board members, it asked that we review the wording of the Constitution in respect of provisions to suspend Board Members (so that these documents were aligned and that the Chair and/or the Board had the powers set out in the policy document).
- We have proposed wording at the new paragraph 17 which is consistent with that in the policy document. (We will renumber subsequent paragraphs in the version to be published after the change has been approved).

5. The BSB’s Constitution states that the Board may amend the Constitution only after consulting the Bar Council. We submitted this proposed change for scrutiny by the Bar Council’s General Management Committee which then recommended it to the Bar Council. Timing meant that the proposal was circulated to Bar Council members out of session and only one response was received, and that person stated that they did not see any issue with the amendment.
6. We have also amended paragraph D in the Preamble, only to correct the reference to the Bar Council Constitution.

Scheme of Delegations

7. The Scheme of Delegations describes the authority granted by the Board to the Director General to carry out regulatory functions on its behalf (and his sub-delegations within the executive), to other bodies either established by its Governance Manual or otherwise, and authority granted by the Commissioner to the executive to exercise specified powers set out in the Enforcement Decision Regulations within the BSB Handbook. For the information of newer members, the post of Commissioner is currently held by the Director General but it can be performed by another person.
8. In March 2020, the Board agreed that the Director General has authority to amend his sub-delegations within the executive without further reference to the Board. He has exercised this authority on a number of occasions, to reflect changes in job titles or in the structure of the executive. The Board’s delegations to the Director General remain a matter for the Board to consider and approve.
9. The Scheme of Delegations with the proposed amendments in track changes is attached as Annex 2 for completeness. However, every substantive change is detailed within this cover paper and it is not necessary to review the Annex. In future, where we have detailed every substantive amendment in the cover paper, we would put that Annex in the Board reading room so that members who wish to confirm our amendments can do so.
10. We have inserted statements to clarify that every member of staff listed as having a delegated power can take that decision individually (except for delegation 98, where that delegation is explicitly stated to be to two staff jointly), and that delegations cascade through the line management chain. In the Legal Services Board’s July 2021 report on our performance against the well-led standard¹ of its (then) regulatory performance framework, it stated that it was unclear which of the posts listed held responsibility for approval. The alternative to this statement is to construct a matrix spread sheet which more clearly indicates which posts hold which delegated authority but which might be more complicated for users of varying ability levels to navigate (an example of which is attached at Annex 3).
11. The LSB also stated in this report that it would “leave the BSB to consider improving clarity in the Scheme of Delegations and whether it could usefully sit alongside an articulation of what is reserved to the Board, which is an approach that many other bodies adopt”. Longer standing Board members will recall that the Board approved a revised [Governance Manual](#) in December 2022, and that now includes a list of matters reserved to the Board. We would be grateful for the Board’s view on whether this list and the additional statements to the existing format are sufficient for clarity or whether we should adopt the format depicted at Annex 3.

¹ <https://legalservicesboard.org.uk/wp-content/uploads/2021/06/BSB-Well-led-review-findings-report.pdf>

12. The Director General has also requested that the Scheme include an explicit statement to the effect that decisions likely to be controversial or to impact public confidence in the BSB taken under his sub-delegations should be notified to him by the decision maker. We have inserted a statement to that effect.
13. The following paragraphs detail the substantive changes proposed to the Board's delegations to the Director General. We have sought views of colleagues in all of the teams which have any delegated authority on whether these existing delegations (and sub-delegations) remain accurate and appropriate.
14. We propose revision of delegation 7, which is to approve a decision to take supervisory action, to take no action or to refer the case internally, so that it is explicit that the Supervision Team might also refer a case to the Authorisations Team (as well as the Contact & Assessment and Investigations & Enforcement teams).
15. We propose deletion of delegation 31 since there is no longer a minimum time or subject based requirement for CPD except in relation to the New Practitioner Programme (NPP) and delegation 31 a) already covers waivers from or extensions of time to complete the requirements for the NPP.
16. We propose amendments to delegations 35 and 38 which are powers for authorisation, and withdrawal of authorisation, for providers of the integrated and vocational pathways so that it now includes authorisation of (or withdrawal of authorisation from) the apprenticeship pathway.
17. We propose amendment of delegations 43 and 44 which relate to registering a barrister as a pupil supervisor and to investigating a matter which appears to affect the suitability of a barrister to act as a pupil supervisor, so that these relate to "a person" rather than a barrister specifically. The Bar Qualification Manual sets out that pupil supervisors will normally be barristers but we no longer mandate this. Provided a person is able to meet the training outcomes in the Bar Qualification Manual, they may be approved as a pupil supervisor.
18. We propose amending delegation 60 (which gives the Independent Decision-making Panels powers to conduct reviews) by deletion of references to Part 4 B2, Part 4 B3 and Part 1 A4 of the Handbook. We do not need the references to Part 4 B2 and Part 4 B3 because they merely establish the right of an applicant/student/AETO to ask the BSB for a review of a decision and that does not need to be delegated. rQ38 (within Part 4 B4) is the rule dealing with the BSB's ability, where provision is made for a review of a decision, for the review to be delegated to an IDP and that is what needs to be delegated. There is no explicit right of review conferred in the Handbook against general waiver decisions taken pursuant to r15 (Part 1 A4 of the Handbook) and therefore no power that needs to be delegated.
19. We recommend that the Board also approve an amendment to the Terms of Reference for the Independent Decision-making Body so that it is consistent with this delegation. Currently, those Terms of Reference also refer to reviews of decisions taken under Part 1 A4 and we propose deletion of that Handbook reference. We have not attached an Annex with track changes, as the simplicity of this proposal makes that unnecessary.
20. We propose deletion of delegations 61 and 62 which are the powers to determine whether applications for review of decisions of the Bar Transfer Test (BTT) Examining Board are referred to the Independent Reviewer (who is an external independent education contractor) and then for the Independent Reviewer to make those determinations. This is because the changes to the BTT following implementation of our Bar training reforms mean we are no longer responsible for the review process. That review process now sits with the providers of the BTT.

21. We propose inserting a new delegation 79 (although we have not renumbered subsequent delegations in the Annex to this paper, we will do so for publication). This is for the Board to delegate the power to treat a new report that comes to light during an investigation of an allegation that meets the criteria of rE12 as a new allegation (Handbook power rE16).

Terms of Reference for the Performance and Strategic Planning Committee

22. At the inaugural meeting of the Performance and Strategic Planning Committee (PSP) in January, papers included a copy of the Terms of Reference. Members took that opportunity to request the amendments detailed below and in Annex 4.
23. Under the heading of Strategy, the text has been amended to reflect that the Committee only provides an initial qualification on horizon scanning. It simply provides ideas for the Board which it may consider in developing its strategy at the annual Away Day. Further, that as the Board is the owner of BSB strategy, the Committee should “advise on” (rather than “oversee”) its development.
24. For reporting responsibilities, the Committee agreed that it should report at least twice a year to the Board on its overall activity (not just once). In agreeing this point, PSP noted that specific performance reports will be presented at least quarterly to the Board as well. We have also inserted a new clause at the Committee’s request to give it the explicit ability to refer any “red flag” issues directly to the Board if it considers it appropriate to do so.
25. At its meeting on 16 March, the Committee approved an additional junior post which was recommended as one of the actions from the current review of processes in the Contact and Assessment Team. The Committee questioned whether authority to agree increases in headcount (that can be accommodated within the existing budget) should be granted to the Senior Management Team. Accordingly, we propose deletion of paragraph g.2 which states that PSP may approve additional members of staff where that is within the approved budget. We also propose that the Board make a resolution delegating authority to the Senior Management Team to approve additional members of staff where that is within the approved budget. At an earlier meeting of the (as it was then) Strategic Planning and Resources Committee, it had already been agreed that any proposals for additional staff that would exceed the budget agreed by the Board should be considered by the Board itself.

Terms for Reference for BSB Committees and other Decision-making Bodies

26. We restructured and revised governance documents in 2022 so that every Committee and Decision-making Body (the Centralised Examinations Board and the Independent Decision-making Body) has separate Terms of Reference and these are structured so that each stands alone. These are based on the template from the Chartered Governance Institute (CGI – formerly the Institute of Chartered Secretaries and Administrators, ICSA).
27. It has become apparent that some generic requirements were not carried over from our previous Standing Orders. We propose amendment of each of the Terms of Reference to insert the standard clause on cessation of membership (mirroring paragraph 16 in the Constitution which sets out when a person would cease to be a Board member). We also propose a further amendment to each of these Terms of Reference to require that every member must undertake BSB equality and diversity training within three months of taking up an appointment with the BSB.

28. For completeness, we also propose an amendment so that each Terms of Reference is explicit that members of these bodies may not be appointed as a member of the Advisory Pool of Experts. That will mirror the requirement already set out within our Governance Manual but allows each Terms of Reference to properly stand alone as was intended.

Standing Orders for joint Committees of the General Council of the Bar and the BSB

29. Standing Orders for joint Committees of the General Council of the Bar of England and Wales and the Bar Standards Board are jointly agreed and require approval by both bodies. The Standing Orders require that they be reviewed on an annual basis by a joint forum of the GCB and the BSB, for compliance with Rule 1(3) of the Internal Governance Rules – that arrangements must be periodically reviewed and improved (if improvement is reasonably practicable).
30. In July 2021, given that it had only been a year since changes to the joint Committees had been implemented, the previous Head of Strategy, Planning and Governance for the Bar Council provided a verbal report to the Shared Services Forum. On that occasion, no amendments were proposed or agreed and so none were recommended to the relevant governance bodies.
31. We are now proposing amendments for correctness (for example, changed references to other governance documents) and to correct issues of process and procedure that have arisen or become apparent since these May 2020 Standing Orders were adopted.
32. Full details of the proposed amendments to the Standing Orders for Joint Committees can be found in Annex 5 in track changes and any amendments of substance are outlined below. We have not detailed amendments merely to correct cross-references or minor typographical errors in this cover paper.
33. We have corrected the reference in paragraph 9(c) to the Practising Certificate Rules made by the LSB so that it is to the current Rules rather than the 2009 Rules. The reference was in fact out of date when these Standing Orders were agreed, as the previous Rules were made in 2016.
34. We have deleted paragraph 9(j) which referred to the standard increase to be applied in the annual performance related salary review, as we no longer apply a performance related pay model.
35. We have amended paragraph 9(k) which sets out that it is for a sub-panel of the Finance Committee to set the remuneration of the independent members of the joint Audit and Finance Committees. That sub-panel is stated to be “consisting of members referred to in paragraphs 10(c) and 10(d)” - which are the two practising barristers appointed by the Chair of the Bar Council and the two BSB members nominated by the Chair of the BSB. The current wording is ambiguous in that it is unclear whether all four of those members are required to participate in this sub-panel. We have amended this so that the sub-panel requires a quorum of two (which must include one from the Bar Council and one from the BSB), and that it should make recommendations on fees to the GCB and the BSB.
36. For the BSB, approval of the remuneration and terms of engagement for all members of any BSB committee, sub-committee, panel, or other body is reserved to the Board (on the recommendation of its Remuneration Committee). It is therefore inconsistent that approval of remuneration of the independent members of the joint Committees should sit with the other members of the Finance Committee.

37. We have amended paragraph 10(d) so that the members of the Finance Committee nominated by the Chair of the BSB are only members of the Board (and not also of a BSB Committee). The relevant BSB Committee is comprised entirely of Board members and we would not consider it appropriate to appoint anyone other than a Board member to the joint Committees.
38. We have amended the possible length of terms for the members of both the Finance Committee and Audit Committee who are nominated by the Chair of the BSB, so there is the option that their terms on the joint Committees are co-terminous with their membership of the Board. Otherwise, the BSB would have to stand down the Chair of its Performance and Strategic Planning Committee (which scrutinises resources and budgets on behalf of the Board) from the Finance Committee or the Chair of its Governance, Risk and Audit Committee from the Audit Committee whilst they still hold those BSB posts and appoint other Board members in their place. For clarity, terms of BSB Board members are up to four years and renewable once so members can serve for eight years rather than the six allowed for other members of these joint Committees.
39. These Standing Orders were agreed by the GCB and the BSB in advance of work on the Dispute Resolution Protocol (which was a requirement of the Internal Governance Rules). It therefore did not contain the intermediate step of advice taken or mediation sought before escalation of a dispute to the Legal Services Board which is within the final Dispute Resolution Protocol. We have inserted this step as paragraph 22(b) so that the processes are consistent.
40. The Standing Orders referred to this annual review being undertaken by a meeting of the “GCB and BSB and senior leadership team (SLT) (which includes Resources Group Directors))” but the previous SLT was replaced by the Shared Services Forum. We have therefore corrected that reference in paragraph 42.
41. The proposed changes have been scrutinised by the Bar Council’s General Management Committee and it will recommend these changes to the Bar Council. Presuming that the Board agrees these changes, final approval will be by the Bar Council on 25 April 2023 (which then becomes the effective date of the next version).

Equality and Diversity

42. The review of governance documentation does not give rise to any equality considerations (because we are not reviewing the underlying governance arrangements).

Communications and Stakeholder Engagement

43. Approved documents will be published on the BSB’s website and staff intranet.

Annexes

44. Annex 1 – BSB Constitution with proposed amendments in track changes;
Annex 2 – Scheme of Delegations with proposed amendments in track changes;
Annex 3 – Alternative (matrix spread sheet) format for the Scheme of Delegations;
Annex 4 – Terms of Reference for the Performance and Strategic Planning Committee with proposed amendments in track changes; and
Annex 5 – Standing Orders for joint Committees of the General Council of the Bar of England and Wales and the BSB, with proposed amendments in track changes.

Constitution of the Bar Standards Board
~~14 July 2022~~30 March 2023

PREAMBLE

- A. The General Council of the Bar (GCB) is an approved regulator for the purposes of the Legal Services Act 2007.
- B. The GCB has established the Bar Standards Board (“the BSB”) to exercise the regulatory functions of the GCB.
- C. The GCB has delegated the discharge of its regulatory functions to the BSB in compliance with Section 28 of the Legal Services Act 2007. This is in accordance with the overarching duty set out in Rule 1 of the Internal Governance Rules 2019, under which the GCB is required to have in place arrangements which ensure that the exercise of its regulatory functions is not prejudiced by its representative functions. In particular, the GCB must have arrangements in place to separate its regulatory functions from its representative functions and to maintain the independence of its regulatory functions as effectively as is reasonably practicable and consistent with Section 28 of the Legal Services Act 2007.
- D. Accordingly, and by the authority delegated under paragraph 1(~~fd~~) of the Bar Council Constitution, the BSB makes the following Constitution.

CONSTITUTION

Defined Terms

1. In this Constitution the following terms have the meanings set out below:

“barrister Board Member” means a person who is both a practising barrister and a Board Member;

“The Bar Council” means the Council of the General Council of the Bar of England and Wales;

“The Bar Standards Board” and “BSB” means the Board, any committees established by the Board, and any individual or group exercising the delegated powers of the Board;

“Board” means the Board of the BSB;

“Board Member” means a member of the Board, and includes any person occupying the position of Board Member, by whatever name called;

“Chair” means the Chair of the Board;

“General Council of the Bar” and “GCB” means the General Council of the Bar of England and Wales and refers to the legal entity in entirety;

“lay person” is defined in Schedule 1, paragraph 2(4) of the Legal Services Act 2007;

“lay Board Member” means a person who is both a lay person and a Board Member;

“overarching duty” is defined in rule 1 of the Internal Governance Rules 2019;

“regulatory functions” is defined in section 27(1) of the Legal Services Act 2007;

“representative committees of the Bar Council” means the committees established pursuant to Part Two of the Standing Orders for Committees of the Bar Council of England and Wales;

“representative functions” is defined in section 27(2) of the Legal Services Act 2007;

“Secretary” means the secretary to the BSB with the duties performed by the Head of Governance and Corporate Services, or their nominee; and

“Seven Principles of Public Life” are those set out in the First Report of the Committee on Standards in Public Life (1995) and amended thereafter (2015).

The BSB

2. The BSB is the body established to discharge the regulatory functions of the General Council of the Bar. It has no separate legal personality.
3. The BSB is responsible for performing all regulatory functions of the GCB as defined in section 27(1) of the Legal Services Act 2007. These regulatory functions have been delegated to the BSB in entirety
4. The BSB is responsible for determining any question whether a matter involves the exercise of a regulatory function.
5. The BSB must independently determine the most appropriate and effective way of discharging its functions in a way which is compatible with the regulatory objectives and having regard to the better regulation principles.
6. The BSB has no representative functions as defined in section 27(2) of the Legal Services Act 2007.
7. For the avoidance of doubt, the regulatory functions of the BSB include, without limitation, formulating and implementing policies for and to regulate (including by making, altering and giving effect to regulatory arrangements as defined in section 21 of the Legal Services Act 2007 in respect of) all aspects of:
 - (1) education and training for the Bar, including, but without limitation, academic legal training as defined in the BSB Handbook; vocational training as defined in the BSB Handbook; education and training in pupillage (work-based learning component of training); continuing education and training for barristers; and testing by assessment, examinations or otherwise of students, barristers and other qualified lawyers; making provision itself for, or arranging for others to make provision for, such education, training and testing;
 - (2) qualification for Call to the Bar and for the grant of rights of audience and rights to conduct litigation and other rights exercisable by barristers;

Part 1 – Public

- (3) the grant of rights of audience and rights to conduct litigation exercisable by barristers and other rights exercisable by barristers;
- (4) the authorisation of barristers to carry on reserved legal activities as defined in the Legal Services Act 2007;
- (5) the authorisation of bodies of persons (corporate or unincorporated) to carry on reserved legal activities as defined in the Legal Services Act 2007;
- (6) the conduct, practice and discipline of barristers, including the conduct of barristers exercising rights of audience, rights to conduct litigation and other rights exercisable by barristers;
- (7) the conduct, practice and discipline of other persons authorised to carry on reserved legal activities as defined in the Legal Services Act 2007;
- (8) the conduct, practice and discipline of persons who are not authorised to carry on reserved legal activities but who are managers or employees of persons who are so authorised (within the meaning of the Legal Services Act 2007); and
- (9) to make arrangements, either directly or through another body, for the conduct of disciplinary and other regulatory hearings and to take enforcement action, including disciplinary action, in respect of those persons who are subject to regulatory arrangements.

Duties of the BSB

8. The BSB must act in a way which is compatible with the Legal Services Act 2007 or with any other law relating to the exercise of its regulatory functions.
9. The BSB must, so far as is reasonably practicable, act in a way:
 - (1) which is compatible with the regulatory objectives defined in section 1 of the Legal Services Act 2007; and
 - (2) which the BSB considers most appropriate for the purpose of meeting those objectives.
10. The BSB must have regard to:
 - (1) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed;
 - (2) any other principle appearing to it to represent best regulatory practice;
 - (3) any guidance issued by the Legal Services Board in accordance with rule 15 of the Internal Governance Rules 2019; and

- (4) the responsibilities and legitimate interests of the GCB as an approved regulator for the purposes of the Legal Services Act 2007, including the GCB's responsibility to be assured of the BSB's compliance with section 28 of the Legal Services Act 2007 or as otherwise required by law.
11. The BSB must:
- (1) supervise and monitor the work and conduct of any committee or other body or person referred to in paragraph 17(3) below;
 - (2) monitor and ensure the just operation of disciplinary tribunals and any other panels assigned to determine (whether at first instance or on appeal) any issues as to the conduct of individual barristers;
 - (3) monitor and ensure the just operation of fitness to practise panels assigned to determine (whether at first instance or on appeal) any issues as to the medical fitness of individual barristers;
 - (4) ensure that equality of opportunity and diversity issues are taken into account in respect of regulatory functions in accordance with the Equality Act 2010 and other relevant legislation;
 - (5) liaise as it considers necessary or appropriate with the Bar Council and its committees, the Council of the Inns of Court, the judiciary, and such other bodies or persons as it may consider necessary or appropriate;
 - (6) prepare and keep under review a plan for the development and effective discharge of its regulatory functions;
 - (7) only agree to share a service with the GCB if it agrees that (i) it will not undermine, and could not reasonably be seen to undermine, the separation of regulatory and representative functions, (ii) it is effective and appropriate for the BSB to discharge its regulatory functions, and (iii) it is necessary to be efficient and reasonably cost-effective;
 - (8) comply with the relevant procedures and requirements of the Standing Orders for joint Committees of the Bar Council of England and Wales and the Bar Standards Board;
 - (9) provide sufficient information to the GCB as is reasonably required for the GCB to be assured of the BSB's compliance with Section 28 of the Legal Services Act 2007; and
 - (10) publish an annual report on its work.
12. The BSB must act in accordance with the Seven Principles of Public Life at all times and, in particular, when appointing, or making arrangements for the appointment of, the members of any committee or other body or person established under the Constitution.

Membership of the Board

13. The Board shall consist of between eleven and fifteen Board Members (including a Chair and a Vice Chair) who shall be appointed and hold office in accordance with the BSB’s appointment policy as adopted and amended from time to time (the “Appointments Policy”).
14. The Board Members shall consist of:
 - (1) no fewer than five, and no more than seven, practising barristers who are not members of the Bar Council; and
 - (2) no fewer than six, and no more than eight, lay persons
 - (3) a Chair who shall be one of the Members in (2) above.
15. The number of lay Board Members shall generally (other than when there is a casual vacancy) be one more than the number of barrister Board Members.
16. A person shall cease to be a Board Member if:
 - (1) the period for which they were appointed expires (and their appointment is not renewed);
 - (2) they resign their membership by notice in writing;
 - (3) they were appointed as a lay person and cease to be a lay person;
 - (4) 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;
 - (5) they fail to attend meetings with sufficient frequency and regularity to be able to discharge their duties and the Board resolves that they should cease to be a Board Member; or
 - (6) the Board resolves that they are unfit to remain a Board Member (whether by reason of misconduct or otherwise).
17. Where a complaint about a Board Member alleges misconduct of a nature that, if proved, would be incompatible with continuing appointment to public office, the Chair may suspend the Board Member whilst an investigation is conducted. Suspension of a Board Member will be considered by the Chair in consultation with the Vice Chair; or in the case of a complaint against the Chair, suspension will be considered by the Vice Chair and the Chair of the Governance, Risk and Audit Committee; or in the case of a complaint against the Vice Chair, suspension will be considered by the Chair and the Chair of the Governance, Risk and Audit Committee.

Powers and Responsibilities of the Board

18. The Board is responsible for the oversight of the BSB's functions, as set out in paragraph 7. The BSB shall have power to do all things calculated to facilitate, or incidental or conducive to, the performance of its functions or duties:
 - (1) to regulate its own procedure and make its Constitution;
 - (2) to make such rules and/or arrangements as it considers necessary or appropriate;
 - (3) to establish, and regulate the procedure of, such committees, panels (including advisory panels, whether representing consumer interests or otherwise), decision-making panels, and other bodies as it considers necessary or appropriate to enable it to discharge any of its functions or duties;
 - (4) to appoint a Director General or other principal administrative officer and such other administrative officers for such periods and on such terms as it thinks fit;
 - (5) If, and on such terms as, it considers necessary or appropriate to enable it to discharge any of its functions, to delegate any of its functions to (or make or approve any arrangements for the delegation of those functions by):
 - (a) any committee, panel or other body established under paragraph 17(3) above; or
 - (b) a Director General or other principal administrative officer; or
 - (c) any other person or body.
 - (6) To invite any person to attend any meeting of the BSB in an advisory or consultative capacity.
19. If the Board so specifies, any such delegation may authorise further delegation of the Board's powers by any person to whom they are delegated.
20. The Board may revoke any delegation in whole or part or alter its terms and conditions.
21. Committees to which the Board delegates any of its powers must follow procedures which are based as far as they are applicable on those provisions of the Constitution which govern the taking of decisions by Board Members.

Decision-making by Board Members

22. Board Members will take decisions collectively.
23. The general rule about decision-making by Board Members is that any decision of the Board Members may be taken:
 - (1) at a Board meeting; or
 - (2) in the form of a Board written resolution.

Calling a Board meeting

24. Any Board Member may call a Board meeting. The secretary must call a Board meeting if a Board Member so requests.
25. A Board meeting is called by giving reasonable notice of the meeting to the Board Members.
26. Notice of any Board meeting must indicate:
 - (1) its proposed date and time;
 - (2) where it is to take place; and
 - (3) if it is anticipated that Board Members participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.
27. Notice of a Board meeting must be given to each Member but need not be in writing.
28. Notice of a Board meeting need not be given to Board Members who waive their entitlement to notice of that meeting.

Participation in Board meetings

29. Board Members participate in a Board meeting, or part of a Board meeting, when the meeting has been called and takes place in accordance with the Constitution, and they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
30. In determining whether Board Members are participating in a Board meeting, it is irrelevant where any Board Member is located or how they communicate with each other.

Quorum for Board meetings

31. At a Board meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
32. The quorum of any Board meeting shall be five Board Members, of whom at least three must be lay persons and at least two must be practising barristers.
33. The validity of any act of the BSB is not affected:
 - (1) by a vacancy in the office of Chair or amongst the other Board Members; or
 - (2) by a defect in the appointment or any disqualification of a person as Chair, or another Board Member of the BSB.

Chairing Board meetings

34. The BSB shall appoint a Chair, in accordance with the Appointments Policy, who shall be a lay person.
35. If the Chair is not participating in a meeting at the time at which it was to start, the participating Board Members must appoint one of themselves to chair it.

Voting at Board meetings: general rules

36. A decision is taken at a Board meeting by a majority of the votes of the participating Board Members. Each Board Member participating in a Board meeting has one vote.
37. Board Members unable to attend a Board meeting may submit comments on a matter in advance of the meeting to be shared during discussion, A vote does not count in absentia. A vote will be counted from a Board Member attending remotely.
38. If a Board Member has an interest in an actual or proposed transaction or arrangement with the BSB that Board Member may not vote on any proposal relating to it.

Chair's casting vote at a Board meeting

39. If the numbers of votes for and against a proposal are equal, the Chair or other Board Member chairing the meeting has a casting vote.

Adoption of Board written resolutions

40. A proposed Board written resolution is adopted when two thirds of the Board Members who would have been entitled to vote on the resolution at a Board meeting have signed one or more copies of it or approved it by email, provided that those Board Members would have formed a quorum at such a meeting.
41. Once a Board written resolution has been adopted, it must be formally ratified at the next Board meeting and appear in the minutes of that meeting.
42. Once a Board written resolution has been adopted, it must be treated as if it had been a decision taken at a Board meeting in accordance with the Constitution.

Amendments to the Constitution

43. This Constitution may be amended or revoked by resolution of the Board only after consulting the Bar Council.

Scheme of Delegations (wef ~~14 September 2022~~30 March 2023)

The Board is responsible for creating an organisational structure capable of meeting its regulatory obligations and implementing its strategic plan by establishing and maintaining a scheme of delegations. This scheme of delegations therefore describes the authority granted by the Board to its committees and executive to carry out regulatory functions on its behalf.

The scheme comprises:

- A. delegation from the Board to the Director General
- B. sub-delegation of Board powers from the Director General to the executive
- C. delegation from the Board to other bodies, listed in the [Standing Orders Governance Manual](#)
- D. delegation from the Board to other bodies, not listed in the [Standing Orders Governance Manual](#)
- E. delegation from the Governance, Risk and Audit (GRA) Committee to the Director General
- F. sub-delegation of GRA powers from the Director General to the executive
- G. delegation from the Commissioner to the executive

Every member of staff listed as having a delegated power can take that decision individually (except for delegation 98, where that delegation is explicitly stated to be to two staff jointly). Delegations cascade through the line management chain, so for every member of staff with delegated authority to take a decision, their line manager also has delegated authority to take that decision.

Decisions likely to be controversial or to impact public confidence in the BSB should be notified to the Director General by the decision maker.

A. The Bar Standards Board delegates the powers below to the Director General, including the power to sub-delegate, to:	B. The Director General sub-delegates the powers granted by the Board as specified in column A, in accordance with decision-making criteria, to:
REGULATORY POLICY	
1. Approve formal / published guidance on the interpretation of rules and regulations.	Any Director

2. Make changes to the rules, including the Handbook, as approved by the Legal Services Board through the exempt application process.	Director of Legal and Enforcement Director of Regulatory Operations Director of Strategy and Policy
3. Implement regulatory changes and policies that enact exempt changes.	Director of Legal and Enforcement Director of Regulatory Operations Director of Strategy and Policy
4. Implement rules, systems or procedures required to give effect to policies and regulatory arrangements previously agreed by the Board.	Director of Legal and Enforcement Director of Regulatory Operations Director of Strategy and Policy
5. Grant waivers from or modifications to requirements of the Handbook where appropriate, other than those requirements which are separately delegated within this Scheme of Delegations.	Director of Legal and Enforcement Director of Regulatory Operations Director of Strategy and Policy
6. Issue guidance to the Inns' Conduct Committee or the Council of the Inns of Court to follow in carrying out their functions as set out in Part 4 of the Handbook and any Memorandum of Understanding between the parties (Part 4, Section B rQ6).	Director of Legal and Enforcement Director of Regulatory Operations Director of Strategy and Policy
SUPERVISION	
7. Approve a decision to take supervisory action, to take no action or to refer the case to the Investigations and Enforcement Team, and/or the Authorisations Team and/or the Contact and Assessment Team.	Director of Regulatory Operations Head of Supervision Supervision Manager Senior Regulatory Officer (Supervision) Regulatory Officer (Supervision)

BSB ENTITY AUTHORISATION / LICENSING	
8. Authorise or license entity applications (rS85, rS86, and rS99).	Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)
9. Refuse to authorise or license entity applications (rS85, rS86, and rS99, rS101, and rS102).	Director of Regulatory Operations Head of Authorisation Authorisations Manager
10. Revoke or suspend authorisations / licences of BSB entities (rS117, rS130 and rS133).	Director of Regulatory Operations Head of Authorisation
11. Impose conditions, obligations or terms on or modify a BSB entity's authorisation or licence at any point (rS113, rS114 and rS116).	Director of Regulatory Operations Head of Authorisation Authorisations Manager
12. Extend the decision period for considering entity applications (rS97).	Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)

13. Approve an owner, manager, Head of Legal Practice (HOLP) or Head of Finance and Administration (HOFA), including emergency / temporary HOLPs or HOFAs (rS103, rS108, rS109 and rS132).	Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)
14. Reject an owner, manager, Head of Legal Practice (HOLP) or Head of Finance and Administration (HOFA), including emergency/temporary HOLPs or HOFAs (rS104 - rS110).	Director of Regulatory Operations Head of Authorisation Authorisations Manager
15. Provide express written consent to the appointment of a person who has been disqualified as an employee of a barrister in chambers (rC89.3).	Director of Regulatory Operations Head of Authorisation Authorisations Manager
16. Provide express written consent to the appointment of a person as a HOLP, HOFA, manager or employee of an entity who has been disqualified (rC92).	Director of Regulatory Operations Head of Authorisation Authorisations Manager
INTERVENTION	
17. Authorise the use of intervention action in accordance with the powers set out at Schedule 14 to the Legal Services Act 2007, as modified by The Legal Services Act 2007 (General Council of the Bar) (Modification of Functions) Order 2018.	Director of Legal and Enforcement Director of Regulatory Operations Director of Strategy and Policy

PROVISION OF INFORMATION	
18. Authorise the issue of a notice requiring the production of documents and/or provision of information in relation to a licensed body (section 93 Legal Services Act 2007 and rC64.4).	Director of Legal and Enforcement Director of Regulatory Operations Head of Investigations and Enforcement Head of Legal Support Head of Supervision Head of Authorisation
19. Authorise the issue of a notice requiring the production of documents and/or provision of information in relation to a BSB authorised individual or BSB authorised body (Article 5 Legal Services Act 2007 (General Council of the Bar) (Modification of Functions) Order 2018 and rC64.4).	Director of Legal and Enforcement Director of Regulatory Operations Head of Investigations and Enforcement Head of Legal Support Head of Supervision Head of Authorisation
EDUCATION AND ASSESSMENTS	
20. Implement rules, systems or procedures required to give effect to policies and regulatory arrangements previously agreed by the Board with regard to formal assessment of standards for qualification / authorisation.	Director of Regulatory Operations Director of Strategy & Policy Head of Authorisation Assessment Lead Examinations Manager
21. Implement rules, systems or procedures required to give effect to policies and regulatory arrangements previously agreed by the Board with regard to training specification requirements and delivery.	Director of Regulatory Operations Director of Strategy & Policy Head of Authorisation Assessment Lead Head of Supervision

<p>22. Take decisions in relation to the approval, refusal and rescinding of approval of individuals and organisations to provide training, supervision or assessment where required by the regulations.</p>	<p>Director of Regulatory Operations Director of Strategy and Policy Head of Authorisation Assessment Lead Authorisations Manager</p>
AUTHORISATIONS AND WAIVERS	
<p>23. Take decisions in relation to applications for exemption from, or modifications to, any requirement of the Bar Qualification Rules (Part 4, Section B), except the power in rQ6 which is covered by Delegation 6.</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)</p>
<p>24. Take decisions in relation to applications for waivers from membership of BMIF (rC77).</p>	<p>Director of Legal and Enforcement Director of Regulatory Operations Director of Strategy and Policy</p>
<p>25. Take decisions in relation to applications for transferring lawyers (Rules rQ7 – rQ28) and the registration of European Lawyers as Registered European Lawyers (Rules rQ17 – rQ22 and Section 3 D).</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)</p>

<p>25(a). Take decisions in relation to applications for exemptions from, or modifications to, any requirement for transferring lawyers (Rules rQ7 – rQ28), specifically applications to extend the time for completion of the Bar Transfer Test where exemption has been granted from standard training requirements.</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation) Regulatory Assistant (Authorisation)</p>
<p>26. Take decisions in relation to applications for designation of a European Lawyer as a qualified person (rS22.2.b.i).</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)</p>
<p>27. Take decisions in relation to applications for waivers from or modifications to the requirement to work with a qualified person as defined in rS22 of the BSB Handbook (rS20 and rS21).</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)</p>
<p>28. Designate a person as unsuitable to be a qualified person (rS22).</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager</p>
<p>29. Take decisions in relation to applications for litigation extensions (rS47, rS58 and rS59).</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)</p>

<p>30. Take decisions in relation to applications for waivers from or modifications to the requirements that the BSB sets to undertake Public Access work (rC120).</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)</p>
<p>31. Take decisions in relation to applications for waivers from or modifications to the Continuing Professional Development Regulations (Part 4C Rules rQ132-rQ134).</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)</p>
<p>31(a) Take decisions in relation to applications for waivers from or modifications to the Continuing Professional Development Regulations, specifically waivers from or extensions of time to complete the requirements of the New Practitioner Programme (Part 4C rules rQ132).</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation) Regulatory Assistant (Authorisation)</p>
<p>32. Exercise all powers under the Licensed Access Recognition Regulations.</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager</p>
<p>33. Approve applications for licensed access under the Licensed Access Recognition Regulations.</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)</p>

<p>33(a) Approve applications for licensed access under the Licensed Access Recognition Regulations, specifically applications for amendments to or renewal of a licence, registration of an organisation accredited by the Office of the Immigration Services Commissioner (OISC) or renewal of a licence by an organisation already registered (rS24.2).</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation) Regulatory Assistant (Authorisation)</p>
<p>34. Designate Legal Advice Centres as suitable for the attendance or employment of barristers, including by imposing conditions.</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)</p>
<p>35. Authorise, refuse, modify or impose conditions on providers of the academic and vocational (integrated) or apprenticeship or vocational components / approved pathways (Part 4, B3).</p>	<p>Director of Regulatory Operations</p>
<p>36. Authorise providers of the pupillage / work-based learning component (Part 4, B3).</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager</p>
<p>37. Withdraw authorisation, refuse, modify or impose conditions on providers of the pupillage / work-based learning component (Part 4, B3).</p>	<p>Director of Regulatory Operations</p>
<p>38. Withdraw authorisation from an AETO providing the academic and vocational (integrated) or apprenticeship or vocational components / approved pathways (Part 4, B3).</p>	<p>Director of Regulatory Operations Director of Strategy and Policy Director of Legal and Enforcement</p>

<p>39. Take decisions in relation to applications for waivers from or modifications to the pupillage funding requirements (rC113 – rC117).</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)</p>
<p>40. Register a pupillage or refuse to register a pupillage.</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation) Regulatory Assistant (Authorisation)</p>
<p>41. Retrospectively register a pupillage.</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation) Regulatory Assistant (Authorisation)</p>
<p>42. Approve, or refuse to approve, the issue of a temporary qualification certificate (rQ26 to rQ28).</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)</p>

<p>43. Register or refuse to register a <u>barristerperson</u> as a pupil supervisor.</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager</p>
<p>44. Investigate any matter which appears to affect the suitability of a barrister to continue to act as a pupil supervisor <u>to continue in that role</u>, and to dismiss any report, take no action or take informal action.</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Manager Senior Case Officer Case Officer</p>
<p>45. Waive, or refuse to waive, any fee generally charged by the BSB for any application for waiver from or authorisation under any provision of the BSB Handbook.</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)</p>
<p>46. Take decisions in relation to the equivalence of a degree awarded for the purposes of academic legal training outside the United Kingdom (rQ3.1 also see definition of academic legal training).</p>	<p>Director of Regulatory Operations Head of Authorisation Authorisations Manager Senior Regulatory Officer (Authorisation) Regulatory Officer (Authorisation)</p>
<p>47. Take decisions in relation to applications for waivers from or modifications to the regulatory restrictions as to which persons an employed barrister may supply legal services to (rS39).</p>	<p>Director of Strategy and Policy Head of Policy and Research Policy Manager where expressly delegated by the Director of Strategy and Policy</p>

RECORDS	
48. Register barristers as Public Access practitioners (rC120.1).	Director of Regulatory Operations Head of Customer Support and AtP Barrister Records and AtP Officer Barrister Records Officer Barrister Records Assistant
49. Issue full practising certificates (rS46.1).	Director of Regulatory Operations Head of Customer Support and AtP Barrister Records and AtP Officer Barrister Records Officer Barrister Records Assistant
50. Issue limited practising certificates (rS46.3).	Director of Regulatory Operations Head of Customer Support and AtP Barrister Records and AtP Officer Barrister Records Officer Barrister Records Assistant
51. Issue registered European lawyers' practising certificates (rS46.4).	Director of Regulatory Operations Head of Customer Support and AtP Barrister Records and AtP Officer Barrister Records Officer Barrister Records Assistant

52. Amend practising certificates in response to requests (rS71).	Director of Regulatory Operations Head of Customer Support and AtP Barrister Records and AtP Officer Barrister Records Officer Barrister Records Assistant
53. Amend practising certificates other than in response to requests (rS71).	Director of Regulatory Operations Head of Customer Support and AtP Barrister Records and AtP Officer
54. Endorse practising certificates to reflect any qualification restrictions or conditions imposed (rS72).	Director of Regulatory Operations Head of Customer Support and AtP Barrister Records and AtP Officer Barrister Records Officer Barrister Records Assistant
55. Revoke practising certificates where barristers become authorised to practise by other approved regulators (rS73.1.a).	Director of Regulatory Operations Head of Customer Support and AtP Barrister Records and AtP Officer
56. Revoke practising certificates in response to requests, or where barristers are disbarred or suspended from practice (rS73.1.b – .c).	Director of Regulatory Operations Head of Customer Support and AtP Barrister Records and AtP Officer Barrister Records Officer Barrister Records Assistant

57. Revoke practising certificates in the circumstances set out in Rule S59, or where barristers have failed to comply with undertakings to pay the appropriate practising certificate fees (rS73.2).	Director of Regulatory Operations Head of Customer Support and AtP Barrister Records and AtP Officer
58. Issue temporary practising certificates (rS76).	Director of Regulatory Operations Head of Customer Support and AtP Barrister Records and AtP Officer
59. Issue certificates of good standing (rE64.5).	Director of Regulatory Operations Head of Customer Support and AtP Barrister Records and AtP Officer Barrister Records Officer Barrister Records Assistant
C. The Bar Standards Board delegates the power to the following to:	
60. Determine any request for review made under Part 4 B2, Part 4 B3, Part 4 B4, Part 3 C6, or Part 3 E11 of the Handbook , or review of decisions taken under Part 1 A4 of the Handbook and exercise the powers under rQ38.	Independent Decision-Making Panels
D. The Bar Standards Board delegates the power to the following to:	
61. Determine whether applications for review of decisions of the Bar Transfer Test Examining Board are referred to the Independent Reviewer.	Director of Regulatory Operations Head of Authorisation Examinations Manager
62. Determine applications for review of decisions of the Bar Transfer Test Examining Board.	Independent Reviewer (external independent education contractor)

63. Determine whether applications for review of cohort-level decisions of central assessments are referred to the Independent Reviewer.	Director of Regulatory Operations Head of Authorisation Assessment Lead Examinations Manager
64. Determine applications for review of cohort-level decisions of central assessments.	Independent Reviewer (external independent education contractor)
65. Make arrangements for the conduct of disciplinary hearings and impose disciplinary sanctions according to the regulatory arrangements in respect of entities, their managers and employees.	Bar Tribunals and Adjudication Services
E. The Governance, Risk and Audit Committee (GRA) delegates the power to the Director General, including the power to sub-delegate, to:	F. The Director General sub-delegates the powers granted by the Governance, Risk and Audit Committee (GRA) as specified in column E to:
66. Approve terms of reference for, and arrangements for the conduct of, audits commissioned by the Governance, Risk and Audit Committee (including those agreed in the annual audit plan), providing that terms of reference for each audit are circulated to the Committee in advance of the audit.	Director of Regulatory Operations Head of Governance and Corporate Services

G. The Commissioner of the Bar Standards Board delegates the power to the following to:	
67. Gather information relating to applicable persons from any source for the purposes of assessing whether there has been a potential breach of the Handbook (rE2.1).	Director of Regulatory Operations Director of Legal and Enforcement Head of Investigations and Enforcement Head of Contact and Assessment Casework Managers Senior Assessment Officers Assessment Officers Senior Case Officers Case Officers
68. Exercise the power under rE12 to determine that a report or part of a report may be treated as an allegation (rE2.2).	Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers Senior Case Officers Case Officers
69. On receipt of a report received from a person entitled to complain to the Legal Ombudsman about the subject of the report, refer that report to the Legal Ombudsman or signpost the provider of the report to the Legal Ombudsman (rE4).	Director of Regulatory Operations Head of Contact and Assessment Senior Assessment Officers Assessment Officers

<p>70. Determine that a report relates to an applicable person’s actions in a part-time or temporary judicial or quasi-judicial capacity and refer the report to the person or body responsible for the appointment of the applicable person to the judicial or quasi-judicial office concerned or another person or body responsible for considering such reports (“the appropriate body”), and where it appears that the appropriate body should consider the report request notification of the outcome of the appropriate body’s consideration as soon as it has been dealt with, subject to rE6 to rE8 of the Handbook (rE5).</p>	<p>Director of Regulatory Operations Head of Contact and Assessment Senior Assessment Officers Assessment Officers</p>
<p>71. Where the appropriate body referred to in Delegation 70 refuses to deal with the report or it appears there is no appropriate body, decide whether or not to consider the report in accordance with the provisions of Section 5.A of the Handbook (rE6).</p>	<p>Director of Regulatory Operations Head of Contact and Assessment Senior Assessment Officers</p>
<p>72. When the appropriate body referred to in Delegation 70 has dealt with the report, or the appropriate body has not dealt with it within a reasonable time or fully or satisfactorily, determine whether to consider the report in accordance with the provisions of Section 5.A of the Handbook and whether to consider any finding made and any action taken by the appropriate body (rE7).</p>	<p>Director of Regulatory Operations Head of Contact and Assessment</p>
<p>73. Determine that a report relates to the conduct of an applicable person who, since the events giving rise to the report took place, has been appointed to and continues to hold full-time judicial office and has ceased to practise, and not consider the report further and direct the person from whom the report is received to the Lord Chancellor or the Office of Judicial Complaints or to such other person or appropriate body with responsibility for addressing complaints about judges (rE9).</p>	<p>Director of Regulatory Operations Head of Contact and Assessment Senior Assessment Officers Assessment Officers</p>

<p>74. Determine that a report in respect of an applicable person might more appropriately be dealt with by another body (e.g. an Inn, Circuit, employer, a complaint handling body or any other professional or regulatory body), and refer the report to such other body (rE10).</p>	<p>Director of Regulatory Operations Head of Contact and Assessment Senior Assessment Officers Assessment Officers</p>
<p>75. Determine that a report has not been dealt with by another body referred to in Delegation 74 within a reasonable time or fully or satisfactorily, and choose to exercise the powers set out in rE2.1 and rE2.2 of the Handbook (rE11).</p>	<p>Director of Regulatory Operations Head of Contact and Assessment</p>
<p>76. Determine, having regard to rE13 of the Handbook, that a report: discloses a potential breach of the Handbook by an applicable person; and/or potentially satisfies the disqualification condition, and then treat the report as an allegation (rE12).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers Senior Case Officers Case Officers</p>
<p>77. Carry out the investigation of allegations as appropriate (rE14.1).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers Senior Case Officers Case Officers Complex Casework Paralegal</p>
<p>78. Withdraw any allegation and treat it as if a decision under rE12 of the Handbook had not been made (rE14.2).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers</p>

<p><u>79.</u> <u>Decide to treat a new report that comes to light during an investigation of an allegation that meets the criteria of rE12 as a new allegation (rE16).</u></p>	<p><u>Director of Legal and Enforcement</u> <u>Head of Investigations and Enforcement</u> <u>Casework Managers</u></p>
<p>79. Decide to defer further consideration of an original allegation until a new allegation has been investigated (rE17).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers</p>
<p>80. Determine that the conduct alleged did not constitute a breach of the Handbook, or that there was insufficient evidence of a breach of the Handbook (on the civil standard of proof) (rE19.1).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers Senior Case Officers Case Officers</p>
<p>81. Determine that the conduct alleged did constitute a breach of the Handbook (on the civil standard of proof) but that, in all the circumstances, no enforcement action should be taken in respect of the breach (rE19.2).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers Senior Case Officers Case Officers</p>
<p>82. Determine that the conduct alleged did constitute a breach of the Handbook (on the civil standard of proof) and that the breach should be dealt with by the imposition of an administrative sanction (rE19.3).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers</p>

<p>83. Where the subject matter of an allegation against an applicable person involves:</p> <ul style="list-style-type: none"> a) a conviction for an offence of dishonesty or deception; or b) a conviction for an offence under Section 4, Section 5 or Section 5A Road Traffic Act 1988 (Driving or being in charge of a motor vehicle with alcohol concentration/ concentration of a controlled drug above prescribed limit); or c) a breach of Part 3 or 4 of the Handbook; or d) any failure to pay an administrative fine within the relevant time; or e) a failure to comply with any requirements of a sanction imposed following Disciplinary Action <p>decide that the conduct alleged may constitute a breach of the Handbook and, if the breach were to be proved, that an administrative sanction under rE19.3 would not be appropriate in all the circumstances (rE19.4a-e).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers Senior Case Officers Case Officers</p>
<p>84. Determine that following a decision under Delegation 83 the alleged conduct should form the subject matter of a referral to Disciplinary Action (rE19.4).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers</p>

85. Decide to refer an allegation to an Independent Decision-Making Panel for a decision (rE19.5).	Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers Senior Case Officers Case Officers
86. Refer an allegation for supervisory action by the BSB (rE20).	Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers
87. Issue an applicable person with advice (rE21).	Director of Legal and Enforcement Head of Investigations and Enforcement
88. Determine that the requirements of rE33 of the Handbook are met and decide that an allegation which was otherwise going to be referred to the Disciplinary Tribunal may, with the consent of the applicable person against whom the allegation is made, be finally determined by an Independent Decision-Making Panel. This is referred to as the “determination by consent procedure”. (rE34).	Director of Legal and Enforcement Head of Investigations and Enforcement Casework Manager
89. Following a decision to refer an allegation to the determination by consent procedure in accordance with rE35, decide to terminate the determination by consent procedure at any time if the requirements of rE35 are considered to be no longer satisfied, or for any other good reason. (rE39).	Director of Legal and Enforcement Head of Investigations and Enforcement
90. While directing that an allegation shall form the subject matter of a disciplinary charge and/or disqualification application before a Disciplinary Tribunal, decide whether a three-person panel or a five-person panel is to be constituted. (rE46).	Director of Legal and Enforcement Head of Investigations and Enforcement Casework Manager

<p>91. Direct that a five-person panel is to be constituted if:</p> <ul style="list-style-type: none"> .1 having regard to any indicative sanctions guidance published by BTAS/COIC/Bar Standards Board, in all the circumstances, a sanction of disbarment or suspension from practice for more than twelve months may be appropriate; or .2 having regard to any indicative sanctions guidance published by BTAS/COIC/Bar Standards Board, in all the circumstances, a sanction of indefinite disqualification or disqualification for a defined term of more than twelve months may be appropriate; or .3 having regard to any indicative sanctions guidance published by BTAS/COIC/Bar Standards Board, in all the circumstances, a sanction of a BSB entity having its authorisation or licence revoked or suspended for a period of more than twelve months may be appropriate; or .4 the allegation involves a conviction for dishonesty or deception <p>and otherwise direct that a three-person panel is to be constituted. (rE48).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Manager</p>
<p>92. Decide to refer to the same Disciplinary Tribunal any charges and/or disqualification applications which they consider may conveniently be dealt with together. (rE50.1).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Manager</p>

<p>93. Decide to refer any additional charges or disqualification applications relating to the same applicable person to the Disciplinary Tribunal which is dealing with the original disciplinary charge or disqualification application (as the case may be), even if the additional charge or application, by itself, may be regarded as insufficiently serious to merit disposal by a Disciplinary Tribunal of that level. (rE50.2).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Manager</p>
<p>94. Where an allegation forms the subject matter of a charge or application before a Disciplinary Tribunal and the Commissioner is responsible for bringing the charge or application on behalf of the Bar Standards Board and prosecuting that charge before such Disciplinary Tribunal, arrange for the appointment of a representative to settle the charge and to present the case before the Disciplinary Tribunal. (rE51.1).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Manager Senior Case Officer Case Officer</p>
<p>95. Reconsider an allegation which has been disposed of by the Commissioner where new evidence becomes available which leads the Commissioner to conclude that it should do so, or for some other good reason. (rE61).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Manager</p>
<p>96. Following a reconsideration under delegation 95, decide to take any further or different action the Commissioner thinks fit, as if any earlier decision had not been made. (rE62).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Manager</p>

<p>97. Decide to make disclosure where it is in the public interest to disclose some or all of the details of the report or allegation. (rE64.7).</p>	<p>Director of Regulatory Operations Director of Legal and Enforcement Head of Supervision Head of Authorisation Head of Investigations and Enforcement Head of Contact and Assessment</p>
<p>98. On receipt of a report or any other information, decide to refer a respondent to an interim panel if:</p> <p>.1 subject to rE269:</p> <ul style="list-style-type: none"> a. the respondent has been convicted of, or charged with, a criminal offence in any jurisdiction other than a minor criminal offence; or b. the respondent has been convicted by another Approved Regulator, for which they have been sentenced to a period of suspension or termination of the right to practise; or c. the respondent has been the subject of intervention by the Bar Standards Board; or d. the referral is necessary to protect the interests of clients (or former or potential clients); and <p>.2 having regard to the regulatory objectives pursuing an interim suspension or an interim disqualification order is appropriate in all the circumstances. (rE268).</p>	<p>Director of Legal and Enforcement Director of Regulatory Operations Both of the following: Head of Investigations and Enforcement <u>and the</u> Head of Contact and Assessment</p>

<p>99. Make representations to the President of the Council of the Inns of Court regarding dates proposed for an interim suspension Panel and representations made by the respondent about the same (rE274.3).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Manger Senior Case Officer Case Officer Administration Manager</p>
<p>100. If a respondent sends a letter in accordance with rE274.4 of the BSB Handbook which is satisfactory, accept the undertaking contained in the letter in lieu of the interim panel imposing any period of interim suspension or interim disqualification pending the disposal by a Disciplinary Tribunal of any charges of professional misconduct or applications for a disqualification order (as the case may be). (rE275).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Manager</p>
<p>101. Make representations to the President of the Council of the Inns of Court in relation to a letter received under rE279 of the BSB Handbook. (rE280).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Manager Senior Case Officer Case Officer</p>

<p>102. Carry out any investigation, appropriate to the consideration of whether an Individual may be unfit to practise, prior to consideration of any referral under rE306 of the BSB Handbook. (rE304).</p>	<p>Director of Legal and Enforcement Director of Regulatory Operations Head of Investigations and Enforcement Head of Contact and Assessment Casework Managers Senior Case Officers Case Officers Senior Assessment Officers Assessment Officers</p>
<p>103. Where the Commissioner receives information under rE303 of the BSB Handbook, write to the individual concerned as soon as reasonably practicable, subject to rE307 of the BSB Handbook:</p> <p>.1 notifying them that information has been received which appears to raise a question of whether they are unfit to practise; and,</p> <p>.2 providing them with copies of any information received under rE303 of the BSB Handbook or obtained under rE304 of the BSB Handbook. (rE305).</p>	<p>Director of Legal and Enforcement Director of Regulatory Operations Head of Investigations and Enforcement Head of Contact and Assessment Casework Managers Senior Case Officers Case Officers Senior Assessment Officers Assessment Officers</p>
<p>104. Following receipt of information under rE303 of the BSB Handbook or during a referral under the Enforcement Decision Regulations, decide that an Individual may be unfit to practise and refer the matter to a Fitness to Practise Panel for determination. (rE306).</p>	<p>Director of Legal and Enforcement Director of Regulatory Operations Head of Investigations and Enforcement Head of Contact and Assessment Casework Managers</p>

<p>105. Request that a Medical Examiner nominated under rE310.1 or rE320.2.a of the BSB Handbook attend a hearing to present their findings. (rE311.3).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers Senior Case Officers Case Officers</p>
<p>106. Where a Fitness to Practise Panel directs an interim restriction under rE313 of the BSB Handbook or accepts an undertaking under rE315 of the BSB Handbook, request that an interim restriction or undertaking be reviewed at a further hearing of the Fitness to Practise Panel. (rE316.1).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers</p>
<p>107. Decide that a case is ready for a hearing before a Fitness to Practise Panel, where no report has been prepared by a Medical Examiner. (rE318).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers Senior Case Officers Case Officers</p>
<p>108. At any time during which an Individual is subject to a period of restriction or conditions, directed or undertaken pursuant to Part 5 Section D of the BSB Handbook, decide, of their own motion, or at the request of the Individual, to refer the matter to be reviewed before a Fitness to Practise Panel, where they consider there has been a significant change in the Individual's circumstances or that there is some other good reason for a review to be undertaken. (rE324).</p>	<p>Director of Legal and Enforcement Head of Investigations and Enforcement Casework Managers</p>

Performance and Strategic Planning Committee Terms of Reference

Role

1. The Performance and Strategic Planning Committee (the “Committee”) is a committee of the Board, from which it derives its authority and to which it reports on matters related to performance, resources and strategic planning.

Membership

2. The Committee shall comprise of at least five Board Members, at least three of whom shall be lay persons.
3. A member of the Bar Council or any of its representative committees may not be a member of the Committee.
4. Appointments to the Committee are made by the Chair of the BSB in consultation with the Chair of the Committee (the “Committee Chair”). Appointments shall usually be coterminous with membership of the Board.
5. The Chair of the BSB shall appoint the Committee Chair who shall be a lay person and Board Member. The Chair of the BSB shall not be the Committee Chair.
6. 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.

Secretary

7. 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

8. 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.
9. The Chair and Vice Chair of the Board have the right to receive papers and to attend meetings of the Committee.

Quorum

10. The quorum for meetings of the Committee is three members.

Frequency

11. The Committee will normally meet at least four times a year at appropriate times in the annual cycle and otherwise as required. A timetable of meetings and scheduled items for consideration will be agreed each year.

Notice of meetings

12. Meetings of the Committee shall be called by the secretary of the Committee at the request of the Chair of the Committee or any of its members.
13. 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

14. The secretary shall minute the proceedings and decisions of all committee meetings, including recording the names of those present and in attendance.
15. 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

16. 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

17. Paying due regard to all relevant statutory, regulatory and best practice requirements, the Committee will carry out the following duties below for the BSB:
 - a) to support the Board and the executive in delivering high performance and in formulating the overall strategy for the BSB and, to these ends scrutinise the BSB's three-year Strategic Plan and annual Business Plan before the Board's approval is sought;
 - b) to oversee performance against relevant service levels and financial performance against the objectives and targets set out in the Business Plan and to consider and agree any necessary corrective actions, including to the allocation of resources across the BSB, and, where relevant, make recommendations to the Board;

Performance

- c) to advise the Board on a balanced scorecard of measures to assess performance in the delivery of core regulatory operations and to oversee performance against those measures;
- d) to advise the Board on the resources, system investments and process improvements needed to deliver and maintain high performance;

Strategy

- e) to undertake preliminary horizon-scanning to identify opportunities for, and risks to, the Regulatory Objectives ~~which should~~ and to present a qualified view to the Board to inform the BSB's future strategy;

- f) ~~to oversee~~ on behalf of the Board, to advise on the development of the BSB's strategy to deliver the Regulatory Objectives and the annual Business Plans which deliver that strategy;

Resources and budgets

- g) to keep under review the resources and investments needed to deliver high performance and to implement the Board's agreed strategy and, to those ends, to decide:
- g.1. the annual budget and revenue for recommendation to the Board;
 - g.2. ~~approval of additional members of staff where that is within the approved budget;~~
- h) to agree how the BSB presents financial information to best effect and with appropriate transparency and comprehensiveness;
- i) to consider and agree the recommendations of the executive on the provision of corporate services, including where the executives proposes sharing any service with the GCB and that such sharing is in compliance with Rule 11 of the Internal Governance Rules on the basis that:
- i.1. this will not undermine, and could not reasonably be seen to undermine, the separation of regulatory and representative functions;
 - i.2. this is effective and appropriate for the BSB to discharge its regulatory functions; and
 - i.3. this is necessary to be efficient and reasonably cost-effective.
- j) to ensure that the BSB undertakes planning activity to best effect and in a timely and consistent manner, as well as to provide assurance to the Board on the robustness of programme and project management processes. To support the Board and executive with finalising the BSB's Annual Report publications.

Reporting responsibilities

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

~~18-19.~~ The Committee may raise any matters of concern at the next Board meeting, and adequate time should be available for Board discussion of such matters.

~~19-20.~~ 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

~~20-21.~~ 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 at maximum effectiveness and recommend any changes it considers necessary to the Board for approval.



Standing Orders for joint Committees of the General Council of the Bar and the Bar Standards Board

Foreword

The following Standing Orders are issued under the Authority of Regulations ~~13 and 14~~ and 15 of Part II the Constitution of the General Council of the Bar.

This ~~fifth~~sixth edition of the Standing Orders came into effect on ~~24 July 2020~~ 25 April 2023.

Introduction

Preamble

1. The General Council of the Bar (GCB) is an approved regulator for the purposes of the Legal Services Act 2007. The functions and powers of the GCB are set out in its constitution.
2. The GCB has established the Bar Standards Board (“the BSB”) to exercise the regulatory functions of the GCB. The functions and powers of the BSB are set out in its constitution.
3. The GCB has delegated the discharge of its regulatory functions to the BSB in compliance with section 28 of the Legal Services Act 2007. This is in accordance with the overarching duty set out by Rule 1 of the Internal Governance Rules 2019, under which the GCB is required to have in place arrangements which ensure that the exercise of its regulatory functions is not prejudiced by its representative functions. In particular, the GCB must have arrangements in place to separate its regulatory functions from its representative functions and to maintain the independence of its regulatory functions as effectively as is reasonably practicable and consistent with section 28 of the Legal Services Act 2007.
4. These Standing Orders are held jointly by the GCB and the BSB and set out the powers and functions of committees where there is representation by both parties. The powers and functions of the GCB in its representative capacity are set out in the GCB’s Standing Orders. The powers and functions of regulatory committees and groups are set out in the BSB’s ~~Standing Orders~~Governance Manual.

Definitions

5. In these Standing Orders, unless the context requires otherwise:

“Approved regulator” has the meaning given in section 20(2) of the Legal Services Act 2007.

“The Bar Standards Board” and “BSB” means the part of the General Council of the Bar of England and Wales established in accordance with Section 28 of the Legal Services Act 2007 to independently exercise the regulatory functions of the GCB.

“The Chair of the GCB”, and “Vice-Chair of the GCB”, shall mean the Chair and Vice-Chair respectively of the GCB elected pursuant to the provisions of the GCB’s Constitution.

“The Chair of the BSB” and “Vice-Chair of the BSB” shall mean those persons appointed to those positions pursuant to the provisions of the Constitution of the Bar Standards Board.

“The Chief Executive” shall mean the person for the time being appointed to such position pursuant to the provision of Regulation 18 of the Constitution of the General Council of the Bar.

“The Director General of the BSB” shall mean the person for the time being appointed to such position pursuant to the provision of Paragraph ~~14(a)~~17(4) of the Constitution of the Bar Standards Board.

“The Director of Finance” means the member of the staff with day-to-day responsibility for financial matters.

The “General Council of the Bar” and “GCB” means the General Council of the Bar of England and Wales and refers to the legal entity in entirety.

“The General Management Committee” (“GMC”) shall mean the standing committee of the GCB described in Regulation 13(b) of the GCB’s Constitution.

“Internal Governance Rules” means the Internal Governance Rules made by the Legal Services Board.

“Lay person” has the meaning given in paragraph 2(4) of Schedule 1 to the Legal Services Act 2007 and “lay member” has a corresponding meaning.

“Member of the BSB” means a person, whether practising barrister or otherwise, who for the time being holds a seat on the Board of the Bar Standards Board.

“Practising barrister” means a barrister holding a current practising certificate issued in accordance with the Practising Certificate Rules of the Bar Standards Board Handbook.

Part 1 – Public

“Practising Certificate Fee” means the amount payable for a practising certificate each year.

“Regulatory functions” has the meaning given in section 27(1) of the Legal Services Act 2007, and the BSB is responsible for determining any question whether a matter involves the exercise of a regulatory function.

“Representative functions” has the meaning given in section 27(1) of the Legal Services Act 2007.

“Resources Group” means the shared services section of the organisation, supporting the GCB and the Bar Standards Board.

“The Seven Principles of Public Life” means the Seven Principles of Public Life as laid down in the First Report of the Committee on Standards in Public Life and amended by the Committee following its review in January 2013.

“The Treasurer” shall mean the Treasurer of the GCB elected pursuant to the provisions of the GCB Constitution.

Any terms used in the Legal Services Act 2007 have the same meaning as in that Act.

The plural shall include the singular and vice versa.

Finance and Resources

General

6. The purpose of these Standing Orders is to set out the arrangements:
 - a. For ensuring that the GCB’s and BSB’s finances and other resources are properly managed and accounted for; and
 - b. For ensuring that the GCB complies with its obligations under rule 9 of the Internal Governance Rules 2019, made by the Legal Services Board under Section 30 of the Legal Services Act, to provide such resources to the BSB as are reasonably required for its regulatory functions to be efficiently and effectively discharged. It is for the BSB to determine what resources are sufficient for the efficient and effective discharge of regulatory functions, providing information to the GCB as required by rule 3 of the Internal Governance Rules 2019.
7. The Treasurer and Chief Executive will keep the GCB briefed on all matters of financial importance.
8. The Chief Executive is the accounting officer and responsible for financial planning, the production of accounts, and, day-to-day financial management in respect of the GCB, and the collection of practising certificate fees. The Director General is responsible for financial planning and day-to-day financial management in respect of the BSB.

Finance Committee

9. The terms of reference of the Finance Committee are:
- a. To keep under review the GCB's procedures for preparing the annual budget, levels and procedures for the authorisation of expenditure, procurement policy and other financial controls;
 - b. To review and finalise the annual revenue and capital expenditure budgets, in consultation with the BSB and GMC as appropriate, for presentation to the GCB (in accordance with Rule 10 of the Internal Governance Rules 2019, the GCB cannot approve or reject the budget from the BSB);
 - c. To put forward proposals for the annual practising certificate fee to the GCB, following consultation with the BSB and GMC, in accordance with Section 51 of the Legal Services Act 2007 and the current Practising Fee Rules ~~2009~~ made by the Legal Services Board. Proposals must take into account the BSB's independent formulation of its own budget, aligned to its priorities and strategy, under Rule 10 of the Internal Governance Rules 2019. In setting the PCF the GCB will comply with the LSB rules;
 - d. To review the GCB's and BSB's management accounts and the associate reports provided by the Chief Executive and the BSB Director General and make recommendations, take such actions or seek assurances (in accordance with Rule 3 of the Internal Governance Rule 2019 or otherwise) as may be necessary or desirable in the interests of the GCB as a whole in the light of such accounts;
 - e. To review the GCB's cash flow forecast;
 - f. To review the GCB's annual accounts prior to their consideration by the Audit Committee and approval by the GCB;
 - g. To determine and keep under review the GCB's banking arrangements, including the banking policy;
 - h. To keep under review the level and nature of the GCB's investments and borrowings and take all such action in relation thereto as is necessary or desirable in the interests of the GCB;
 - i. To provide advice on any financial matters referred to it by the GCB, the BSB or the GMC;
 - j. ~~To advise on the standard increase to be applied in the annual performance related salary review, having regard to the recommendations of the GCB and BSB;~~ and
 - k. A sub-panel consisting of members referred to in paragraphs 10 (c) and (d) below shall be responsible for setting making recommendations to the GCB and the BSB on the remuneration for independent members of the joint

Part 1 – Public

Audit and Finance Committees and the independent lay selection group member referred to in paragraph 32(c) below. The quorum for decisions of the sub-panel shall be two members, which must include one of the two practising barrister members nominated by the Chair of the GCB referred to in paragraph 10 (c) below and one of the two members of the BSB nominated by the Chair of the BSB referred to in paragraph 10 (d) below.

10. The membership of the Finance Committee shall be:
 - a. A Chair who is an independent lay person with relevant financial knowledge and experience nominated jointly by the Chair of the GCB and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including, in particular, the Governance Code on Public Appointments, who shall be deemed independent of both the GCB and BSB on appointment and who shall be appointed for a term of three years, renewable once. In the case of a tie in any matter put to a Finance Committee vote, the Finance Committee Chair shall have the casting vote;
 - b. A Vice-Chair who is an independent lay person with relevant financial knowledge and experience nominated jointly by the Chair of the GCB and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including, in particular, the Governance Code on Public Appointments, who shall be deemed independent of both the GCB and BSB on appointment, and who shall be appointed for a term of three years, renewable once;
 - c. Two practising barristers nominated by the Chair of the GCB, who shall be appointed for a term of three years, renewable once, one of whom ~~who~~ should normally be the Treasurer;
 - d. Two members of the BSB ~~or of a BSB committee~~ nominated by the Chair of the BSB, who shall be appointed for a term of three years, renewable once, or for a term co-terminous with their membership of the BSB's Board;
 - e. The Chief Executive (non-voting member);
 - f. The Director General of the BSB (non-voting member);

In attendance: other senior staff as necessary.

11. Each of the members of the Finance Committee other than the Chair and Vice-Chair of the Committee, the Chief Executive and the Director General may nominate an alternate who is entitled to take their place at any meeting which the member is unable to attend.

12. The quorum for meetings of the Finance Committee shall be ~~3~~three members (or alternates), which must include:
- a. a member (or the alternate of a member) who is ~~either~~ one of the two practising barrister members nominated by the Chair of the GCB identified in paragraph 10(c) above;
 - b. a member (or the alternate of a member) who is one of the members nominated by the Chair of the BSB identified in paragraph 10(d) above; and
 - c. the Chair or Vice-Chair of the Finance Committee.

Audit Committee

13. The terms of reference of the Audit Committee are:

Governance and Risk Management

- a. To advise on the GCB's role as an approved regulator for the purposes of the Legal Services Act 2007 on all corporate governance matters and to review the effectiveness of all internal controls, including financial management arrangements and internal business processes and in so doing to make appropriate use for this purpose of:
 - i. internal audits;
 - ii. external audits; and
 - iii. reports and assurances from the representative, regulatory and Resources Group functions.
- b. To review the risk management arrangements of the representative, regulatory and Resources Group functions, including processes for assessing, reporting, owning and managing risks to the corporate entity and their reputational and financial implications across all parts of the GCB, and to make recommendations and seek assurances or clarification as may be necessary or desirable in the interests of the GCB as a whole;
- c. To receive risk registers at each meeting and seek assurances that effective control systems are in place and are being adhered to from the Director of Finance, Chief Executive of the GCB and the Director General of the BSB;
- d. To review and make arrangements on whistleblowing processes and the arrangements for investigating fraud, corruption and error;
- e. To keep under review the level and nature of the GCB's insurance cover;
- f. To keep under review the GCB's accounting policies; and
- g. To review the findings of the internal and external auditors, if appropriate, and ensure that issues raised in the management letter are addressed by the appropriate GCB staff, and to ensure that issues raised by the Audit Committee are appropriately responded to;

Internal Audit

- h. To receive assurances from the 'first instance' GCB and BSB panels/committees that the processes in place for internal audit are effective and that any actions raised are addressed;

External Audit

- i. To make recommendations to the GCB on the appointment and removal of the external auditors;
- j. To oversee the relationship with the external auditors, including:
 - i. there is a retender for an external audit firm at least every five years;
 - ii. that no audit firm is, normally, appointed as an external auditor for longer than 10 years (any extension will require the ~~full~~ approval of the Audit Committee); and
 - iii. ensuring that the external auditors are informed of any significant developments or risks which might impact upon the audit process or fee;
 - iv. that the Audit Committee should approve any non-audit services to the GCB.
- k. To monitor and review the external auditor's independence, objectivity and effectiveness;
- l. To review the findings of the external auditor and ensure that appropriate actions are being taken;
- m. To determine and keep under review policy on the engagement of the external auditor to supply non-audit or consultancy services;
- n. To scrutinise the integrity of the GCB's Annual Report and Accounts and, subject to audit, to recommend them for approval by the GCB; and

Statutory Compliance

- o. To review and make recommendations on the processes in place to ensure that the GCB meets its statutory obligations, including those with regard to employment, data protection and health and safety.

14. The membership of the Audit Committee shall be:
- a. A Chair who is an independent lay person with relevant audit knowledge and experience nominated by the Chair of the GCB and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including the Governance Code on Public Appointments. In the case of a tie in any matter put to an Audit Committee vote, the Audit Committee Chair shall have the casting vote;
 - b. A Vice-Chair (who is preferably, but need not be, a practising barrister) with relevant audit knowledge and experience nominated jointly (in consultation with the Chair of the Audit Committee) by the Chair of the GCB and the Chair of the BSB, and who shall be deemed independent of both the GCB and BSB on appointment, who shall be appointed for a term of three years, renewable once;
 - c. A practising barrister nominated by the Chair of the GCB, who shall be appointed for a term of three years, renewable once;
 - d. A member of the BSB nominated by the Chair of the BSB, who shall be appointed for a term of three years, renewable once, or for a term co-terminous with their membership of the BSB's Board; and
 - e. Two members (who may, but need not, be practising barristers) nominated jointly (in consultation with the Chair of the Audit Committee) by the Chair of the GCB and the Chair of the BSB acting in accordance with the Seven Principles of Public Life and taking account of best practice for public appointments, including the Governance Code on Public Appointments, who shall be deemed independent of both the GCB and the BSB on appointment and who shall be appointed for a term of three years, renewable once.

In attendance: the Chief Executive, the Director General of the BSB, other senior staff as necessary.

15. No person who is a member of the Finance Committee may also be (or act as an alternate for) a member of the Audit Committee.
16. The members of the Audit Committee identified in paragraph 14(c) and (d) above may nominate an alternate who is entitled to take their place at any meeting which the member is unable to attend, providing that alternate is not also a member of the Finance Committee.
17. The quorum for meetings of the Audit Committee shall be three members (or alternates).

The BSB’s financial and other resources

18. The BSB’s financial and other resources shall be determined by the BSB as part of its annual budgeting process, in accordance with Rule 10 of the Internal Governance Rules 2019.
19. The BSB’s financial and other resources shall include, as provided for in the BSB’s annual budget:
 - a. Funds to be spent for the BSB’s purposes identified in the BSB’s annual budget;
 - b. The full-time services of the Director General of the BSB and of other employees managed by the Director General of the BSB;
 - c. A share of shared services, only where, in accordance with Rule 11 of the Internal Governance Rules 2019, the GCB and BSB are in agreement that:
 - i. this will not undermine, and could not reasonably be seen to undermine, the separation of regulatory and representative functions;
 - ii. this is effective and appropriate for the BSB to discharge its regulatory functions; and
 - iii. this is necessary to be efficient and reasonably cost effective.
20. In relation to the BSB’s financial and other resources:
 - a. The GCB shall observe the requirements of Part II(1)(d) of the GCB Constitution (discharge of regulatory functions);
 - b. The BSB shall observe the procedures and requirements contained in or made under these Standing Orders.
21. In accordance with Rule 10 of the Internal Governance Rules 2019, the GCB cannot approve or reject the proposed budget from the BSB, though it may seek further information under Rule 3(2)(a) where it has reasonable grounds to do so. In accordance with Rule 3, the BSB must provide sufficient information to the GCB as is reasonably required for the GCB to be assured that the BSB’s required resources are necessary and proportionate, and that the BSB has complied with Section 28 of the Legal Services Act 2007 in determining its required resources.

Resolution Process

22. Any issues concerning matters within the remit of the Finance Committee or Audit Committee and/or any point arising under or in connection with the Internal Governance Rules 2019:
- a. Shall if possible be resolved by agreement between the Director General of the BSB and the Chief Executive;
 - b. if not so resolved, advice taken and/or mediation sought as appropriate;
 - c. if not so resolved, shall be ~~referred~~escalated by the Director General of the BSB or the Chief Executive to the Legal Services Board for resolution, in accordance with Rule 14 of the Internal Governance Rules 2019;
 - d. if not so resolved, the BSB and the GCB shall agree to be bound by the opinion of an independent arbitrator.

The Chairs' Committee

23. The terms of reference of the Chairs' Committee shall be to keep under review all aspects of the relationship between the GCB and the BSB.
24. The Chairs' Committee shall consist of:
- a. The Chair of the GCB;
 - b. The Chair of the BSB;
 - c. The Vice-Chair of the GCB;
 - d. The Vice-Chair of the BSB;
 - e. The Treasurer of the GCB;
 - f. The Chief Executive;
 - g. The Director General of the BSB.
25. Meetings of the Chairs' Committee shall be attended by:
- a. Relevant senior staff;
 - b. Such other person(s) as the Chairs' Committee may invite.
26. In the interests of the preservation of independence, meetings of the Chairs' Committee shall be chaired alternately by the Chair of the GCB (or deputy) and the Chair of the BSB (or deputy). Meetings shall be ~~administrated~~administered by the Chief Executive's Office.
27. There shall be a minimum of two meetings of the Chairs' Committee per year.

Appointments process for joint GCB and BSB Committees

28. Non ex-officio members of the joint Finance and Audit Committees are appointed and reappointed on the principles of fairness, transparency and merit.
29. Those members for whom the appointments process applies are:
- Finance Committee
- The Chair;
 - The Vice-Chair;
 - Two practising barristers nominated by the Chair of the GCB;
 - Two members of the BSB or of a BSB committee nominated by the Chair of the BSB;
- Audit Committee
- The Chair;
 - The Vice-Chair;
 - The member nominated by the Chair of the GCB;
 - The member nominated by the Chair of the BSB; and
 - The two members nominated jointly (in consultation with the Chair of the Audit Committee) by the Chair of the GCB and the Chair of the BSB.
30. Appointments of BSB members to the posts of Finance or Audit Committee members are made by the BSB Chair in consultation with the BSB Vice-Chair and BSB Director General.
31. Appointments of GCB members to the posts of practising barrister members of the Finance Committee or member of the Audit Committee are made by the Chair of the GCB in consultation with the Vice-Chair and Chief Executive of the GCB.
32. The posts of Chair of the Finance Committee and Chair of the Audit Committee are advertised to the public. Members are selected on merit by a Selection Group comprising:
- a. The Chair or Vice-Chair of the GCB;
 - b. The Chair or Vice-Chair of the BSB; and
 - c. A lay person independent of the GCB 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. The member shall be appointed by the Chair of the GCB and the Chair of the BSB and shall usually be the Chair of the Selection Group.

Part 1 – Public

33. The post of Vice-Chair of the Finance Committee is advertised to the public. Members are selected on merit by a Selection Group comprising:
- a. The Chair or Vice-Chair of the GCB;
 - b. The Chair ~~efor~~ Vice-Chair of the BSB; and
 - c. The Chair of the Finance Committee.
34. The post of Vice-Chair of the Audit Committee, and those of other lay members of the Audit Committee, are advertised to the public. Members are selected on merit by a Selection Group comprising:
- a. The Chair or Vice-Chair of the GCB;
 - b. The Chair or Vice-Chair of the BSB; and
 - c. The Chair of the Audit Committee.
34. The members of the selection groups identified in paragraphs 33 and 34 may nominate an alternate who is entitled to take their place on a selection group. However, alternates must be consistent throughout the whole appointment process and may not be employed part-way through.
35. In the unexpected absence of a member of the selection group, after the selection group has convened, remaining members of the selection group may decide whether the interviews should go ahead without that member.
36. It is important that appointees to any of the joint committees uphold the standards of the “Seven Principles of Public Life” (also known as the “Nolan Principles”) set out in the Committee on Standards in Public Life’s thirteenth report “Standards Matter” and referred to in paragraph 5 of the Standing Orders for joint Committees of the General Council of the Bar of England and Wales and the Bar Standards Board.
37. The appointments and reappointments process will be conducted in accordance with the Equality Act 2010 throughout.
38. As a general rule, all appointments made to non ex-officio posts shall be for a fixed period of up to three years, renewable once, provided that the Chair of the Committee (or Chair of the GCB and Chair of the BSB in the case of the Chair of the Finance Committee and Chair of the Audit Committee posts) is satisfied that the person has performed to the required standard and it is in the interest of both parties to renew the appointment.
39. In exceptional circumstances, it may be appropriate to 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.

Governance and amendments to the Standing Orders

40. Any amendments to these Standing Orders must be made in accordance with the Internal Governance Rules 2019.
41. Any party wishing to amend or update any part of the Standing Orders must seek the authority of both the Bar Standards Board and the GCB to do so, via appropriate internal governance processes. The administrative management of any amendments to the text must be affected through the office of the Chief Executive of the GCB.
42. A review of the Standing Orders will be scheduled on an annual basis at a meeting of the GCB and Bar Standards Board ~~and senior leadership team (SLT)~~ Shared Services Forum (which includes Resources Group Directors), in accordance with Rule 1(3) of the Internal Governance Rules 2019, to assess whether any amendments may be required by any party.

Seven Principles of Public Life¹

1. **Selflessness**
Holders of public office should act solely in terms of the public interest.
2. **Integrity**
Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
3. **Objectivity**
Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. **Accountability**
Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
5. **Openness**
Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
6. **Honesty**
Holders of public office should be truthful.
7. **Leadership**
Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

¹ As amended by the Committee on Standards in Public Life following its review in January 2013: [Standards matter - A review of best practice in promoting good behaviour in public life](#).

Meeting:	Bar Standards Board	Date:	30 March 2023
Title:	Handbook amendments		
Author:	Ewen Macleod		
Post:	Director of Strategy and Policy		

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

- To seek Board approval for an urgent consultation on amendments to the enforcement rules in the Handbook.

Executive summary

- This paper responds to gaps that have been identified in the ability of the BSB and disciplinary tribunals to take urgent action, in certain cases. These gaps were identified by a recent disciplinary tribunal case. Some urgent rule changes are proposed, on which we will consult. We believe there is a strong public interest case for introducing these changes.

Recommendations

- The Board is asked to approve the rule changes outlined at Annex A for the purposes of consultation.

Background

- A recent case before the Bar Tribunal and Adjudication Service (BTAS) has highlighted a lacuna in Part 5 of the Handbook. This came to the attention of a BTAS panel, which was considering a case against a barrister where serious matters of public protection arose. Disciplinary charges of serious, and repeated, professional misconduct, had been found proved which, under the published BTAS Sanctions Guidance, pointed towards a possible disbarment.
- When the matter was listed for a sanction hearing, the barrister applied to adjourn sanction on medical grounds. The reason for adjournment was accepted, but given the past history, the panel considered it would be appropriate to put in place an interim suspension, as there was a perceived risk of further offences, and it would be in the public interest for the barrister to be suspended pending the conclusion of the sanction hearing. However, the panel had no such power.

6. The power to instigate interim suspension sits largely with the BSB and, in any event, the BSB was not able to refer the matter for interim action under the Interim Suspension and Disqualification Regulations because of the nature of the misconduct and the bases on which a referral to an interim suspension panel can be made under those Regulations. In the circumstances, the panel adjourned the hearing for sanction, accepting undertakings from the barrister, including that they would not accept new instructions in the interim period.
7. Although the panel were able to deal with the issue in this case, by accepting undertakings from the barrister, the case has identified an unsatisfactory lacuna. Having reviewed the matter, and following discussions with BTAS, the executive is minded to resolve this issue as soon as possible to avoid the circumstances arising again.

Proposed changes

Tribunal powers

8. Where there has been a finding of misconduct, there may be strong public interest reasons to take action urgently to stop a barrister from continuing to practise, or to impose restrictions on that barrister's practice, pending a decision on sanction. Where that is the case, we believe that a tribunal should have the power to do so. We therefore propose to consult on new rules E202A to E202F, as set out in Annex A. These replicate some of the powers available to interim suspension panels, where a case has been so referred by the BSB prior to a substantive tribunal.
9. The effect of these rules would be to permit a panel to order the suspension of a barrister's practice or impose conditions on their practice, pending a decision on sanction. In the case of a barrister without a current practising certificate, the order may require the BSB not to issue a practising certificate. Unless the panel directs otherwise, such an order would be in place until a final sanction had been decided. A procedure is provided for the barrister to request a variation in the order if circumstances change in the interim period.

BSB power to refer to an interim panel

10. The BSB can refer a matter to an interim panel under rE268 of the Interim Suspension and Disqualification Regulations. This can be done for a number of reasons, for example where a barrister has been charged with or convicted of a criminal offence, or where another regulator has suspended or terminated their right to practice. A further reason for referring to an interim panel is that it is necessary to protect the interests of clients (or former or potential clients). We believe that this last criterion is too narrowly drafted: there may be circumstances where it is clearly in the public interest to take interim action, even though the risk is not to clients. For example, in the case of alleged sexual misconduct it may be necessary to take action to protect a barrister's colleagues or other members of the public. We therefore propose to broaden the drafting of rE268.1.e, as indicated via tracked changes in Annex A. Such a referral, as now, could only be made where it is appropriate to do so in all the circumstances having regard to the regulatory objectives. The power to take any interim action would remain with the interim panel or, in the case of immediate interim suspension, the Chair of the Independent Decision-Making Body. Such a change would be in keeping with the public interest criterion used by many other professional regulators when considering interim action.

Regulatory objectives

11. These proposals primarily protect and promote the public interest. The rule changes are targeted at public protection and enabling the BSB or a tribunal to take action where to do so is clearly in the public interest. They may also promote the interests of consumers and encourage an independent, strong, diverse and effective legal profession by enabling quicker action to prevent serious misconduct, as discussed above.

Equality and Diversity

12. This proposal has the potential to promote equality and diversity by enabling the BSB or a tribunal to take interim action where, for example, there may have been serious misconduct of a harassing nature.

Risk implications

13. There is an obvious risk to public protection if we are unable to take interim action in cases where it is clearly in the public interest to do so. Although these cases may be rare, they are likely to be some of the most serious and it is important that we, or a tribunal, would have the power to take action.

Communications and Stakeholder Engagement

14. We propose to consult on these changes. We will publicise the consultation via the usual channels and target key stakeholders.

Annex

Annex A – Proposed rule changes

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

rE202A In any case where charge(s) or application(s) have been found proved against the *respondent* and the *Disciplinary Tribunal* have decided to adjourn the hearing before deciding what sanction to impose, or where under rE211 a three-person panel refers a case to a five-person panel for sanction, the *Disciplinary Tribunal* must consider whether it is in the public interest to make an order that:

- .1 requires the *respondent* to suspend their *practice*, in which case the *Bar Standards Board* must suspend that respondent's *practising certificate*;
or
- .2 requires the *Bar Standards Board* to impose such conditions on the *respondent's practice* as the *Disciplinary Tribunal* deems necessary;
or
- .3 prohibits the *respondent*, either unconditionally or subject to such conditions as the *Disciplinary Tribunal* deems necessary, from accepting or carrying out any public access instructions; or
- .4 the *respondent's* authorisation to conduct litigation be suspended or be subject to such conditions as the *Disciplinary Tribunal* deems necessary;
or
- .5 where that respondent does not currently hold a practising certificate, requires the *Bar Standards Board* not to issue any practising certificate to them.

rE202B Any order made under rE202A will take effect immediately and last until a decision on what sanction to impose has been made unless the *Disciplinary Tribunal* directs otherwise. Where an order is made under rE202A.1 the effect of the suspension will be as set out in rE220.

rE202C Where an order is made in respect of a *respondent* under rE202A and that *respondent* considers that, due to a change in the circumstances, it would

be appropriate for that order to be varied, they may apply to the President in writing for it to be so varied.

rE202D When the President receives an application made under rE202C, they must refer it to the Chair and to one of the lay members of the Disciplinary Tribunal which originally made the order to make a decision on the application or where under rE211 a three-person panel refers a case to a five-person panel for sanction and that five-person panel has been convened by the President to the Chair and to one of the lay members of the new five-person panel.

rE202E Any application made under rE202C must be sent by the applicant, on the day that it is made, to the Bar Standards Board. The Bar Standards Board may make such representations as they think fit on that application to those to whom the application has been referred by the President.

rE202F The persons to whom an application made under rE202C above is referred may vary or confirm the order in relation to which the application has been made.

Referral to an interim panel

rE268 On receipt of a referral or any other information, the Commissioner may refer a respondent to an interim panel if:

- .1 subject to 0:
 - .a the respondent has been convicted of, or charged with, a criminal offence in any jurisdiction other than a minor criminal offence; or
 - .b the respondent has been convicted by another Approved Regulator, for which they have been sentenced to a period of suspension or termination of the right to practise; or
 - .c the respondent has been intervened into by the Bar Standards Board; or
 - .d removed;

.e the referral is necessary for the protection of the public or in the public interest to do to protect the interests of clients (or former or potential clients); and

.2 the *Commissioner* decides having regard to the *regulatory objectives* that pursuing an interim *suspension* or an interim *disqualification order* is appropriate in all the circumstances.

rE269 No matter shall be referred to an *interim panel* on any of the grounds of referral set out in rE262.1.a to rE262.1.b unless the *Commissioner* considers that, whether singly or collectively, the relevant grounds of referral would warrant, in the case of a *BSB authorised person*, a charge of *professional misconduct* and referral to a *Disciplinary Tribunal*, or, in the case of a *applicable person*, an application to a *Disciplinary Tribunal* for *disqualification* (in each case such referral or application to be made in accordance with Section 5.B).

rE270 If the *Commissioner* refers a *respondent* to an *interim panel* under rE268, the Chair of the *Independent Decision-Making Body* shall consider whether or not the *respondent* should be subject to an immediate interim *suspension* or *disqualification* under rE272 pending disposal by the *interim panel*.

rE271 An immediate interim *suspension* or *disqualification* may only be imposed if the Chair of the *Independent Decision-Making Body* is satisfied that such a course of action is justified having considered the risk posed to the *public* if such interim *suspension* or *disqualification* were not implemented and having regard to the *regulatory objectives*.

rE272 Any immediate interim *suspension* or *disqualification* imposed by the Chair of the *Independent Decision-Making Body* shall:

- .1 take immediate effect;
- .2 be notified in writing by the *Commissioner* to the *respondent*;
- .3 remain in force until the earlier of:
 - .a such time as an *interim panel* has considered the matter; or
 - .b the date falling four weeks after the date on which the immediate interim *suspension* or *disqualification* is originally imposed;

Part 1 – Public

- .4 where relevant, result in the removal of the relevant *BSB authorised individual's practising certificate, litigation extension* and/or right to undertake public access work (as appropriate);
- .5 where relevant, result in the imposition of conditions on the relevant *BSB authorised person's* authorisation and/or licence (as appropriate)
- .6 be published on the *Bar Standards Board's* website; and
- .7 be annotated on the *Bar Standards Board's* register of *BSB authorised persons* which is to be maintained by the *Bar Standards Board* in accordance with rS60.2 ad rS129 or be included on the *Bar Standards Board's* register of individuals that are the subject of a *disqualification order* (as appropriate).

Guidance

gE1 If an immediate interim *suspension* or *disqualification* has been imposed by the Chair of the *Independent Decision-Making Body* it must be considered by an *interim panel* within four weeks of the date that that the immediate interim *suspension* or *disqualification* is originally imposed. If it is not considered by an *interim panel* within that period, it shall automatically fall away and no further period of interim *suspension* or *disqualification* may be imposed on the *respondent* until the matter is considered by an *interim panel*.

gE2 If, subsequent to the imposition of an immediate *suspension* or *disqualification* under rE271, the *applicable person* agrees to provide to the *Commissioner* an undertaking in written terms in accordance with the provisions of rE274.4 below which is satisfactory to the *Commissioner* and which is subject to such conditions and for such period as the *Commissioner* may agree, the *Commissioner* may elect to remove or qualify the immediate interim *suspension* or *disqualification* pending the disposal of any charges or application by a *Disciplinary Tribunal*. For the avoidance of doubt, in these circumstances the referral to the *interim panel* shall also be withdrawn in accordance with the provisions of rE275 below.

Chair’s Report on Visits and External Meetings from January to March 2023**Status:**

1. For noting

Executive Summary:

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

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

7 February Met with Sir Nicholas Green, President of COIC and James Wakefield, Director, COIC

Meetings

6 February Attended Board member Training on Equality & Diversity
7 February Meeting with Anne Sharp, Treasurer Lincoln’s Inn and James Wakefield COIC re Point of Call

22 February Panel member for the recruitment of a Lay Chair for the Joint Audit Committee

28 February Attended Bar Council Induction programme for Chair and Lay Board members

1 March Met with Jonathan Rees, CILEx Regulation accompanied by Mark Neale

1 March Met with members of IDB (Independent Decision-making Body)

6 March Met with members of IDB (Independent Decision-making Body)

9 March Attended and met members of BSB Project Management Alliance team

29 March Attended BSB Board briefing meeting

29 March Pre-Board meeting with Chair and Vice chair of Bar Council

30 March Attended Board to Board meeting with OLC

30 March Attended BSB Board meeting

Events

8 February Attended Treasurers’ Dinner, Lincoln’s Inn

21 February Attended Lunch with Sir Robert Francis KC, Treasurer, Greg Dorey, Sub-Treasurer, and Gail Fleming, Director of Education, Inner Temple

22 February Lunch with Dr Helen Phillips, outgoing Chair of LSB

23 February Institute of Regulation Inaugural Conference – speaker

1 March Lunch with David Wurtzel, Editor Counsel Magazine

2 March Roundtable event in Newcastle followed by dinner with Tribunal Judge Carl Gumsley (DCRJ)

8 March Lunch with Marcial Boo, Institute of Regulation

13 March Recorded a podcast following on from IoR Conference

15 March Durham Cathedral, Speaker on Leadership and Standards in Public Life - A Crisis of Confidence

23 March Attended Hilary Call at Middle Temple