

*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 26 November 2020, 5.00 pm**  
**via MS Teams**

**Agenda - Part 1 – Public**

			<b>Page</b>
1. <b>Welcome / announcements</b> (5.00 pm)		Chair	
2. <b>Apologies</b>		Chair	
3. <b>Members' interests and hospitality</b>		Chair	
4. <b>Approval of Part 1 (public) minutes</b>			
• 24 September 2020	Annex A	Chair	<b>3-5</b>
5. a) <b>Matters arising</b> <i>(no action list included as all previous items completed)</i>		Chair	
b) <b>Forward agenda</b>	Annex B	Chair	<b>7</b>
6. <b>Proposed changes to BSB Constitution and Standing Orders</b> (5.05 pm)	BSB 042 (20)	Rebecca Forbes	<b>9-47</b>
7. <b>Regulatory Decisions Annual Report 2019/20</b> (5.15 pm)	BSB 043 (20)	Sara Jagger / Oliver Hanmer	<b>49-75</b>
8. <b>Independent Decision-Making Body Annual Report 2019/20</b> (5.25 pm)	BSB 044 (20)	Aidan Christie QC / Iain Christie	<b>77-87</b>
9. <b>BSB Planning, Resources &amp; Performance Committee (PRP) mid-year Report</b> (5.35 pm)	BSB 045 (20)	Steve Haines	<b>89-97</b>
10. <b>Annual report of the Governance, Risk and Audit Committee (GRA)</b> (5.45 pm)	BSB 046 (20)	Nicola Sawford	<b>99-103</b>
11. <b>BSB Anti-Racist Statement</b> (5.50 pm)	BSB 047 (20)	Ewen Macleod / Amit Popat	<b>105-109</b>
12. <b>How can the BSB improve its engagement with consumers?</b> (6.00 pm)	BSB 048 (20)	Wilf White	<b>111-117</b>

*\*Note – Starred items will not normally be discussed unless a Member gives prior notice that this should occur. If you wish to raise any points on these items, please contact [John Picken](#) before the meeting.*

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| 13. <b>Director General's Strategic Update-<br/>Public Session</b><br>(6.20 pm) | BSB 049 (20) | Mark Neale        | <b>119-122</b> |
| 14. <b>Schedule of Board meetings 2021/22 (*)</b>                               | BSB 050 (20) | Rebecca<br>Forbes | <b>123</b>     |
| 15. <b>Chair's Report on Visits and External<br/>Meetings (*)</b>               | BSB 051 (20) | Chair             | <b>125</b>     |
| 16. <b>Any other business</b><br>(6.30 pm)                                      |              | Chair             |                |
| 17. <b>Date of next meeting</b><br>Thursday 28 January 2021                     |              |                   |                |
| 18. <b>Private Session</b>  |              |                   |                |

**John Picken**  
**Governance Officer**  
19 November 2020

*\*Note – Starred items will not normally be discussed unless a Member gives prior notice that this should occur. If you wish to raise any points on these items, please contact [John Picken](#) before the meeting.*

BAR STANDARDS BOARD
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REGULATING BARRISTERS

**Part 1 - Public**  
**Minutes of the Bar Standards Board meeting**  
**Thursday 24 September 2020 (1.45 pm)**  
**etc venues, Chancery Lane / MS Teams**

**Present:** Baroness Tessa Blackstone (Chair)  
Naomi Ellenbogen QC (Vice Chair, BSB)  
Alison Alden OBE (*via Teams*)  
Lara Fielden (*via Teams*)  
Andrew Mitchell QC  
Elizabeth Prochaska (*via Teams*)  
Irena Sabic  
Adam Solomon QC  
Kathryn Stone OBE (*via Teams*)  
Stephen Thornton CBE (*via Teams*)

*Nicola Sawford did not attend for Part 1 but was present for Part 2*

**By invitation:** Amanda Pinto QC (Chair, Bar Council)  
Derek Sweeting QC (Vice Chair, Bar Council)  
Malcolm Cree CBE (Chief Executive, Bar Council)

**BSB & RG Executive in attendance:** Rebecca Forbes (Head of Governance & Corporate Services)  
Andrew Lamberti (Communications Manager)  
Ewen Macleod (Director of Strategy and Policy)  
Mark Neale CB (Director General)  
John Picken (Governance Officer)  
Wilf White (Director of Communications and Public Engagement)

**Press:** Jemma Slingo, Law Society Gazette (*via Teams*)  
Neil Rose, Legal Futures (*via Teams*)

**Item 1 – Welcome / Announcements**

1. The Chair welcomed those present to the meeting. She announced the following reappointments to the Board:
  - Alison Alden OBE – second four-year term
  - Lara Fielden – second four-year term
  - Andrew Mitchell QC – two-year extension
  - Adam Solomon QC – one-year extension
  - Kathryn Stone OBE – second four-year term
  - Stephen Thornton CBE – second four-year term
  
2. **Item 2 – Apologies**
  - Steve Haines
  - Leslie Thomas QC
  - Grant Warnsby (Treasurer, Bar Council)
  - James Wakefield (Director, COIC)
  - Richard Cullen (Director of Finance)
  - Oliver Hanmer (Director of Regulatory Operations)
  - Sara Jagger (Director of Legal and Enforcement)

**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 Thursday 16 July 2020.

**Item 5a – Matters arising**

5. None.

**Item 5b – Forward Agenda (Annex B)**

6. Members noted the forward agenda list.

**Item 6 – Director General’s Strategic Update**

BSB 036 (20)

7. Mark Neale reiterated his apology to students for the disruption to the online examinations held in August. He stated that:
- we have maintained dialogue with the various stakeholders, including a student representative group and explained the Board’s view that granting a wholesale waiver is not possible, given its overriding duty to maintain entry standards;
  - it was not logistically possible for the results of the August sitting to be released prior to the registration deadline for October. These circumstances mean, though, that we can award the higher of the two scores to those candidates who sit both. That is not the case in December, however, because results will be known by then and a core academic principle forbids sitting an examination just to improve upon a previous pass score;
  - the effect is to give students a clear choice: to sit again in October if they were hindered by technical difficulties from completing the August examinations or felt that they were unable to perform to their best, or to sit in December if they completed the August examinations, but, when the result were released, found that they had failed one or more papers;
  - preliminary indications are that the range of performance in the August examinations is broadly in line with previous years.
8. The Chair joined Mark Neale in expressing her thanks to the BSB’s Examinations Team for enabling the October sitting to proceed. She also praised providers for their constructive and helpful approach, especially when dealing with student requests for reasonable adjustments.
9. Amanda Pinto QC referred to the section in the report on pupillage. She commented that the Bar Council is already monitoring the impact of the health emergency in this respect, so suggested a collaborative approach to avoid any duplication of effort.
10. Mark Neale welcomed this opportunity and also offered to share information on this issue arising from the BSB’s Regulatory Return. He also responded to a question about reverse mentoring. The salient points were:
- we have received a positive response to this initiative;
  - we hope to assess its impact by seeking the views of both mentors and mentees.
11. In response to a question from Lara Fielden, he stated that:
- we are contacting the MoJ at this stage to flag a *potential* issue over pupillages so that it is properly aware of a risk to future supply of barristers;
  - notwithstanding the positive approach of many chambers, the health emergency has already impacted on the completion time for some pupillages because of a lack of opportunity to gain necessary work experience;

## Part 1 - Public

- should risks around supply begin to materialise, the BSB would look strategically at the issue of work based learning and seek to collaborate with stakeholders to protect future supply.
12. Amanda Pinto QC also referred to the CMA's impending follow up review to its market study of the legal sector from 2016. In response to this, Mark Neale stated that the BSB will not have completed its impact assessment until at least Spring 2021. This is due to a combination of factors ie:
- the transparency rules only came into effect from January this year;
  - the subsequent health emergency has disrupted normal business since then.
13. **AGREED**  
to note the report.
- Item 7 – Chair’s report on visits and external meetings**  
BSB 030 (20)
14. The Board **noted** the report.
- Item 8 – Any Other Business**
15. None.
- Item 9 – Date of next meeting**
16. • Thursday 26 November 2020
- Item 10– Private Session**
17. The Board resolved to consider the following items in private session:
- (1) Approval of Part 2 (private) minutes – 16 July 2020; 2 September 2020 and 10 September 2020;
  - (2) Matters arising and action points – Part 2;
  - (3) Examinations Update
  - (4) Budget proposal – 2021 / 22 financial year;
  - (5) Consolidated Risk Report
  - (6) Governance: Internal Audit Report on 2019 decisions about public legal education
  - (7) Director General’s Strategic Update (private session)
  - (8) Any other private business.
18. The meeting finished at 2.00 pm.



## Forward Agendas

### Thursday 28 January 2021

- Maintaining Standards in the profession – discussion paper
- Review of BCAT
- Director General's Strategic Update

### Thursday 18 March 2021 (*preceded by Board to Board meeting with OLC*)

- BSB Business Plan 2021/22
- Consolidated Risk Report
- Questions relating to the health emergency arising from the Regulatory Return
- Independent Review – August examinations
- Director General's Strategic Update (incl Q3 performance report)

### Thursday 27 May 2021

- End of year financial report (2020-21) & SP&R Committee Annual Report
- Corporate Risk Report (summary)
- Regulatory Return
- Director General's Strategic Update (incl Q4 / year end performance report)

### Thursday 15 July 2021 (Board Away Day)

- Board development
- Strategic Plan 2023-2025

### Thursday 23 September 2021

- Consolidated Risk Report
- Budget 2022-23
- Director General's Strategic Update (incl Q1 performance report)

### Tuesday 5 or Tuesday 19 October 2021 (Board to Board meeting with LSB)

– final date to be confirmed

### Thursday 25 November 2021

- IDB Annual Report
- Mid-year financial report (2021-22)
- Corporate Risk Report (summary)
- GRA Annual Report
- Director General's Strategic Update (incl Q2 performance report)

### Thursday 27 January 2022

- Director General's Strategic Update

### Thursday 31 March 2022

- BSB Business Plan 2022/23
- Strategic Plan 2023-2025
- Consolidated Risk Report
- Director General's Strategic Update (incl Q3 performance report)





<b>Meeting:</b>	Bar Standards Board	<b>Date:</b>	26 November 2020
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<b>Title:</b>	Proposed Amendments to the BSB Constitution and Standing Orders		
<b>Author:</b>	Rebecca Forbes		
<b>Post:</b>	Head of Governance and Corporate Services		

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

1. The Board is asked to **approve** the proposed amendments to the BSB Constitution at Annex A and to its Standing Orders at Annex B.

### Executive Summary

2. We have consulted with the Bar Council on our proposed amendments to the BSB Constitution. No changes are proposed to our amendments as a result of that consultation. We are not required to consult on changes to the BSB's Standing Orders.
3. The attached substantive Board paper summarises at a high level what we have proposed and our rationale, whilst Annexes A and B set out the exact detail of the proposals.
4. Amendments to the Terms of Reference for the Board's two standing committees (including those for the establishment of the Remuneration Committee) have been scrutinised by those committees and are recommended to the Board. Similarly, the proposed Terms of Reference for the Centralised Examinations Board (CEB) have been confirmed with the Chair of the CEB.

### Risk

5. The Board's published statement on the role of the Board states that it is responsible for ensuring that sound and effective governance arrangements are in place so that the organisation can operate in accordance with the good governance principles and organisational values agreed by the Board. Periodic review of its primary governance documents is necessary for the Board to discharge that responsibility.

### Equality & Diversity

6. It is not anticipated that the proposed amendments to the BSB Constitution or Standing Orders will have any impact on any group with protected characteristics under the Equality Act 2010.



## Proposed Amendments to the BSB Constitution and Standing Orders

### Introduction

1. Paragraph 18 of the BSB Constitution states that this “Constitution may be amended or revoked by resolution of the Bar Standards Board only after consulting the Bar Council”. Our proposed amendments to the Constitution are to allow the Board flexibility in its processes for appointment of the Vice Chair, and consequentially to allow the Board to function with a lay majority of two for a limited time and for a specific reason.
2. The requirement for consultation reflects the principle that as the BSB is the body established to discharge the regulatory functions of the Bar Council, the BSB should only change its Constitution after consulting the Bar Council. It also achieves compliance with the Statutory Guidance to the Internal Governance Rules which state (paragraph 3.9) that it is reasonably necessary for the Approved Regulator to be provided with information about the regulatory body’s governance arrangements.
3. We have consulted the Bar Council on our proposed amendments to the Constitution and received two submissions prior to finalisation of this paper. Neither raised any objections to the proposed amendments but one asked that the lay majority of one in Board membership be restored “at the earliest opportunity, even if that means someone not serving a second term”.
4. The Board has the authority under paragraph 14 of its Constitution to make Standing Orders to regulate its own procedure and to establish, and regulate the procedure of, such committees, panels, decision-making panels and other bodies as it considers necessary or appropriate. The Board has been intending to revise its Standing Orders for some time, and in particular to review the Terms of Reference for its Standing Committees. This work was deferred to allow the Board to consider delegation of functions to its two remaining standing committees when it considered its self-evaluation in September.
5. The Board agreed in September that monitoring of the BSB’s performance (including performance against Key Performance Indicators) should revert to the Board rather than remain delegated to one of its standing committees. This has consequences for the current Planning, Resources and Performance Committee (PRP) which will no longer routinely scrutinise quarterly reports on performance. The Committee has proposed that it now be called the Strategic Planning and Resources Committee (SPR) and that is reflected throughout the Standing Orders in advance of the Board’s agreement.
6. One amendment to the Standing Orders reiterates a requirement within the Statutory Guidance to the LSB’s Internal Governance Rules (IGRs) and there are other amendments which better align with the terminology of the new IGRs or give effect to our agreed actions for compliance (such as establishment of the Remuneration Panel).

### Proposed amendments to the BSB Constitution

7. Full details of the proposed amendments to the BSB Constitution can be found in Annex A. The key proposed amendments are as follows (using the revised numbering of Annex A):

8. Paragraph A6 reflects our intention that the Board have flexibility in the processes used for appointment of its Vice Chair, by giving it the option of appointing one of the already serving Board members. The Board would still have the option of convening an Appointments Panel and running an open competition but will also have the discretion to appoint an already serving Board member.
9. A consequential amendment to paragraph A15 clarifies that any such appointment of a Vice Chair from amongst the serving Board members may be for a fixed period of up to four years (to mirror the term available if an Appointments Panel was convened to run an open competition).
10. The Board has intended to reduce its size since amendments to its Constitution two years ago (November 2018) gave it the flexibility in number of members to do so. Our efforts to reduce size (without standing down any of our serving members) have been substantially constrained by the requirement to maintain a lay majority of one. We have had turnover of barrister members over the last two years (some taking up judicial appointments and others concluding their terms) but on only one occasion has that coincided with the end of term of one of the lay members. We have therefore reduced the size of the Board to 13 but wish to reduce numbers further to 11 (and retaining the lay majority of one).
11. The Chair of the BSB intends to continue the recent practice of appointing a barrister as Vice Chair. Should the Board agree to the recommendation of the Chair to appoint one of the currently serving barrister members of the Board as Vice Chair, we would then have a vacancy and a lay majority of two. Given the Board's continuing desire to reduce its size, we would prefer not to fill that vacancy but would then be in breach of the requirement to have a lay majority of one. The next term of appointment for a lay member does not conclude until late 2021 (and that member is then eligible for reappointment).
12. We therefore propose to amend paragraph 3(4) so that we may have a lay majority of more than one in this particular circumstance. This amendment makes clear our intention of restoring the balance to a lay majority of one as soon as that is possible without asking any existing member to stand down or forego reappointment. We remain compliant with the IGRs, which simply require that the Board must be comprised of a majority of lay persons and the Chair must be a lay person.

### **Key proposed amendments to the Standing Orders for the BSB**

13. Full details of the proposed amendments to the Standing Orders can be found in Annex B. The key proposed amendments are as follows (using the revised numbering of Annex B):
14. We have defined the General Council of the Bar (GCB) to be consistent with the definition in the *Standing Orders for joint Committees of the General Council of the Bar and the Bar Standards Board*, so that it refers to the legal entity in entirety and the Approved Regulator. We have made amendments throughout for clarity where references are either to the Approved Regulator or to the Council itself.
15. We have deleted the definition of practising barrister, as that term no longer appears in the Standing Orders. The requirement for appointment of practising barristers is specific to Board membership and enshrined in the Constitution.
16. We have replaced the words "regulatory principles" in paragraph 2(b) with the principles as set out in section 28 of the Legal Services Act (the Act). This is more verbose but gives greater clarity without requiring reference to the Act.

17. In paragraph 2, we have replaced the previous requirement to consult with the Bar Council with the requirement under the new IGRs (Rule 3) to provide sufficient information to the GCB as is reasonably necessary for it to be assured of the BSB's compliance with section 28 of the Act. That requirement is then reiterated in paragraph 6 (under the heading of *Obligations to the GCB*) but that paragraph 6 also references broader compliance with obligations under the IGRs.
18. With agreement of the Chair of the Board, we have amended the generic membership requirements for committees, given that there are now only three (including the Remuneration Panel) and with a relatively small membership. We propose that committee chairs should usually be Board members, that committees have discretion to appoint Vice Chairs (rather than that being mandated), and that membership must include barristers but no longer mandating that a third of members must be barristers. We specify that committees must be constituted with a lay majority, in accordance with the Board's published governance principles.
19. References to compliance of Board and Committee members with the Governance Manual have been deleted. The Governance Manual has been archived, being significantly out of date and other priorities taking precedence over its revision. Every obligation of members that was contained within the Governance Manual has been inserted into the Standing Orders (such as the requirement to undertake equality and diversity training). As a matter of principle, we consider it preferable to have obligations captured within the Standing Orders rather than scattered across multiple documents, to aid awareness and compliance.
20. We have made explicit in paragraph 29 that a person cannot both give advice to inform our policy development (as a member of APEX) and take regulatory decisions on individual cases (as a member of the IDB or the CEB). One of the first objectives of the BSB's programme of governance reform was to separate policy development from decision-making on individual regulatory cases. This principle is generally well established throughout our governance arrangements and now reflected in our rules by this amendment.
21. We have inserted a new paragraph 35 which reflects the requirements within the Statutory Guidance to the IGRS, that if a decision on regulatory functions is taken at a Board meeting where there is either not a lay majority or not a lay chair (or both), that decision must be ratified at the next meeting when there is both a lay majority and a lay chair. The Statutory Guidance to the IGRs states "These arrangements should be recorded in the board's terms of reference".
22. We have clarified in paragraph 36 that the Chair of the Board may decide that any other person in attendance at a public session of the Board be permitted to speak, in place of the narrower clause allowing the Chair to agree that persons nominated by the Chair of the Bar Council may attend and speak. By virtue of being in public session, attendance is open and allowing any person to speak (including those nominated by the Chair of the Bar Council as well as those otherwise attending) is at the Chair's discretion.
23. We have amended quorum requirements for committees to require at least three members, rather than a third of the membership. The experience of the two remaining committees of the Board, which are currently quorate with two members, is that two is insufficient for robust debate and discussion.
24. We have inserted new paragraph 43 from the now archived Governance Manual. This sets out that members can submit comments for meetings they are unable to attend and rules for voting.

25. The Terms of Reference for the Governance, Risk and Audit Committee (GRA) have been so substantially restructured that showing amendments in track changes was not meaningful. We have therefore inserted the new Terms of Reference immediately following the (struck through) current Terms of Reference. We have taken a first principles approach, considering what GRA does rather than redrafting the existing statements. We have set out the main areas of responsibility as headings with more specific detail in bullet points. We have endeavoured to achieve plain English statements of the duties of the Committee, having found some of the text within the previous Terms of Reference ambiguous and unclear.
26. Proposed amendments to the Terms of Reference for what is now the Strategic Planning and Resources Committee (SPR) have been made in track changes, and we have then also inserted the new Terms of Reference as amended for ease of reference. It now has a narrower and clearer remit on planning and resources. We anticipate that the reversion of responsibility for performance monitoring to the Board should resolve the previous issues of overlap and duplication between this committee and GRA.
27. As part of our compliance with the Statutory Guidance to the IGRS, we have created a Shared Services Forum at executive level which oversees the agreements and arrangements for shared services, including the need for periodic review of those arrangements. We have inserted a responsibility for the SPR to confirm the executive's view on the provision of corporate services. This is to include confirming the executive's view that it is appropriate to continue to share any service with the Bar Council and if so, sharing that service meets the three tests set out in Rule 11 of the IGRs.
28. We have proposed creation of a Remuneration Panel to fulfill the functions of the previous Emoluments Committee for the BSB alone. This ensures that we achieve independence in the assessment of remuneration for Board members (as required by Rule 8 of the IGRs) and in terms and conditions for BSB staff.
29. The Centralised Examinations Board (CEB) had delegated authority through the Board's previous Education and Training Committee. As that committee no longer exists, we have inserted a high level Terms of Reference into Standing Orders so that it is explicit the CEB is acting with delegated authority from the Board.

## Annexes

Annex A - proposed amendments to the BSB Constitution

Annex B – proposed amendments to the Standing Orders for the BSB

Rebecca Forbes

Head of Governance and Corporate Services

Mark Neale

Director General

**Constitution of the Bar Standards Board**  
~~21-May~~26 November 2020

**PREAMBLE**

- A. The General Council of the Bar (Bar Council) is an approved regulator for the purposes of the Legal Services Act 2007.
- B. The Bar Council has established the Bar Standards Board (“the BSB”) to exercise the regulatory functions of the Bar Council.
- C. The Bar Council 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 Bar Council 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 Bar Council 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(f) of the Bar Council Constitution, the BSB makes the following Constitution.

**CONSTITUTION****The BSB**

1. The BSB is the body established to discharge the regulatory functions of the General Council of the Bar. It has no separate legal personality.

**Membership of the BSB**

2. The BSB shall consist of between eleven and fifteen members (including a Chair and a Vice Chair) who shall be appointed and hold office in accordance with the provisions of Schedule A to this Constitution.
3. The members of the BSB shall consist of:
  - (1) no fewer than five, and no more than seven, practising barristers who are not members of the Bar Council;
  - (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;
  - (4) and the number of lay members of the Board shall ~~at all times generally~~ (other than when there is a casual vacancy, or when the Board is reducing the number of members and then only until the next lay member stands down) be one more than the number of barrister members.

### **Functions of the BSB**

4. The BSB is responsible for performing all regulatory functions of the Bar Council as defined in section 27(1) of the Legal Services Act 2007. These regulatory functions have been delegated to the BSB in entirety.
5. The BSB is responsible for determining any question whether a matter involves the exercise of a regulatory function.
6. 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.
7. The BSB has no representative functions as defined in section 27(2) of the Legal Services Act 2007.

### **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 Bar Council as an approved regulator for the purposes of the Legal Services Act 2007, including the Bar Council'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 14(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 Bar Council 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 Bar Council as is reasonably required for the Bar Council to be assured of the BSB's compliance with Section 28 of the Legal Services Act 2007;
- (10) Publish an annual report on its work.

12. The BSB must act in accordance with the Seven Principles of Public Life (set out in Schedule B to this Constitution) 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 paragraph 14(3) below.

**Powers of the BSB**

13. The BSB shall have power to do all things calculated to facilitate, or incidental or conducive to, the performance of its functions or duties. This includes, but is not limited to, power to do the things set out in paragraph 14 below.

14. The BSB shall have power:
- (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 14(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.

### **Proceedings of the BSB**

15. The quorum of any meeting of the BSB shall be five members, of whom at least three must be lay persons and at least two must be practising barristers.
16. The validity of any act of the BSB is not affected:
- (1) by a vacancy in the office of Chair or amongst the other members; or
  - (2) by a defect in the appointment or any disqualification of a person as Chair, or another member, of the BSB.

### **Definitions**

17. In this Constitution and in the Schedules hereto, the terms listed in Schedule B shall have the meaning there set out.

### **Amendments to the Constitution**

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

## Schedule A to the Constitution of the Bar Standards Board

### Appointments to the BSB

- A1. The BSB shall convene an Appointments Panel (“a Panel”), which shall be responsible for appointing members of the BSB, as required for each recruitment.
- A2. For the appointment of the Chair, a Panel shall consist of:
- (1) A member of the judiciary nominated by the Lord Chief Justice;
  - (2) Two Board members nominated by the Board, one of whom must be a practising barrister and one of whom must be a lay person;
  - (3) A member who is a lay person independent of the Bar Council and the BSB, with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office. This member shall be the Chair of the Panel and shall be appointed by the BSB.
- A3. For the appointment of Board members other than the Chair, a Panel shall consist of:
- (1) The Chair of the BSB, *ex officio*, who shall be the Chair of the Panel;
  - (2) Two Board members nominated by the Chair of the BSB;
  - (3) A member who is a lay person independent of the Bar Council and the BSB, with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office. This member shall be appointed by the BSB.
- A4. A Panel must be convened with equal numbers of lay members and barrister members, or with a majority of lay members. For the purposes of a Panel convened at A2, the nominee of the Lord Chief Justice will not be considered to be either a lay member or a barrister member.

A5. The Chair of the BSB may nominate an alternate to take their place for any Appointments Panel convened which they are unable to attend.

A5-A6. For the appointment of the Vice Chair, the Board may, on the recommendation of the Chair, appoint a serving member of the Board rather than convening a Panel under A3.

### Proceedings of the Panel

A6-A7. The quorum for a meeting of a Panel shall be three members.

A7-A8. The Chair of the BSB may not take part in any discussion or decision of a Panel relating to any appointment to that office.

A8-A9. Matters requiring a vote by a Panel shall be decided by a simple majority of votes cast by the members present. In the case of a tie, the Chair of the Panel shall have a second, deciding vote.

A9-A10. In carrying out their functions, members of a Panel must act:

- (1) in the best interests of the proper exercise of the BSB's regulatory functions; and
- (2) in accordance with the Seven Principles of Public Life (set out in Schedule B to this Constitution) and should take account of best practice for public appointments, including in particular the Governance Code on Public Appointments.

### Procedure for Appointments

A10-A11. Subject to paragraphs A15-A16 and A16-A17 below, all appointments by a Panel shall be made by way of open competition, and appropriate arrangements shall be made, including advertisements in relevant publications, to ensure that suitably qualified persons have the opportunity to put their names forward to consideration for appointment.

A11-A12. In appointing members of the BSB, a Panel shall have regard to the desirability of the BSB including members who (between them) have experience in or knowledge of an appropriate range of relevant fields and any particular requirements identified by the BSB.

### Criteria for Appointment

A12-A13. The competencies required of BSB members shall be those as agreed from time to time by the BSB.

A13-A14. A member of the Bar Council or any of its representative committees may not hold office as a member of the BSB. A person who has been responsible for a representative function shall not thereby be ineligible for appointment as a member of the BSB, but, in considering whether to appoint any such person to the BSB, a Panel shall take account of their responsibility for a representative function, when that responsibility ended and any implications for the observance of the overarching duty and prohibition on dual roles as set out in the Internal Governance Rules 2019.

### Length of Appointments

A14-A15. All appointments made by a Panel or by the Board under A6 shall be for a fixed period of up to four years.

A15-A16. The Board may renew the appointment of the Chair for a further fixed period of up to four years without holding a competition, if the Board is satisfied that conditions (1) and (2) are met. The Chair of the BSB may not take part in any

discussion or decision of the Board relating to reappointment, and the Vice Chair of the BSB shall normally chair the discussion:

- (1) the person has performed to the standard to be expected of the office held, and
- (2) it is in the interests of the BSB to renew the appointment.

A16.A17. The appointments of other members of the Board may be renewed on the recommendation of the Chair of the BSB, who will have consulted the Vice Chair and Director General as to whether conditions A15 (1) and (2) are met in respect of the Board member. Appointments may be renewed for a further fixed period of up to four years.

A17.A18. With the exception of the Chair and Vice Chair of the BSB, casual vacancies may be filled by the BSB but any appointment so made will last only for the remainder of the current term of office of the member who they have replaced, or such reasonable time as is necessary for an Appointments Panel to be convened and make an appointment in accordance with the provisions of this Schedule, whichever is the shorter.

A18.A19. A person may not serve more than:

- (1) eight years as an ordinary member of the BSB, and
- (2) twelve years in total as a member of the BSB.

A19.A20. A person shall cease to be a BSB 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 BSB resolves that they should cease to be a member; or
- (6) the BSB resolves that they are unfit to remain a member (whether by reason of misconduct or otherwise).

**Schedule B to the Constitution of the Bar Standards Board**

B1. In this Constitution and in the Schedules to this Constitution, the following terms have the meanings set out below:

the BSB	the Bar Standards Board
the Seven Principles of Public Life	the principles set out in paragraph B4 below
ordinary member of the BSB	a member who is not the Chair nor the Vice Chair
the Panel	the Appointments Panel established under Schedule A to this Constitution
the representative committees of the Bar Council	the committees established pursuant to Part Two of the Standing Orders for Committees of the Bar Council of England and Wales

B2. In this Constitution and in the Schedules to this Constitution, the following terms have the meanings given in the following provisions:

lay person	Legal Services Act 2007, Schedule 1, paragraphs 2(4) and (5)
Overarching duty	Internal Governance Rules 2019, rule 1
regulatory functions	Legal Services Act 2007, section 27(1)
representative functions	Legal Services Act 2007, section 27(2)

B3. 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; 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;
- (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;

Part 1 – Public

- (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);
  - (9) To make arrangements, either directly or through another body, for the conduct of disciplinary hearings and to take disciplinary action in respect of those persons who are subject to regulatory arrangements.
- B4. The “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). These are:
- (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.





**BAR  
STANDARDS  
BOARD**

REGULATING BARRISTERS

**STANDING ORDERS  
FOR THE BAR STANDARDS BOARD**

**FOREWORD**

The following Standing Orders are issued under the Authority of paragraph 14(1) of the Bar Standards Board Constitution.

This edition of the Standing Orders came into effect on ~~15 October 2019~~ 26 November 2020

## PART 1 – INTRODUCTION

## Definitions

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

“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, Committees established under these Standing Orders and any individual or group exercising the delegated powers of the Board.

“Board” means the Board of the BSB established under Paragraph 2 of the BSB's Constitution.

“BSB staff” means the employees of the ~~Bar Council~~General Council of the Bar of England and Wales appointed by the BSB in accordance with paragraph ~~5862~~.

“BTAS” means the Bar Tribunals and Adjudication Service, an independent body set up by the Council of the Inns of Court to appoint and administer Disciplinary Tribunals and other relevant panels on behalf of the BSB.

“CEB” means the Centralised Examinations Board which is collectively those appointed by the BSB pursuant to Part 4 of these Standing Orders.

“Committee” means a Committee established by the BSB pursuant to Part 4 of these Standing Orders, and includes the Remuneration Panel which is established from the membership of the Strategic Planning and Resources Committee.

“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.

“IDB” means the Independent Decision-Making Body which is collectively those appointed by the BSB pursuant to Part 4 of these Standing Orders.

“IDP” means ~~the an~~ Independent Decision-Making Panel, a panel consisting of a minimum of three members of the Independent Decision-Making Body to take relevant decisions as provided in the BSB Handbook.

“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.

~~“Practising barrister” means a barrister holding a current practising certificate issued by the General Council of the Bar and the Bar Standards Board.~~

“Regulatory arrangements” has the meaning given in section 21 of the Legal Services Act 2007.

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

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

Act 2007.

“Seven Principles of Public Life” means the principles, also known as the “Nolan Principles”, as laid down in the Committee on Standards in Public Life’s thirteenth report “Standards Matter” and referred to in paragraph B4 of the Constitution and reproduced in Annex 1.

“Task Completion Group” means an ad hoc group established by the BSB to complete a specific task or tasks. At the time of the establishment the BSB shall specify a time limit for completion of the tasks. Such time can only be extended by the BSB.

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

## PART 2 – THE BAR STANDARDS BOARD

### General

2. The BSB is committed to:
  - a. providing regulation of advocacy and expert legal advice in the public interest;
  - b. acting in a way that is compatible with the regulatory objectives, having regard to the ~~regulatory~~ principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principle appearing to it to represent best regulatory practice, as required by section 28 of the Legal Services Act 2007;
  - c. providing sufficient information to the GCB as is reasonably required for it to be assured of the BSB’s compliance with section 28 of the Legal Services Act 2007;
  - d. conducting its business in harmony with the Seven Principles of Public Life;
  - e. ~~making its regulatory decisions~~exercising its regulatory functions independently of the ~~Bar Council~~GCB as required by the Internal Governance Rules;
  - ~~f. consulting with the Bar Council as required by the Legal Services Act 2007 and the Internal Governance Rules;~~
  - ~~g.f.~~ undertaking regulatory functions only and not undertaking any representative functions;
  - ~~h.g.~~ working cooperatively with the Inns of Court, the Council of the Inns of Court and BTAS; and
  - ~~i.h.~~ conducting its business in accordance with its Statement of Governance Principles as published by the BSB.

### Consultation on exercise of regulatory functions

3. When proposing to make or alter the regulatory arrangements, and in other cases where it considers it appropriate, the BSB will normally consult, in the way it considers appropriate:
  - a. The regulated community (including its representative body and sections of the Bar); and

- b. Other interested parties (including for example, the public, other approved regulators, the judiciary, barristers' clerks, academic providers and other education providers) as it considers appropriate.
4. In relation to proposals to make or alter the regulatory arrangements, the BSB will normally allow a period of three months for consultation before a decision is taken.

### Saving for defects etc

5. All acts done in good faith by the BSB shall (so far as is lawful), notwithstanding any defect, be as valid as if there were no such defect or error.

### PART 3 – OBLIGATIONS TO THE ~~BAR COUNCIL~~GCB

6. The BSB ~~will make information and papers available to the Bar Council for the purpose of the Bar Council fulfilling its function as an Approved Regulator including shall 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~~ its obligations under the Legal Services Board's Internal Governance Rules as made by them from time to time.

### PART 4 – COMMITTEES AND ~~DB~~OTHER DECISION-MAKING BODIES

#### Committees of the BSB

7. The Board establishes the following Committees whose terms of reference and membership are set out in Annex 2:
  - a. The Governance, Risk and Audit Committee; ~~and~~
  - ~~b. The Planning, Resources and Performance Strategic Planning and Resources Committee; and~~
  - ~~b.c. The Remuneration Panel.~~
8. The Chair and Vice Chair of the Board have the right to receive papers and to attend meetings of all Committees.
9. Without prejudice to the power of the Board to amend Annex 2 on its own initiative, a Committee may at any time propose an amendment to its terms of reference or membership for consideration by the Board.
10. Save where provided for in these Standing Orders each Committee may determine its own composition and procedure subject to the provisions of Part 6 and the following general requirements:
  - a. ~~Each Committee is to have a minimum of a Chair and a Vice Chair. Wherever possible, at least one of these two office holders should be a member of the Board.~~ Each Committee is to have a Chair who should be a member of the Board;
  - b. ~~At least a third of the Committee's membership must be lay persons~~ Each Committee may appoint a Vice Chair from amongst its members;
  - c. ~~At least a third of the Committee's membership must be barristers~~ Each Committee

is to include both lay persons and barristers, and must be comprised of a majority of lay persons;

- d. Each Committee must adopt and maintain rules of procedure on an annual basis addressing meeting arrangements (including frequency of meetings and arrangements for urgent business outside regular meetings);
- e. The Chair of each Committee or, in that person's absence, ~~any~~ Vice Chair, shall take the chair at every meeting of the Committee. In the absence of the Chair and any Vice Chair, or where an interest has been declared by them for a specific item only, the members present may proceed to elect a chair from among their number for the purposes of that meeting or that item; and
- f. Members of a Committee shall be appointed and reappointed in accordance with the Procedures set out in Annex 3.

### The IDB

11. The Board establishes the IDB whose terms of reference are set out in Annex 2~~e~~ on such terms and conditions as it considers appropriate, which may include terms relating to performance, appointment and removal as a member.
12. The IDB shall have a minimum of a Chair and a Vice ~~Chair~~ and be comprised of a membership of lay person and barrister members.
13. Members of the IDB shall be appointed and re-appointed in accordance with the procedures and terms set out in Annex 3b.

### The CEB

14. The Board establishes the CEB whose terms of reference are set out in Annex 2e on such terms and conditions as it considers appropriate, which may include terms relating to performance, appointment and removal as a member.
15. Members of the CEB shall be appointed and reappointed in accordance with the procedures and terms set out in Annex 3c.

### Restrictions on ~~Committee and IDB~~ Membership of Committee and Decision-Making Bodies

- ~~13.16.~~ 14.16. A member of the Bar Council or any of its representative committees may not hold office as Chair, Vice Chair or as a member of:
- a. the Board;
  - b. any of the BSB's committees; ~~or~~
  - c. ~~the IDB;~~ or
  - d. the CEB
- 14.17. A person cannot be both a member of the Board and the IDB. A person cannot be both a member of the Board and the CEB.

~~15-18.~~ A person shall cease to be a ~~BSB Committee or IDB~~ member of a BSB Committee or other Decision-making Body if:

- a. the period for which they were appointed expires (and their appointment is not renewed);
- b. they resign their membership by notice in writing;
- c. they were appointed as a lay person and cease to be a lay person;
- d. they were appointed as a barrister and subsequently cease to be a barrister or become a member of the Bar Council or one of its representative committees;
- e. the Board resolves that they are unfit to remain a member (whether by reason of misconduct or otherwise);
- f. the Board resolves to disestablish or substantively restructure a Committee or Body of which a person is a member so as to be inconsistent with continued office by that person, upon three months' notice; or
- g. they fail to attend four or more meetings in any rolling 12-month period and the Committee or Board resolves that they should cease to be a member.

~~16-19.~~ Committees and the IDB and the CEB may act only in matters within their terms of reference, within any agreed budget and in accordance with the Statement of Governance Principles.

### Reports to the Board

~~17-20.~~ A Committee must report to the Board at least annually but as often as required by the Board.

~~21.~~ A report on the outcomes of matters considered by the IDB must be submitted to the Board at least annually but as often as required by the Board.

### Payments to members

~~18-22.~~ The BSB may decide to pay fees and expenses to members of the Board or of Committees or of the IDB or of the CEB on terms it may set.

### Obligations of members

~~19-23.~~ All Board and Committee and IDB and CEB members must complete BSB equality and diversity training within three months of taking up an appointment with the BSB. All Board and Committee and IDB and CEB members are subject to continuing satisfactory performance and compliance with the Standing Orders ~~and Governance Manual~~. Such persons may be removed from office for failing to meet these obligations, based on the reviews outlined in paragraph ~~22-24~~ or any other ad hoc reviews of individual members that the Board or the Chair of the Board or the Chair of the Committee or the Chair of the IDB or the Chair of the CEB determines are required.

~~20-24.~~ All Board and Committee and IDB and CEB members are subject to a minimum of a review of performance within 18 months of appointment and a review of performance preceding any reappointment decision.

## PART 5 – BSB ADVISORY BODIES

~~21-25.~~ The BSB may appoint a Task Completion Group on such terms as it considers appropriate.

~~22-26.~~ Task Completion Groups may act only in matters within their terms of reference, within the agreed budget and in accordance with the Statement of Governance Principles.

~~23-27.~~ The BSB may establish an Advisory Pool of Experts (APEX) on such terms and conditions as it considers appropriate, which may include terms relating to performance, appointment and removal as a member.

~~24-28.~~ A member of the Bar Council or any of its representative committees may not be appointed as a member of:

- a. Task Completion Groups; or
- b. the Advisory Pool of Experts.

~~25-29.~~ A member of the Board or one of its Committees or one of its other Decision-making Bodies may not be appointed as a member of the Advisory Pool of Experts.

### Payments to members

~~26-30.~~ The BSB may decide to pay fees and expenses to members of Task Completion Groups or of the Advisory Pool of Experts on terms it may set.

## PART 6 – PROCEEDINGS OF THE BOARD AND ITS COMMITTEES

### Meetings

~~27-31.~~ The Board must meet at least six times in a 12-month period.

~~28-32.~~ If the need arises, the Chair or Vice Chair may convene additional meetings, which may take place by telephone, videoconference or email if necessary.

~~29-33.~~ Each Board meeting may be separated into public and private sessions.

~~30-34.~~ Committee meetings are held in private and the frequency of such meetings is to be determined by the Committee.

~~31-35.~~ If a decision on regulatory functions is taken at a meeting of the Board where there is either not a lay majority or not a lay Chair (or both), this decision must be ratified at the next meeting when there is both a lay majority and a lay Chair.

### Attendance at meetings

~~32-36.~~ The Chair of the Bar Council and a person nominated by the President of the Council of the Inns of Court are entitled to attend and speak (but not vote) at any public session of a meeting of the Board. The Chair of the BSB may ~~also agree~~ decide that any other person ~~or persons nominated by the Chair of the Bar Council may attend and speak (but not vote) at attending~~ any public session of a meeting of the Board be permitted to speak.

~~33-37.~~ The BSB may invite the Chair of the Bar Council and a person nominated by the

President of the Council of the Inns of Court, to attend all or part of the Board's private sessions. Such invitation shall be in accordance with the Protocol for ensuring regulatory independence and the provision of assurance as agreed and adopted by the ~~Bar-Council~~GCB and the BSB.

~~34.38. If a Committee Chair is not a Board member, the Committee Chair has ex-officio rights to attend and speak (but not vote) at any public session of a meeting of the Board and, at the invitation of the Chair, at all or part of any private session.~~

35.39. The Board or a Committee may at any time invite any person to attend their meetings in an advisory or consultative capacity.

### Quorum

36.40. The quorum for a Board meeting is five members of whom at least three must be lay members and at least two must be barrister members. No business may be transacted at any meeting of a BSB Committee unless ~~one third~~three of its appointed members are present, in person or by telephone or videoconference.

37.41. If a vote is required by the Board or a Committee, decisions must be made by simple majority. The Chair will have a casting vote in the event of a tie.

38.42. Either the Chair or the Vice Chair must be present at each meeting of the Board unless the Board resolves to dispense with that requirement for a particular meeting.

~~39.43. Members unable to attend a meeting of the Board or a Committee or other Decision-making Body 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 member attending remotely.~~

### Minutes

40.44. Decisions made by the Board and Committees must be recorded in writing.

41.45. Minutes of the decisions taken and where appropriate the proceedings of each meeting of the Board and its Committees shall be drawn up and approved at the next appropriate meeting of the Board or the Committee.

### Written resolutions

42.46. A decision taken outside a meeting of the Board or a Committee is valid if:

- a. reasonable notice of the matter to be decided has been given to all members of the Board or the Committee;
- b. it is subject to normal quorum rules and all members eligible to vote are given the opportunity to vote;
- c. the decision is recorded in a single written document signed by at least two thirds of members or approved by email by at least two thirds of members; and;
- d. the decision is formally ratified at the next meeting and appears in the minutes of that meeting.



**Agenda papers**

~~43-47.~~ The agenda and papers for any meeting of the Board or a Committee shall be sent to its members at least four working days before a meeting. With the consent of the Chair or Vice Chair shorter notice may be given.

**Publication of agendas, papers and minutes by the BSB**

~~44-48.~~ The Board may decide which of the papers considered at its meetings should be made public after each Board meeting.

~~45-49.~~ The Board may also publish its agenda and minutes of its meetings.

~~46-50.~~ There is a presumption in favour of publication of Board papers unless the Board considers there is good reason not to do so.

**PART 7 – MEMBERS’ INTERESTS**

~~47-51.~~ The Board must establish and maintain policies on declarations of interest and on offers and receipt of gifts or hospitality by members of the Board, Committees and ~~the~~ IDB Other Decision-making Bodies.

~~48-52.~~ With regard to conflicts of interest, a member of the Board, a Committee or ~~the~~ IDB Other Decision-making Body must:

- a. Where they have an interest in an item of business to be transacted declare that interest;
- b. Where the Policies so require, absent themselves while that item is under consideration.

~~49-53.~~ A member of the Board or a Committee or IDB Other Decision-making Body must, in accordance with the Gifts and Hospitality Policy, declare any reportable hospitality offered or received in that capacity.

**PART 8 – DELEGATION**

~~50-54.~~ Pursuant to paragraph 14(4) of the Constitution, the following arrangements are made for delegation of the functions of the Board.

~~51-55.~~ The functions of the Board in relation to the matters within the terms of reference of a Committee stand delegated to the relevant Committee as set out under paragraph 7 and Annex 2 and in accordance with paragraph 10 and Part 6.

~~52-56.~~ The Board may, to the extent it considers appropriate and subject to paragraph ~~57~~<sup>3</sup>, delegate in writing any function to the Chair of the BSB, a Committee, the Chair of a Committee, the IDB, the CEB, one or more members of BSB staff, or any other body or person, either by name or by a position so specified in the delegation. The Board shall establish and maintain a scheme of delegations identifying each function so delegated including details of the body or person (designated by office or name) to whom it is delegated, and the conditions (if any) on which it is delegated. Notwithstanding such scheme of delegations, the Board may delegate such matters as it considers appropriate to the Director General who in turn can delegate such matters to such BSB staff as they consider appropriate.

~~53-57.~~ The following functions must be exercised by the Board itself and may not be delegated:

- a. adoption and amendment of the Constitution and Standing Orders of the BSB;
- b. adoption of the Declaration of Interests Policy and the Gifts and Hospitality Policy required by paragraph ~~47~~51;
- c. approval of the budget ~~bid~~;
- ~~d.~~ d. making of rules forming part of the regulatory arrangements;
- ~~d.e.~~ e. approval of the Inns Conduct Committee Rules; and
- ~~e.f.~~ f. decisions about policy on payment of fees or expenses under paragraphs ~~20~~22 and ~~27~~30.

~~54-58.~~ A Committee may delegate any function within its terms of reference to a member of BSB staff either by name or by a position specified in the delegation. Any such delegation must be recorded in writing, notified to the Board, and recorded in the scheme of delegations.

~~55-59.~~ Nothing in paragraphs ~~52 – 54~~56 - 58 prevents the Board or a Committee whose function has been delegated from exercising that function itself.

## PART 9 – RESOURCES

### General

~~56-60.~~ The ~~Bar Council~~GCB's financial management controls are ~~set out in the Finance Manual produced as agreed~~ by the joint Finance Committee. The BSB will abide by ~~the Finance Manual~~those controls.

### The Annual Budget

~~57-61.~~ The BSB will prepare an annual budget in accordance with the procedures ~~set out in the Finance Manual~~agreed by the joint Finance Committee. The ~~Planning, Resources and Performance~~Strategic Planning and Resources Committee will scrutinise the BSB budget proposals before the Board considers and approves its budget ~~for submission in accordance with the Finance Manual procedures~~.

### Staff

~~58-62.~~ The Board appoints its own staff in accordance with the employment policies agreed from time to time with the ~~Bar Council~~GCB. Responsibility for appointment of staff other than the Director General will be delegated by the Board to the Director General.

**Annex 1**

**THE SEVEN PRINCIPLES OF PUBLIC LIFE (NOLAN PRINCIPLES)**

**Selflessness** – Holders of public office should act solely in terms of the public interest.

**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.

**Objectivity** – Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**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.

**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.

**Honesty** – Holders of public office should be truthful.

**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.

**Annex 2 – TERMS OF REFERENCE OF BSB COMMITTEES AND THE IDB****Annex 2a - Governance, Risk and Audit Committee****The Terms of Reference of the Governance, Risk and Audit Committee are:**

- ~~1. to advise the Board on the effectiveness of the corporate governance structures, and to monitor and recommend to the Board action in respect of the effectiveness of the strategic arrangements for governance, risk management and audit. This includes making recommendations to the Board on its risk strategy and policies, as well as agreeing a programme of Board member training and development to satisfy corporate governance guidelines;~~
- ~~2. to monitor and recommend to the Board action in respect of the Board's management of corporate risk, including arrangements for business continuity and disaster recovery;~~
- ~~3. to provide assurance that the processes to manage risk are operating in accordance with the risk management framework, and to enable the Board in turn to provide assurances to the joint Audit Committee (of the Bar Council and the Bar Standards Board);~~
- ~~4. to consider the effectiveness of the Board's financial management and control systems, and internal business processes, including accounting policies, anti-fraud and whistle-blowing arrangements and recommend actions to the Board;~~
- ~~5. to provide oversight of the internal audit function. To appoint the Board's Internal Auditors and agree the annual audit plan including any audit reviews that the Board wishes to see conducted. To monitor and provide assurance to the Board on the effectiveness of internal controls and the effectiveness of the response to issues identified by audit activity.~~

**~~The membership of the Governance, Risk and Audit Committee shall be:~~**

- ~~1. A lay chair who must also be a Board member;~~
- ~~2. A lay or barrister vice chair;~~
- ~~3. One other member who must be a Board member; and~~
- ~~4. Three other members who must not be Board members.~~

Annex 2a - Governance, Risk and Audit CommitteeThe Terms of Reference of the Governance, Risk and Audit Committee are:Purpose

1. to support the Board in achieving its strategic objectives by providing assurance on the effectiveness of governance structures, risk management processes and internal controls;
2. to monitor and recommend to the Board action in respect of the effectiveness of the strategic arrangements for governance, risk management and internal audit;

ResponsibilitiesGovernance and Assurance

3. to consider how governance structures and arrangements maintain the independence of the BSB's regulatory functions and support achievement of the BSB's strategic aims and regulatory objectives, and to make recommendations to the Board;
4. to agree recommend the BSB's Assurance Framework to the Board and to ensure its continued effectiveness through periodic review;

Risk

5. to make recommendations to the Board on its risk management strategy and processes, including its Risk Framework, Risk Index and Risk Outlook;
6. to provide oversight of risk management processes, monitoring compliance and challenging management on the adequacy of actions taken and planned;
7. to provide assurance to the Board and advising on risks where it considers further action is required;
8. to provide assurance to the joint Audit Committee of the Bar Council and the BSB on the effective operation of the processes to manage risk;

Controls and Internal Audit

9. to consider the effectiveness of the BSB's control systems and internal business processes;
10. to periodically review the Business Continuity Plan;
11. to provide oversight of the internal audit function. To appoint the Board's Internal Auditors and agree the annual audit plan including any audit reviews that the Board wishes to be conducted and any audit reviews of shared services that are jointly commissioned with the GCB;
12. to monitor and provide assurance to the Board on the effectiveness of the management response to issues identified by audit activity;
13. to monitor the performance of the Internal Auditors;

Compliance

14. to periodically review BSB compliance with its statutory and regulatory obligations including Data Protection and Anti-Money Laundering Regulations;
15. to monitor the GCB's whistleblowing processes and the arrangements for investigating fraud, corruption and error to ensure they remain appropriate for the BSB;

General

16. to facilitate the Committee's discharge of its responsibilities in relation to particular items of business, if necessary, procure specialist ad-hoc advice at the expense of the BSB, subject to budgets that expense being agreed by the Board.

The membership of the Governance, Risk and Audit Committee shall be:

1. A lay chair who must also be a Board member;
2. One other member who must be a Board member; and
3. No fewer than two, and no more than three, other members who must not be Board members.

Quorum

4. The quorum for meetings of the Governance, Risk and Audit Committee is three members.

Annex 2b – ~~Strategic Planning, and Resources and Performance~~ Committee

The Terms of Reference of the ~~Strategic Planning, and Resources and Performance~~ Committee are:

1. to ~~consider, and~~ support the Board and the executive in formulating the overall strategy for the BSB, with particular emphasis on horizon scanning, ~~vision, mission statement,~~ priorities, activities and outcomes. To scrutinise the BSB's three-year Strategic Plan and annual Business Plan before the Board's ~~signoff approval~~ is sought. ~~Agree actions to ensure that the BSB's associated strategies (Communications, IT, HR and research) are aligned to the corporate strategy;~~
2. to oversee ~~operational and programme delivery (without duplicating the detailed oversight provided by any other committee or programme/project governance structure) as well as~~ financial performance against the objectives and targets set out in the Business Plan ~~and to consider and agree any necessary corrective actions. To consider whether proposed funding is adequate and properly and effectively allocated across the BSB To support the Board and executive with finalising the BSB's Annual Report publications;~~
3. to ~~consider~~decide:
  - a. the annual budget and revenue for recommendation to the Board, in the context of the Strategic and Business Plans;
  - b. ~~whether proposed funding is adequate and properly and effectively allocated across the business;~~
  - b. requests of expenditure or virement between directorates of more than 10% of the BSB's annual budget levels of virement between programmes (as anticipated in the Finance Manual with levels set by the Committee from time to time);
  - c. approval of additional members of staff, ~~and certain levels of unbudgeted expenditure and virement;~~
4. to ~~consider~~ agree how the BSB presents financial information to best effect and with appropriate transparency and comprehensiveness. ~~To consider the reliability of forecasting and how the pursuit and achievement of efficiency savings are reported;~~
5. 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:
  - a. this will not undermine, and could not reasonably be seen to undermine, the separation of regulatory and representative functions;
  - b. this is effective and appropriate for the BSB to discharge its regulatory functions;  
and
  - c. this is necessary to be efficient and reasonably cost-effective
- 5.6. to consider how 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 ~~review the robustness of programme and project plans. To support the Board and executive with finalising the BSB's Annual Report publications. To support the Board and the executive with the planning and monitoring of the implementation of the Regulatory Standards Framework;~~ and
 

~~to agree how the BSB monitors, measures and reports organisational performance, regulatory effectiveness and value for money with appropriate transparency and in a~~

~~timely and consistent manner. To consider the quarterly performance and regular effectiveness reports prior to submission to the Board~~

The membership of the Strategic Planning and Resources ~~and Performance~~ Committee shall be:

1. ~~Five members of the Board, including a chair who must be a member of the Board, and have an overall lay majority at least three of whom will be lay members and one of those will be the chair of the committee.~~

Quorum

2. The quorum for meetings of the Strategic Planning and Resources Committee is three members.



**Annex 2b – Strategic Planning and Resources Committee****The Terms of Reference of the Strategic Planning and Resources Committee are:**

1. to support the Board and the executive in formulating the overall strategy for the BSB, with particular emphasis on horizon scanning, priorities, activities and outcomes. To scrutinise the BSB's three-year Strategic Plan and annual Business Plan before the Board's approval is sought;
2. to oversee financial performance against the objectives and targets set out in the Business Plan and to consider and agree any necessary corrective actions. To consider whether proposed funding is adequate and properly and effectively allocated across the BSB;
3. to decide:
  - a. the annual budget and revenue for recommendation to the Board, in the context of the Strategic and Business Plans;
  - b. requests of expenditure or virement between directorates of more than 10% of the BSB's annual budget
  - c. approval of additional members of staff;
4. to agree how the BSB presents financial information to best effect and with appropriate transparency and comprehensiveness.
5. 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:
  - a. this will not undermine, and could not reasonably be seen to undermine, the separation of regulatory and representative functions;
  - b. this is effective and appropriate for the BSB to discharge its regulatory functions;
  - and
  - c. this is necessary to be efficient and reasonably cost-effective
6. 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.

**The membership of the Strategic Planning and Resources Committee shall be:**

1. Five members of the Board, at least three of whom will be lay members and one of those will be the chair of the committee.

**Quorum**

2. The quorum for meetings of the Strategic Planning and Resources Committee is three members.

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**Annex 2c – Remuneration Panel**

The Terms of Reference of the Remuneration Panel are:

1. To set parameters for, determine, and make recommendations to the Board on the remuneration and terms of engagement of the following:
  - a. The Director General;
  - b. Any other senior staff who sit outside the general staff banding structure;
  - c. The Chair, Vice Chair and members of the BSB;
  - d. All members of any BSB committee, sub-committee, panel, or other body;
2. To advise the BSB on its HR strategy, and to provide general oversight and expert advice on HR matters;
3. To consider workforce remuneration and related policies, to support the BSB in attracting and retaining an appropriately skilled and experienced executive staff;
4. To advise the Chair of the BSB on the recruitment of the Director General of the BSB;
5. To advise the Board on the annual performance related salary review for the BSB, having regard to any advice from the Finance Committee on the standard increase to be applied;
6. To consider appeals by the Director General and staff who report directly to the Director General against decisions relating to dismissal, disciplinary sanction, grievance, promotion or demotion. Appeals will be heard by the independent lay member of the Panel.

The membership of the Remuneration Panel shall be:

1. An independent lay person, with knowledge of the Governance Code on Public Appointments, or similar skills and experience in recruitment to and remuneration for roles in public bodies. This will usually be the Chair or Vice Chair of the joint Finance Committee of the General Council of the Bar and the BSB;
2. The Chair and one other member of the SPR, providing that one of those members is a lay member and one of those members is a barrister. The Chair of the SPR will be the Chair of the Panel.
3. Members may nominate an alternate who is entitled to take their place at any meeting which the member is unable to attend.

Quorum

4. The quorum for meetings of the Remuneration Panel is three members, which may include alternates.

**Annex 2de – IDB**

**The Terms of Reference of the IDB are:**

1. To provide members for IDPs which carry out the functions and exercise the powers given to IDPs pursuant to the Enforcement Decision Regulations under Part 5, Section A of the BSB Handbook, and to consider applications for review made under Part 3 C6, Part 3 E11, or Part 4 B10, or reviews of decisions taken under Part 1 ~~4AA4~~, of the Bar Standards Board Handbook;
2. to report to the Board on its work as and when required.

**The membership of the IDB shall be:**

3. A chair and at least one vice chair. The chair can be either a lay or barrister member; and
4. Sufficient numbers of lay persons and barrister members to enable the IDB to carry out its business expeditiously.
5. The IDB Chair may carry out the functions and exercise the powers given to the IDB Chair under Part 5 of the BSB Handbook.

**Annex 2e – Centralised Examinations Board (CEB)**

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**The Terms of Reference of the CEB are:**

1. To oversee all aspects of testing by assessment, examination or otherwise of students, transferring qualified lawyers and pupil barristers in the subject areas centrally assessed by the BSB (Ethics, Civil Litigation, and Criminal Litigation);
2. To convene, and regulate the procedure of, the Final Examination Board and Subject Examination Boards, as the CEB considers necessary to enable it to discharge any of its functions;
3. To report to the Board on its work as and when required.

**The membership of the CEB shall be:**

1. A Chair;
2. For each subject area, a Chief Examiner and sufficient numbers of Assistant Chief Examiners to enable the CEB to carry out its functions expeditiously;
3. The BSB's Director of Regulatory Operations;
4. The Independent Psychometrician appointed by the BSB;
5. The Chief Examiners for each subject area and the BSB's Director of Regulatory Operations may nominate an alternate to take their place at any meeting which that member is unable to attend.

**Quorum for the CEB:**

6. The quorum for meetings of the CEB will be five members, which must include the Chair, a Chief Examiner for each subject area (or alternates), and the BSB's Director of Regulatory Operations (or alternate).

**Annex 3 – APPOINTMENTS PROCESS FOR BSB COMMITTEES**

1. The BSB appoints and reappoints all Chairs, ~~Vice Chairs~~ and members of its Committees on merit.

Appointments of Board members to the posts of BSB Committee Chairs and BSB members of Committees are made by the BSB Chair in consultation with the BSB Vice Chair and BSB Director General.

2. Appointments of new members of BSB Committees (who are not Board members) are made by the BSB Chair on the recommendation of a selection panel, convened as required for each recruitment.
3. The selection panel convened for recruitment of members of BSB Committees is to consist of:
  - a. an independent person with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office;
  - b. at least one and a maximum of two members of the Board;
  - c. a member of senior staff of the BSB, as delegated by the Director General.
4. Appraisals must inform retention and reappointment recommendations and decisions. The BSB Chair or their nominees must carry out the appraisals.
5. All appointments made by the BSB Chair of members who are not Board members shall be for a fixed period of up to three years. Appointments may be renewed for a further fixed period of up to three years without holding a competition, if the Chair of the Committee concerned is satisfied that:
  - a. the person has performed to the standard to be expected of the office held, and
  - b. it is in the interests of the BSB to renew the appointment.
6. In exceptional circumstances, the BSB may resolve to offer an extension of an individual person's or group of persons' appointment beyond the maximum six year period of appointment permitted above. Any resolution to make a limited offer of extension must:
  - a. allow for an extension of no more than 18 months in duration,
  - b. be made by offer in writing, and
  - c. be made for a specific reason that is articulated in the offer of extension.

**Annex 3b – APPOINTMENTS PROCESS FOR THE IDB**

1. The BSB appoints and reappoints all Chairs, Vice Chairs and members of its IDB on merit.
2. Appointments of new members of the IDB are made by the BSB Chair on the recommendation of a selection panel, convened as required for each recruitment.
3. ~~During the first 12 months following the establishment of the IDB, the role of IDB Chair may, at the BSB Chair's discretion, be filled by an individual appointed by the BSB Chair in lieu of the selection process detailed at paragraph 4 of this Annex 3b.~~
4. The selection panel convened for recruitment of the IDB Chair is to consist of:
  - a. an independent person with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office;
  - b. at least one and a maximum of two members of the Board;
  - c. a member of senior staff of the BSB, as delegated by the Director General.
5. The selection panel convened for recruitment of the IDB Vice Chairs and members of the IDB is to consist of:
  - a. an independent person with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office;
  - b. The IDB Chair or, in the absence of the IDB Chair an IDB Vice Chair;
  - c. a member of senior staff of the BSB, as delegated by the Director General.
6. Appraisals must inform retention and reappointment recommendations and decisions. The IDB Chair or their nominees must carry out the appraisals. Any appraisal of the IDB Chair will be conducted by the BSB Chair or their nominee.
7. All appointments made by the BSB Chair shall be for a fixed period of up to three years. Appointments may be renewed for a further fixed period of up to three years without holding a competition, if the BSB is satisfied that:
  - a. the person has performed to the standard to be expected of the office held, and
  - b. it will allow the BSB to continue to discharge its regulatory functions ~~to renew the appointment.~~
8. In exceptional circumstances, the BSB may resolve to offer an extension of an individual person's or group of persons' appointment beyond the maximum six year period of appointment permitted above. Any resolution to make a limited offer of extension must:
  - a. allow for an extension of no more than 18 months in duration,
  - b. be made by offer in writing, and
  - c. be made for a specific reason that is articulated in the offer of extension.

**Annex 3c – APPOINTMENTS PROCESS FOR THE CEB**

1. The BSB appoints and reappoints all Chairs and members of its CEB on merit.
2. Appointment of the Chair of the CEB is made by the BSB Chair on the recommendation of a selection panel, convened as required for each recruitment.
3. The selection panel convened for recruitment of the CEB Chair is to consist of:
  - a. an independent person with knowledge of the Governance Code on Public Appointments, or similar skills and experience in best practice in recruitment to public office;
  - b. at least one and a maximum of two members of the Board. If the Board does not include a member with expertise in higher education and/or assessment, then a person with such expertise shall be appointed in place of one of the Board members;
  - c. a member of senior staff of the BSB, as delegated by the Director General.
4. Appointments of new members of the CEB are made by the BSB Chair on the recommendation of a selection panel, convened as required for each recruitment.
- 4.5. The selection panel convened for recruitment of the members of the CEB (other than the Chair) is to consist of:
  - a. The CEB Chair or, in the absence of the CEB Chair one of the Chief Examiners;
  - b. One of the Chief Examiners (who would usually be in the subject area being recruited to when recruiting Assistant Chief Examiners);
  - c. a member of senior staff of the BSB, as delegated by the Director General.
6. Appraisals must inform retention and reappointment recommendations and decisions. The CEB Chair or their nominees must carry out the appraisals. Any appraisal of the CEB Chair will be conducted by the BSB Chair or their nominee.
7. All appointments made by the BSB Chair shall be for a fixed period of up to two years. Appointments may be renewed for further fixed periods of up to two years without holding a competition, if the BSB is satisfied that:
  - a. the person has performed to the standard to be expected of the office held, and
  - b. it will allow the BSB to continue to discharge its regulatory functions.





**Regulatory Decisions Annual Report – 2019/20**

1. The annexed report is the first annual regulatory decisions report for the BSB. It covers the period of April 2019-March 2020 and therefore picks up the reforms arising from the Regulatory Operations Programme.
2. The aim of the report is to analyse not only the trends and themes that are driven by the statistics but also to cover consideration of the non-statistically focussed areas of regulatory decision making. We therefore report in detail, for the first time, on our supervision activity.
3. The Board is asked **to note** the contents of the report and comment on any issues arising.

**Annex**

Annex 1 – Regulatory Decisions Annual Report 2019-20

**Oliver Hanmer, Director of Regulatory Operations**  
**Sara Jagger, Director of Legal and Enforcement**



**BAR  
STANDARDS  
BOARD**

REGULATING BARRISTERS

## **Regulatory Decisions**

**Annual Report 2019/20**

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Regulatory Operations Department  
Legal & Enforcement Department

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## Executive Summary

1. The Bar Standards Board (BSB) takes regulatory decisions in a number of different ways. We take proactive decisions in the face of evidence of a thematic concern that needs to be addressed, for example, in introducing targeted regulation to address evidence of poor standards of advocacy in the Youth Court. We also take reactive decisions in response to information that is provided to us, for example, about the conduct of an individual barrister.
2. This is the first report by the BSB following our reforms to how regulatory decisions are taken which took effect in October 2019. These sought to streamline our approach to the handling of incoming information and to ensure a consistent approach to assessing concerns that are raised with us. They also led to reform in the governance of our regulatory decision-making framework. The reforms are now fully in place and bring about a number of positive changes that are highlighted in the report. In particular, our newly formed Contact and Assessment Team has provided a more coherent approach to managing information and in ensuring that any regulatory response is targeted and that there is no duplication of effort across different BSB teams. Combining our supervisory responsibilities under one team has ensured greater consistency in how we supervise both AETOs delivering either work-based learning or vocational based training and provided opportunities for shared learning and good practice.
3. We have modernised our approach to regulatory decision-making by creating a single body, the Independent Decision-Making Body (IDB), responsible for taking all regulatory decisions that require input independent of the executive. The revised decision-making regime reflects our commitment to the governance principles that: processes must protect our regulatory independence; decisions should be delegated to the lowest level possible; “committee” structures should be of a minimum size possible to maintain quality; and decision-making should have both lay and barrister input. The new regime vests powers in the IDB to take decisions and has, for the first time, vested direct decision-making powers in the executive by the creation of the role of Commissioner (held by the Director General) as a vehicle for delegating such powers to staff. The IDB is a pool of barristers and lay people who meet in panels of three or five, with a lay majority, to take decisions, principally in relation to enforcement cases.
4. This year has also seen the practical implementation of our approach to Future Bar Training and our reforms to the education and training pathways for a career at the Bar, with the authorisation of organisations to deliver the new Bar Training Course. It is encouraging to see the innovation and creativity that has been shown by applicants and we are particularly pleased to see, in the Inns of Court College of Advocacy, a new entrant to the barrister training market.
5. Regulatory decision making is at the core of the work of the BSB. It is through these functions that we ensure that people entering the profession meet the standards expected of them and continue to do so throughout their careers. Through our supervisory work we focus on areas of risk to the public interest with the aim of helping barristers and chambers to address areas of concern that have been identified.

Enforcement action is then reserved for the most serious or persistent breaches of the BSB Handbook including cases of professional misconduct.

6. Through the decisions that we take we have identified areas that require further analysis and monitoring. Most notable will be the impact of COVID-19 on barristers, chambers, pupils and training providers and this will be a primary focus of the work of the Supervision team in particular over the next 12 months. The report also highlights our work on bullying and harassment and on developing our approach to addressing conduct arising in barristers' non-professional lives. Both of these are the subject of on-going consideration and upon which we will be seeking to engage with interested parties over the coming year.

## Context

7. This report covers the period between April 2019 and March 2020 and in doing so includes the implementation of reforms to our regulatory decision making in October 2019. The reforms:
  - streamlined our approach to the management of incoming information through the establishment of the Contact and Assessment Team (CAT);
  - established the Independent Decision-Making Body (IDB) to take regulatory decisions requiring input independent of the executive, principally enforcement cases and appeals from authorisation decisions. The IDB replaced the Professional Conduct Committee and the Authorisation Review Panels. It meets in panels of three to decide authorisation cases and five to decide enforcement cases;
  - changed the terminology we use for any incoming information, including concerns about the conduct of barristers or those we regulate, by treating such information as "reports" and no longer referring to "complaints". The latter change was introduced to promote transparency and understanding of our regulatory role. We have no powers to offer redress where a barrister has provided a poor service to a client - that is the role of the Legal Ombudsman. The previous use of the term complaints was potentially misleading and caused confusion for the public. All "reports" are now processed in the same way and, where relevant, are risk assessed against a new risk assessment methodology that has been standardised across the BSB;
  - established the role of Commissioner to act as a vehicle by which decision-making powers can be delegated to the executive;
  - introduced Regulations which enshrine the new approach to regulatory decision making. The Complaints Regulations have therefore been replaced with the Enforcement Decision Regulations; and
  - established the Regulatory Operations Department and the Legal and Enforcement Department to reflect the reforms.
8. Broadly, this report covers the work of the Regulatory Operations and the Legal and Enforcement Departments. Its focus this year is not on the performance of those

departments against published Key Performance Indicators<sup>1</sup> but on the themes and areas of interest that have arisen from the work of the two departments over the last 12 months. In doing so, it complements the corporate level reporting through the BSB's Annual Report. The report breaks down into two main sections.

- i. Regulatory casework – this covers consideration of our casework functions and the statistics from those activities. In this section we look at what those statistics are telling us and any themes that arise.
  - ii. Non-casework regulatory decisions – this section focuses in particular on the proactive work of our Supervision Team and highlights key findings and themes about the impact of our regulation, risks that we are seeking to address now and in the future and examples of good practice that we think it is useful to share.
9. In covering the period up to the end of March 2020 it does not reflect the impact of COVID-19 on our regulatory decision-making functions nor does it cover the management of the centralised examinations in August 2020.

## Regulatory Casework – Statistical Analysis

10. This section provides an analysis of our regulatory casework. It covers the work of the:

- Authorisation Team
- Contact and Assessment Team
- Investigations and Enforcement Team

### Authorisation Team

11. The Authorisation Team is responsible for dealing with applications for waivers and exemptions from our practising requirements. This includes requests by foreign lawyers seeking to transfer to the Bar of England and Wales and dispensation from all or part of pupillage. The team also deals with the authorisation of Approved Education and Training Organisations and Alternative Business Structures and Entities.

12. The Team received 981 applications for waivers and exemptions between April 2019 and March 2020. Of which the majority were made up of:

- i. requests by Foreign Lawyers to be admitted to the Bar (174 applications),
- ii. requests for certificates of academic standing in respect of qualifying degrees (151 applications)
- iii. applications to be authorised to conduct litigation (110 applications)
- iv. applications from solicitors wishing to be admitted to the Bar (102 applications)
- v. applications for a reduction in the length of pupillage (90 applications).

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<sup>1</sup> New KPIs were introduced in October 2019 to reflect the new regulatory operations systems, therefore full year performance statistics are not available for this report. The first full year reporting of KPI performance will therefore be included in the Regulatory Decisions Report 20/21.

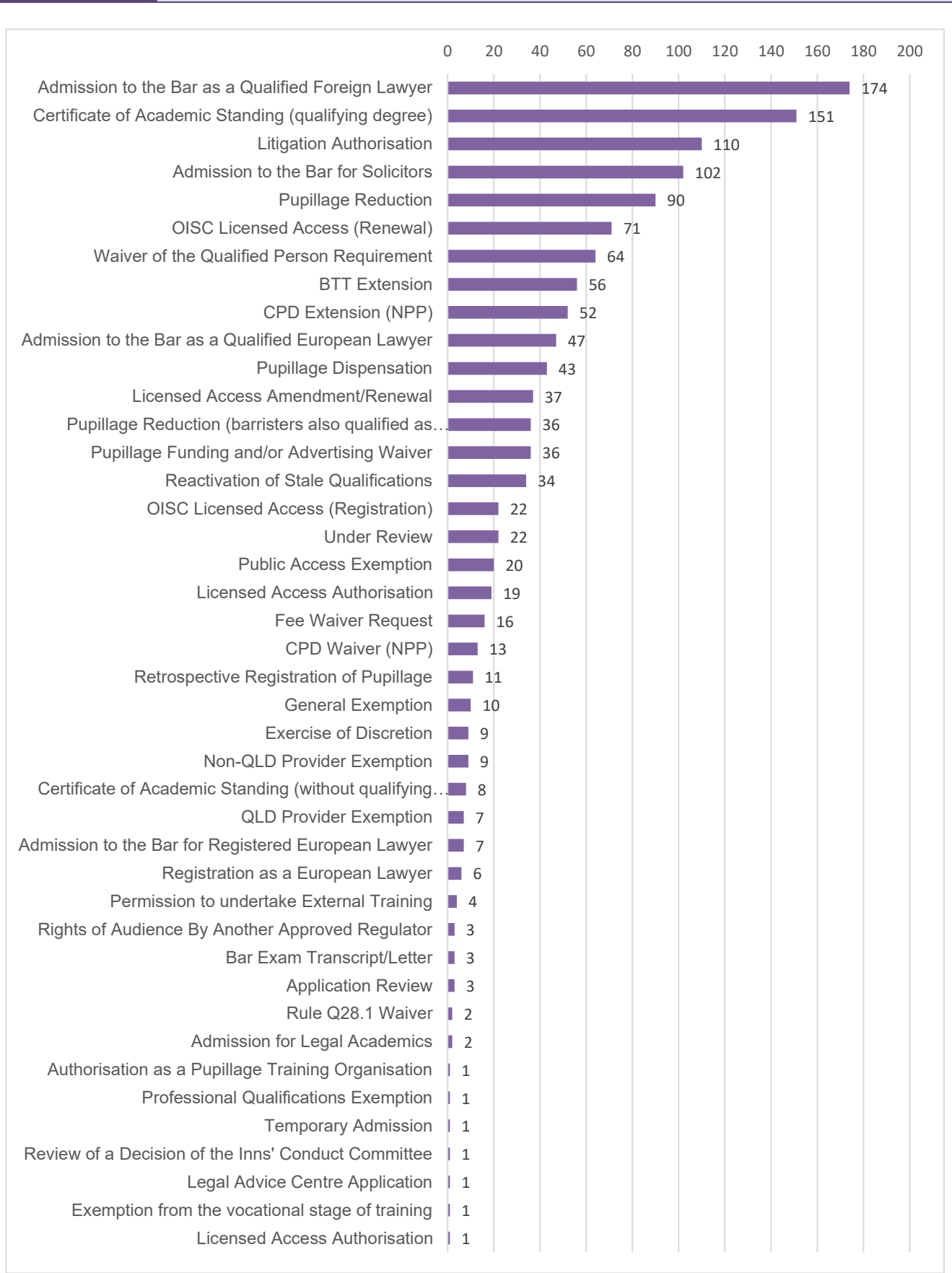
***Brexit***

13. We had anticipated a spike in applications from EU transferring lawyers due to Brexit and the likely impact that will have on the ability of European lawyers to practise in England and Wales. We have though seen a marked increase in enquiries from EU lawyers seeking to understand the options available to them and the waivers that they might need if and when Brexit is fully implemented. It would seem, perhaps understandably given the uncertainty around the future post Brexit, that EU lawyers interested in transferring to the Bar of England and Wales are deferring their applications until there is greater clarity about the impact and implications of any Brexit settlement.



Figure 1

Types of applications received in 2019/20



## Authorisation of Authorised Education and Training Providers (AETOs)

### *Vocational AETOs*

14. During the period of this report, we started to receive applications from prospective providers of the new vocational Bar training courses, which AETOs began to deliver in the Autumn of 2020. These applications were considered against the Authorisation Framework <https://www.barstandardsboard.org.uk/training-qualification/information-for-aetos/the-authorisation-framework.html>, a key feature of our Future Bar Training Programme <https://www.barstandardsboard.org.uk/training-qualification.html> which sought to add greater flexibility and accessibility to training to become a barrister. Applications were received from all the existing providers of the Bar Professional Training Course as well as from the Inns of Court College of Advocacy, a new entrant to the barrister training market. All applicants have now been authorised. The applications received reflected the desire by prospective providers to respond positively to the need to make Bar training more accessible, flexible and affordable without compromising high standards. It is encouraging to see the expectations of the Authorisation Framework embraced fully and providers coming forward in their applications with innovative and creative ways of delivering the course. A particular feature of the new education pathways is the introduction of the two part delivery model with the first part designed to teach and assess students in the core knowledge subjects and the second part covering intensive teaching and assessment in the skills based subjects such as advocacy. The splitting of the course keeps cost down for the student and provides an opportunity for the student to assess at the end of part one whether they wish to proceed to the more intensive (and therefore more costly) part two of the course. This is a useful option for students to consider alongside other models.

### *Work based learning (pupillage) AETOs*

15. Chambers or other potential providers of pupillage are required to be authorised by the BSB under the Authorisation Framework. There were approximately 300 pupillage providers authorised as Pupillage Training Organisations (PTOs) to be transitioned to AETOs. These have been grouped and assessed as three distinct categories, “high”, “medium” and “low” following a risk and evidenced based analysis of information held by the Supervision Team and provided in our 2017 survey. We have transitioned the “high” group and currently have 40 “medium” applications in progress, which are scheduled for completion by December. In addition, and in response to the more flexible approach to pupillage, we have received an increasing number of applications from solicitors’ firms and alternative business structures to be authorised as an AETO. As with vocational AETOs, it is encouraging to see potential providers of pupillage embracing the principles of the Authorisation Framework in offering greater flexibility and accessibility in their model of pupillage delivery, for example in offering pupillage part time.
16. We will evaluate the impact of the new approach to barrister training in future reports for 2021/22 and 2022/23.

## Entities and Alternative Business Structures

17. At the end of this reporting period there were 125 authorised entities including alternative business structures. The chambers model of governance for self-employed barristers remains the predominant approach and there is limited demand for more varied forms of structure. That said, we saw 25 new entities authorised in 2019/20 with a small increase in the number of applications from solicitors who are looking to set up a business that more naturally aligns to the Bar model of legal services delivery than those models which are regulated by the Solicitors Regulation Authority.
18. The risk profile of entities is generally low and that is reflected in our ongoing regulation of them. We remain keen to hear from anyone who would like to set up an entity and are willing to discuss informally novel or innovative proposals before any authorisation application is made.

## Contact and Assessment Team (CAT)

19. The period covering this report marked the introduction of Regulatory Operations changes on 15 October 2019. These changes introduced a new case management system, and the formation of the CAT to undertake the initial assessment of incoming information. Prior to 15 October 2019, we operated a complaints process whereby people could make formal complaints about barristers. These were called, for the purposes of our systems, “External Complaints”. The Assessment Team would assess those complaints and either dismiss them or refer them to the Investigations and Hearings team for an investigation.
20. Alongside External Complaints, we considered information from other sources such as those from barristers making reports in line with their obligations under the BSB Handbook to report professional misconduct, press reports, and other regulators. In these cases, we take decisions on whether they give rise to concerns that we should take forward as the BSB.
21. The Regulatory Operations programme, and the regulation changes that accompanied it, created a new regime. Under the previous regime, cases were classed as complaints and pre-complaints. Pre-complaints comprised information that came into the BSB that was not a formal complaint. If they disclosed a potential breach of the BSB handbook that warranted further investigation, they would be converted to what we called an “internal complaint”. Instead of the system of pre-complaints and complaints, all new information comes into the BSB as reports. These reports are evaluated by the CAT, which replaced the Assessment Team, to consider the regulatory issues disclosed within the report and determine which team within the BSB, if any, should consider further regulatory action. When CAT considers that a report should be considered by another team, it will allocate the report to that team. Though the majority of reports received relate to individual barristers, the new system considers a much broader range of concerns relating to the market. This means that systemic or thematic issues can be identified either through single or grouped reports and enables the BSB to target its

regulatory response at both a macro (whole or section of the barrister market) level or a micro (individual barrister, chambers of entity) level.

22. Given the reform to the methodology for handling concerns that we receive, we cannot undertake a like-for-like statistical comparison against previous years. However, broad comparisons can be made against previous years.

### *Incoming information*

23. Overall, the number of reports received showed an increase of around 10%. In 2019/20 the number of reports<sup>2</sup> received totalled 1489. This is an increase on 2018/2019 where 1340 reports were received. In 2017/18 1242 were received and in 2016/17 1098 were received. Of the reports received in 2019/20, 105 were made by barristers in accordance with their reporting obligations. Again, this is an increase on the previous year's total of 100. The numbers of reports made under reporting obligations in 2016/17 and 2017/18 were 110 and 133, respectively.
24. The number of general enquiries registered on our system has increased to 701. This reflects that all inquiries are now routed through CAT rather than across the BSB as opposed to any underlying causes.
25. 600 reports and queries were received through our online reporting form. This is approximately 27% of all reports and queries which is in line with our assumptions for the operation of the new system. We are keen to encourage greater use of the online reporting form and will be considering ways in which we can raise awareness of this means of bringing matters to our attention.

### *Output*

26. Due to the changes to the regulations and the case management system in October 2019 and the way in which information is now recorded, it is difficult to compare the number of cases closed in 2019/20 to previous years. 697 cases were assessed in 2019/20. In 2018/19, 309 complaints were assessed. Whilst, this does not represent an exact like for like comparison - as in 2018/19 since the system then did not account for all cases - of the 697 cases received in 2019/20, 418 required detailed and full assessment which indicates an increase therefore in considered cases on previous years. It is too early to say whether this is in direct response to the change in our approach to dealing with incoming information and we will be better placed to form a judgment on that after a further 12 months of operating the new system.
27. In total across the full year 176 cases were referred to investigation (see also paragraph 37 below), 82 of which were referred by the CAT after 15 October 2019. Therefore, the rate of referral by CAT in the second half of the year was slightly down on the previous six months (82 as compared to 94). It is too early to tell whether this decrease is indicative of a trend. Additionally, 35 cases were allocated to supervision. Prior to 15

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<sup>2</sup> We have adopted the "reports" terminology and applied it to those cases prior to October 2019.

October 2019, allocations to supervision were not captured by the Case Management System.

28. The signs over the first six months of the operation of CAT are positive. The introduction of a more streamlined approach to receiving information and a consistent approach to assessing the information received has both a positive impact on those bringing concerns to our attention and on ensuring that information is considered quickly and by the right team within the BSB. CAT sends out a satisfaction survey to all people whose queries are handled by CAT or who have submitted a report. Whilst satisfaction is often linked to the outcome of our consideration, there is general recognition that the more streamlined means of bringing matters to our attention is preferred.

### *Notable trends*

29. Due to the change in case management system, we cannot pull comparative data from previous years, apart from manually collected data, to show whether there has been an increase in a particular type of issue being raised with us. There are, however, a number of common themes that arise from the cases that we have considered since the new system came into effect in October 2019. These include:

### *Conduct outside professional life*

30. Of the cases received during the year and assessed after the new regulatory operations arrangements came into effect in October 2019, there were 175 cases where conduct reported clearly fell outside normal professional life. This compares with 405 cases where the conduct clearly occurred in relation to professional legal work as a barrister (such as conduct during proceedings or conduct in chambers). This is a considerably higher proportion of reports relating to conduct in a non-professional setting. The regulation of non-professional activities is a topic that has generated much debate both within legal regulation and more generally particularly with the increasing use of social media by professionals. We have committed to considering and developing, in 2021/22, our approach to the factors and issues we will take into account when assessing whether the conduct of barristers outside the direct sphere of their professional lives should be a matter for regulatory intervention.

### *Sexual harassment*

31. CAT identified 15 cases received in 2019/20 that related to sexual harassment. This was an increase from 2018/19 and 2017/18 when nine cases were received in each of the years. Harassment and bullying at the Bar remain areas of real concern for the BSB and we will continue to develop our approach to eliminating this behaviour, both in how we can encourage people to raise their concerns and to support them when they do, and in addressing systemic issues with the culture at the Bar as detailed in paragraphs 81-83 below.

### *Area of law*

32. Under CAT we now have the ability to record the area of law from which the report about a concern arises. This allows us to identify whether there are broader concerns in relation to different sectors of the Bar or the legal market. The highest proportion of reports arose from Family proceedings, followed by Crime. This is likely to reflect the highly contentious nature of proceedings in these areas. We will continue to monitor this closely. It would be open to us to introduce targeted regulation if we had evidence of a systemic conduct or performance issue within an area of law (see for example our approach to the regulation of Youth Court Advocacy or representation in the Coroners' Courts below).

## **Investigations and Enforcement (I&E)**

### *General overview*

33. Our enforcement work covers three main stages: investigation of potential breaches of the BSB Handbook; post-investigation decisions on what action, if any, to take made by either I&E staff or the IDB, which includes the imposition of administrative sanctions; and disciplinary action for professional misconduct. I&E are responsible for handling enforcement cases in conjunction with the IDB and our Tribunal Representation Panel.

34. In 2019/20, the referrals to investigation of potential breaches of the BSB Handbook increased by 20% as compared to 2018/19 (up from 146 to 176). There was also a 55% increase in the number of Disciplinary Tribunal cases heard. The increase in work was accompanied by a slow-down in progressing cases: both in relation to the number of investigation cases closed and the time taken to do so. As Tribunal cases are the most time-consuming to deal with, a significant increase in hearings inevitably impacts on capacity to progress investigations.

35. Timeliness in progressing cases was also affected by two other factors. First were the changes in process and systems referred to early in this report. Those changes involved a significant amount of time in both developing the processes and becoming familiar with their operation post-introduction, including working with the newly formed IDB. The second factor was a period of substantial understaffing in the autumn of 2019 in I&E (a 40% reduction in case officer capacity), which was not fully resolved until shortly before the COVID-19 crisis emerged in the last few weeks of the reporting period.

36. The following sections provide more detail of the performance and trends in our enforcement work.

### *Investigations*

37. The number of cases referred for investigation increased in 2019/20 by 20% up from 146 in 2018/19 to 176. This level of referrals is more in line with the years before 2018/19: with 199 being referred in 2017/18 and 175 in 2016/17.

38. Throughput of investigation cases slowed in 2018/19. We closed 92 cases after investigation (excluding referrals to disciplinary action) whereas in 2018/19 the figure was 133: a reduction of 30%. The principal reasons for this were those referred to above, in particular the period of understaffing, and this is supported by the figures, with 60 cases being closed prior to October 2019 and only 32 after that date. Overall, if referrals to disciplinary action are included in the completed investigation statistics, there was still a significant reduction in the total completed in the year. In previous years we have concluded between 177 and 192 investigations, whereas in 2019/20 we only completed 123. This is disappointing, but a reflection of the circumstances described above. Indications are that in 2020/21 the throughput has picked up again with 90 investigations being concluded in the first two quarters.

### *Outcomes of investigations*

39. Although the total number of decisions taken at the post-investigation stage was down, the proportion taken by staff as compared to the independent decision makers (the Professional Conduct and subsequently panels of the IDB) was similar to 2018/19. Excluding decisions to refer to disciplinary action 66% of decisions were taken by staff and 24% by the independent decision makers (as compared to 68% and 29% in 2018/19). There was no significant difference in these proportions pre- and post-October 2019: 65% of post-investigation decisions were taken by staff before October 2019 and 69% after.

### *Dismissals*

40. The proportion of investigation cases where the complaint/allegations were dismissed at the post-investigation remained similar to the previous year at around 50%. Of this 50% the majority (70%) were dismissed because the investigation revealed that there was no breach of the BSB Handbook.

### *Imposition of administrative sanctions*

41. There continued to be a downward trend in the imposition of administrative sanctions with only 38 such sanctions being imposed in the year as compared to 57 in 2018/19 and 71 in 2017/18. This reflects the continuing improvements in the BSB achieving compliance with its authorisation and practising certificate requirements.

<b>Table 1</b>	<b>Throughput of investigation cases</b>			
<b>Outcome</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>
Closed after investigation	111	155	133	92
Referred to Disciplinary action	66	37	50	31
<b>Total</b>	<b>177</b>	<b>192</b>	<b>183</b>	<b>123</b>

### *Referrals to disciplinary action*

42. 2019/20 saw a reduction in referrals to disciplinary action with 31 cases being referred as compared to 50 in 2018/19, which went against the trend envisaged by the 2018/19 Enforcement Report, where the early signs indicated that referrals would continue going up in 2019/20. The reduced number of referrals is a result of the slowdown in throughput referred to above. The rate of referral year on year fluctuates: 66 were referred in 2016/17, this then reduced in 2017/18 to 37, but went back up in 2018/19 as indicated above.

### *Disciplinary action*

43. Disciplinary action takes two forms: consideration of cases under the Determination by Consent (DBC) procedure; and cases heard by Disciplinary Tribunals. In total, 47 disciplinary action cases were concluded in 2019/20: five by DBC and 42 by Disciplinary Tribunals. The former is a reduction on 2018/19 of 45% (down from nine in 2018/19 to five in 2019/20). In the two years before 2018/19, the average level of DBC cases concluded each year was 8.5 and therefore the figure for this reporting year is also likely to be a reflection of the slowdown in progressing cases. However, the number of Disciplinary Tribunal hearings in 2019/20 represented a substantial increase: up from 27 in 2018-19 to 42 in 2019-20 – an increase of 55%. This increase was predicted in the Enforcement Report for 2018/19 as we noted then a substantial increase in the number of cases awaiting a hearing. Concluded Tribunal cases in previous years fluctuated with 56 in 2016/17 and 39 in 2017/18.

44. It is not anticipated that there will be any significant long-term impact from the Covid 19 health crisis in relation to Disciplinary Tribunals. Most hearings have been able to take place remotely and there is sufficient capacity to increase the frequency of cases if required.

### *Outcomes of disciplinary action*

45. Overall, the outcome of cases determined under the DBC are likely to result in a misconduct finding as the process is reserved for cases where there is no dispute on the facts. In 2019/20, four of the five cases dealt with under the DBC procedure resulted in

<b>Table 2</b>	<b>Disciplinary action cases concluded</b>			
<b>Disciplinary action</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>
Determination by Consent	9	8	9	5
Disciplinary Tribunal	56	39	27	42
<b>Total</b>	<b>65</b>	<b>47</b>	<b>36</b>	<b>47</b>



proven professional misconduct findings with fifth being withdrawn from the process by the PCC.

46. The rate at which findings were made by Disciplinary Tribunals (i.e. where one or more charges were found proved) remained relatively steady. Of the 40 cases fully determined by the Tribunal in the period, 35 resulted in one or more charge being proved, that is 88% of cases. The previous reporting year saw 21 out of 25 cases have the same result, or 84%.

### *Sanctions imposed*

47. The picture in relation to sanctions imposed by Tribunals looks quite different in 2019/20 to that in 2018/19. There was a significant increase in disbarments (up from four in 2018/19 to 10 in 2019/20) as compared to five in 2017/18 (there were 20 in 2016/17 but this was recognised at the time to be unusual). The number of orders of suspension from practice also went up substantially (15 in 2019/20 as compared to four in 2018/19 and eight the previous year). In contrast, there was a substantial decrease in fines and reprimands imposed. Fines imposed reduced from 18 in 2018/19 to six in 2019/20 (in the previous two years they were 18 and 25). The number of reprimands dropped from 16 to nine having stood at around 15 for several years.
48. It needs to be borne in mind that the number of Tribunal cases was much higher in 2018/19. Nevertheless, the picture continues to be one of an increasing proportion of cases attracting higher sanctions imposed by Tribunals, which in turn reflects the BSB's risk based approach that means only the most serious cases are referred to Tribunal and, if proved, are likely to attract higher sanctions.
49. In relation to disbarments, the most common reason for this sanction being imposed arose from proved charges in relation to findings by another regulator (five) and criminal convictions (three). Suspensions were imposed for a wider variety of types of conduct, but similarly, the most common reason was for criminal convictions (four) and a finding

**Table 3**

**Sanctions imposed by Disciplinary Tribunal panels or under the Determination by Consent procedure**

Sentence	2016/17	2017/18	2018/19	2019/20
Disbarred	20	5	4	10
Suspended	6	8	4	15
Fined	25	18	18	6
Reprimanded	16	15	16	9

by another regulator (three). Other suspensions were imposed for sexual misconduct and barristers' conduct on social media.

## Non-casework regulatory action

### Supervision activity

50. In October 2019, the BSB's Supervision functions were merged and the team now covers supervision of vocational Authorised Education and Training Organisations (AETOs) in addition to the supervision of pupillage AETOs, barristers, chambers and BSB entities. The Supervision Team will also monitor the relevant activities of the Inns under the new [Memorandum of Understanding](#) agreed as part of the Future Bar Training project.

### Bar training

51. The new Bar Training Rules were launched on 1 April 2019 and this was a period focussed on implementation of the new rules.

52. Towards the end of this reporting period, as the impact of the health pandemic began to take effect and lockdown started, the Supervision Team began working closely with the Authorisation, Exams, Professional Standards and Communications teams, as well as other stakeholders such as the Inns, the Circuits and the Bar Council, in the [BSB's response to Covid-19](#), to ensure that training and assessments continue to be delivered and that standards are maintained. In particular:

- Assessing the impact at each stage of training and identifying solutions to enable training and assessments to continue, whilst maintaining high standards.
- Approving alternative assessments proposed by the vocational AETOs in place of their scheduled assessments.
- Publishing FAQs for pupillage AETOs, to support them to continue to deliver training and complete pupilages in progress.
- Surveying AETOs to identify the [impact on pupillage](#).

53. A significant amount of work in this area continues and we continue to monitor the impact on the profession.

### *Vocational component*

54. The focus in this period was on authorisation of AETOs under the new [Authorisation Framework](#), rather than on proactive supervision activity in this area. The Supervision Team supported the Authorisation Team in the authorisation of the vocational AETOs. The information gathered through the authorisation process, together with information provided by AETOs in their annual reflective reviews, information reported by our team of External Examiners and other information reported to us, is now being used to shape our supervision strategy for vocational AETOs.

55. Supervision also worked with the Authorisation Team to agree a revised approach to:

- the Bar Transfer Test for transferring lawyers, to bring it into line with the new [Curriculum and Assessment Strategy](#); and
- to establish a new structure of subject specialist External Examiners for vocational training assurance. Recruitment of a new team of External Examiners followed. You can read more about the role of our External Examiners in [section 8 of the Supervision Strategy and Framework](#).

### *Pupillage component*

56. We had a period of focussed communication activity prior to the 2019/20 pupillage season, to communicate the changes to the Bar Training Rules. This included writing directly to all AETOs; providing more guidance on our website and in the Bar Qualification Manual; raising awareness on social media, via the monthly Regulatory Update email to the profession, and in articles for Counsel and The Barrister magazines; publishing a short video on implementing the Professional Statement on our website and YouTube; attendance at pupil supervisor training events organised by the Inns; and providing information to newly registered pupils.

57. We completed the two-year pilot of the implementation of the Professional Statement in pupillage. Feedback was consistently positive and from 1 September 2019 it was rolled out as a requirement for all pupillage AETOs to use the Professional Statement to assess the competence of pupils, in place of the old checklists. The pilot was used to develop guidance in the new Bar Qualification Manual.

58. Whilst most AETOs are delivering a high standard of pupillage training, some are not. We continued to see more pupils (and others) reporting their concerns to us about poor standards of pupillage training, as well as failure to adhere to our rules on advertising pupillages. We recognise that it can be very difficult for pupils to take this step and tell us about their experience. We take all such reports very seriously and handle them sensitively. You can read more about what happens when a pupil reports their concerns to us in section 8 of the [Supervision Strategy and Framework](#). Pupillage will continue to be a feature of our supervision work over the next 12 months, particularly, given the challenges that are likely to have arisen from COVID-19.

59. In the first half of the financial year, we were receiving reports from pupils at the rate of around four per month, on average, which was up from three per month in the previous six months. We think this reflects the increased publicity about Bar training with the Future Bar Training programme of work. In one case, this resulted in a referral to the Authorisation Team with authorisation to train pupils subsequently withdrawn following review by the Independent Decision-Making Panel. The introduction of the new Authorisation Framework in April 2019, which is now being rolled out to all chambers and organisations that train pupils, will help to ensure that all AETOs consistently meet the four principles of Bar training – flexibility, accessibility, affordability and high standards. In addition, the introduction of a new outcomes-based framework for

mandatory pupil supervisor training and refresher training, which we introduced following stakeholder workshops over the summer, will help to ensure consistent standards of pupil supervision.

60. Our Recruitment and Advertising project was set up because we had identified that [pupillage recruitment practices](#) created barriers to diversity at the Bar (see also the [BPTC key statistics](#) and [Differential Attainment research](#)). During this period, we conducted a targeted engagement programme on two proposals: (1) mandating a timetable for all pupillage recruitment and (2) mandating written agreements for pupillage. These were approved by the Board in January 2020 and have since been implemented. We also worked with the Bar Council to strengthen the guidance provided to the profession in the Fair Recruitment Guide. Our report on the impact of COVID-19 on pupillage raises a concern that it may affect future pupillage recruitment and, consequently, diversity in pupillage. We will continue to monitor this.

### **Assuring the competence of barristers**

61. We are continuing to build an evidence base around quality assurance and are establishing a framework for analysing that evidence in order to ensure that our regulatory intervention is proportionate and targeted to where there is evidence of the greatest risk to the regulatory objectives. Our focus over the period of this report has been on the following areas.

#### ***Continuing Professional Development (CPD)***

62. We conducted [research](#) into the implementation of the [CPD rules](#) that were introduced in 2017 for Established Practitioners. A key finding that emerged from this work was the need to support barristers further in their understanding of effective “reflection” on their training needs, which is a vital element of the CPD scheme. Further work is commencing in this area.

63. We also conducted a spot check on those identified in 2018 as non-compliant with their CPD obligations. Generally, the profession is meeting the CPD requirements although we think that more work is needed so that CPD is not seen as a box ticking exercise but instead an integral means by which barristers reflect on their learning and development. We are particularly keen to understand from other sectors and jurisdictions how they have embedded CPD into the regulatory framework as something that is meaningful and valuable to their regulated communities. Associated to that, are the expectations that arise from the [Competition and Market Authority legal sector market study](#) to our actions in response to the study) in relation to barristers and chambers collecting feedback from clients and the use that can be made of that information to help identify development opportunities and areas for improvement.

64. We will be commencing a review of the New Practitioners Programme in 2020/21.

### *Youth Proceedings Competences*

65. We consider Youth Court work to be a high-risk area of work following our [Youth Proceedings Advocacy Review](#) in 2015. This Review found that standards of advocacy in the Youth Court were variable and as a result the interests of some of the most vulnerable people within the criminal justice system were not being adequately represented.
66. As a response to the Review, we published the [Youth Proceedings competences and guidance](#) and introduced a change to the Handbook. Rule S59 requires barrister and pupils working in the Youth Court to register that with us and declare that they have the specialist skills, knowledge and attributes necessary to work effectively with young people.
67. In 2019 we spot checked 122 barristers who conduct work in the Youth Court. The purpose of the review was to assess the extent to which barristers have used the Youth Proceedings competences and guidance to reflect on their practice in the Youth Court in 2019/20. We were encouraged by the result; the responses we received from barristers were overwhelmingly detailed and insightful. Over 80% of respondents reflected on their recent experience in the Youth Court by directly referring to the Youth Proceedings competences and guidance document.
68. We will be further evaluating the impact of our regulation of Youth Court advocacy in 2021/22

### *Coroners Courts Competences*

69. Reports by Bishop James Jones into the Hillsborough Inquiry and Dame Elish Angiolini DBE QC into deaths and serious incidents in police custody raised concerns, amongst other things, about the approach taken by barristers working in the Coroner's Court.
70. As a result of these reports and of further research carried out by the Ministry of Justice (MOJ), we have set up a working group jointly with the SRA, which includes the MOJ, representatives from the Chief Coroner's Office, the Deputy Chief Coroner, INQUEST and solicitors and barristers working in this area.
71. The purpose of the group is to assist us in developing standards and resources for barristers working in the Coroners' Courts. The group will also consider how best to engage with interested parties as we develop our approach, how best to communicate any new approach and to consider how we might encourage poor practice to be reported.
72. We are also consulting relevant stakeholders, including speaking with families who have been represented in the Coroner's Court, to develop the competences and resources required for barristers practising in the Coroners' Courts.
73. A report on our work on this area will be produced in early 2021.

## Compliance with Transparency Rules

74. We brought new transparency rules into force as of 1 July 2019, with an implementation period until January 2020. This follows the Competition and Markets Authority's recommendation in December 2016 that the legal regulators deliver a step change in transparency standards to help consumers understand the price and service they will receive, what redress is available and the regulatory status of their provider.
75. In January 2020, we checked the websites (or factsheets in the absence of a website) of 439 sole practitioners, chambers and BSB entities for compliance with the price, service and redress transparency rules. Detailed feedback through one-to-one engagement was given to those assessed as non-compliant or partially compliant. A [report](#) on the outcomes of this work was published.
76. Further evaluation of the impact of the rules is ongoing and the Supervision Team continues to monitor compliance rates. Where chambers, entities or sole practitioners persist in con-compliance, we shall take enforcement action.

## Addressing Bullying and Harassment at the Bar

77. In 2019 the BSB began work on looking at the BSB's approach to addressing bullying and harassment at the Bar with the purpose of improving the capability of the BSB in handling reports of such conduct, and supporting and encouraging the reporting of such behaviours, with the overall aim of assisting in reducing levels of harassment at the Bar.
78. This work is ongoing and includes:
- Monitoring and assessing the efficacy of our pilot scheme that gives waivers, from the requirement to report serious misconduct by others, to those involved in giving support and advice to members of the profession who have experienced harassment;
  - Carrying out further research into the incidence of bullying and harassment at the Bar and the barriers to reporting of such conduct;
  - Reviewing our internal systems for handling reports of bullying and harassment including examining our handling of past cases to identify points of learning and further areas for improvement;
  - Liaising with external bodies, both national and international, to share experiences and learning to inform our approach, including organising a series of roundtable meetings with regulators, other bodies and the profession;
  - Implementing a specialist training programme for staff responsible for addressing reports of bullying and harassment; and
  - Improving internal communications to ensure a swift and co-ordinated approach to reports of bullying and harassment.

## Concerns reported to the BSB

79. Supervision received 71 reports in the period April to September 2019 that it assessed and acted on. This included the cases relating to pupillage referred to above.
80. As in the previous period, Supervision continued to receive reports from the Immigration Tribunal, the Home Office and the Office of the Immigration Services Commissioner about cases of poor advocacy and unregulated persons acting under the supervision of barristers under s84 of the Immigration and Asylum Act. This led to supervision engagement with relevant barristers. Supervision also worked with the Professional Standards Team on the consultation and application for rule change to ensure barristers can no longer supervise unsuitable persons struck off by other regulators. Barristers that enter into an arrangement to supervise an immigration adviser must [report the association to the BSB and adhere to our guidance](#). The BSB has hosted roundtable meetings of stakeholders including judges and other regulators, in order to manage risk to vulnerable consumers and promote high standards of representation.
81. From October 2019, all [reports to the BSB](#) are directed to the Contact and Assessment Team (CAT) for risk assessment in the first instance. The Supervision Team worked closely with the CAT project team in this period to test new systems, the new risk assessment methodology and ensure appropriate policies were in place for the launch of CAT.
82. 31 cases were referred to Supervision in the period October 2019 to March 2020. The drop from 71 cases in first half of the year and 157 cases in total in the prior year is in line with our expectations because CAT does not refer anything assessed as low risk to Supervision, where a regulatory response would not be proportionate. This leaves Supervision free to focus on the highest risk cases where Supervision action is needed. CAT, Supervision, Risk and the Legal and Enforcement departments all meet regularly to review the effectiveness of the new processes, to ensure that the risk assessment methodology is working as intended and is being applied consistently by staff.
83. The cases acted on by Supervision in this period included the following:
- Further concerns about competence in the field of immigration services.
  - Financial impropriety, including handling client money and alleged bribery.
  - Viability of chambers.
  - Failure to advertise pupillage.
  - Potential breaches of scope of practice (failure to have a Qualified Person, taking instructions on a licensed or public access basis when not authorised to do so and conducting reserved legal activities when not authorised).
84. The Supervision module of the Case Management System was delivered in April 2020. This ensures that all information relating to risk assessment, supervision and enforcement activity is available to view by staff on one platform, facilitating effective risk management and consistent regulatory decision-making.

## Anti-Money Laundering Supervision

85. The BSB is responsible for the supervision of barristers and BSB entities under the 2017 [Money Laundering Regulations](#). The Regulations were [amended](#) on 10 January 2020. They are referred to collectively here as “the Regulations”.

86. This section of the report provides an overview of the supervision activity undertaken to encourage the reporting of actual or potential breaches of the Regulations and measures carried out to monitor, and enforce, compliance by barristers and BSB entities with their obligations. Anti-money laundering continues to receive considerable national focus and we engaged extensively with government, OPBAS, law enforcement, other regulators and other stakeholders in this period. A new Legal Sector Intelligence Sharing Expert Working Group was formed. This will help the Professional Body Supervisors under the Regulations, including the BSB, to meet their obligations under the Money Laundering Regulations to co-operate with other supervisory authorities, the Treasury and law enforcement authorities. We also subscribe to SIS, the Financial Conduct Authority’s Share Intelligence Service.

87. The number of “relevant persons” under the Regulations (based on self-declaration) was as follows:

	2019	2020
Number of barristers	976	571
Number of BSB entities	14	11
Trust and Company Service Providers (included in the above)	4 (1 barrister and 3 BSB entities)	4 (1 barrister and 3 BSB entities)

88. Historically, barristers have over-declared and there is ongoing engagement with the profession to get more accurate data. We therefore expected these numbers to reduce from 2019 to 2020 and they are likely to reduce further as a result of engagement with chambers through the Regulatory Return in 2020-21.

### ***Measures taken to encourage the reporting of actual or potential breaches of the Money Laundering Regulations to the BSB***

89. All barristers must declare at Authorisation to Practise (when they renew their practising certificate annually), whether they engage in work that falls within the scope of the Money Laundering Regulations and, if so, to confirm that they have not been convicted of a “relevant offence” as set out in the Regulations. BSB entities must do the same upon authorisation and annual renewal.



90. To assist barristers to comply with their obligations, they are signposted to guidance when making the annual declaration. In January, we published joint legal sector guidance on the amended Regulations. The changes included:

- an expanded definition of “tax advisers” that come within scope of the Regulations;
- additional requirements relating to Customer Due Diligence checks; and
- a new requirement to report discrepancies on the register at Companies House.

91. We also published joint legal sector [guidance to managing risks arising from the COVID-19 pandemic](#) and are working with colleagues across the legal sector to update the Joint Legal Sector guidance, to make it more user-friendly. We anticipate that this will be submitted for approval to HM Treasury later in 2020.

92. Measures are in place to ensure that breaches of the Regulations are reported to the BSB. These include:

- All barristers and BSB entities have an obligation under the BSB Handbook to [report serious misconduct](#) by themselves or others. Further information about such reports during this period are included elsewhere in this report.
- Our [Money Laundering Hotline](#) is a confidential service that anyone can use to report a concern to us, about a person or an organisation we regulate, in connection with Money Laundering. During this period, we received no reports to the hotline.
- Anyone who has a concern about the conduct of a barrister or a BSB entity can make a [report](#) to us. Staff in the new Contact and Assessment Team that was established this year were provided with training in November to ensure they can identify red flags that might indicate a risk of money laundering.
- We work closely with other regulators and have signed a number [Memoranda of Understanding](#) in order to support sharing of intelligence.
- Two staff in the Supervision Team have undergone security vetting to enable them to receive reports from the National Crime Agency relating to barristers or entities we authorise.
- As part of our ongoing programme of supervision, chambers and entities are required to complete a self-assessment of compliance with the Regulations, as set out below.

### *Measures carried out to monitor compliance with the Money Laundering Regulations*

93. In accordance with [regulation 17](#), we identified the following clusters of inherently higher risk activity within the Bar:

- [Trust or Company Service Providers](#) (TCSPs) as defined in [regulation 12\(2\)](#), which the [National Risk Assessment](#) identified as high risk; and
- [Tax advisory work](#) as suggested by the [Panama Papers](#) revelations.

These clusters were subject to supervision monitoring in this period as follows.

#### *Trust and Company Service Providers (TCSPs)*

94. TCSPs, as defined in [regulation 12\(2\)](#), are firms or sole practitioners who provide services relating to company formation, acting (or arranging for another person to act) as a company director or secretary, providing a registered office or other related services for a company, and acting (or arranging for another person to act) as a trustee or a nominee shareholder.

95. In September 2019, TCSPs were issued with a questionnaire to gather information to help us better understand the type and scale of TCSP activity of each barrister/entity, to give us a better view of inherent risk in our population and for the TCSPs to tell us about their policies and processes so we could assess the control environment and level of compliance at each one. The questionnaire covered the following areas:

- Type of work undertaken.
- Risk Assessment.
- Policies, controls and procedures.
- Customer Due Diligence.
- Suspicious Activity Reports.
- Financial sanctions.
- Training.

96. The four TCSPs (3 BSB entities and one self-employed barrister) are small-scale operations carrying out low value transactions for the local area they are based in. None has an offshore presence or establish offshore entities. We have assessed all as low risk for Money Laundering or Terrorist Financing.

#### *Tax advisory work*

97. In November 2019, we issued a similar questionnaire to ten chambers and one BSB entity which specialise in tax advisory work. The majority of tax work undertaken by this cluster is contentious tax litigation (which does not fall within the scope of the Regulations) as opposed to tax advisory work.

98. We have assessed all questionnaires and rated the chambers and entity as high, medium or low risk, based on their responses and our follow-up visits. The chambers assessed as high risk were subject to a supervision visit. Of the two, one implemented the corrective actions we set and have now been rated as low risk. The other chambers are actively putting measures in place to comply with our corrective actions. We continue to engage with the rest to ensure full compliance with the Regulations.

### *Enforcement*

99. The BSB is required to take appropriate action against barristers and BSB entities where they have failed to meet their obligations. [Regulation 49\(1\)\(d\)](#) requires that effective, proportionate and dissuasive disciplinary measures are in place. The enforcement regulations in the [BSB Handbook](#) and the [BTAS Sanctions Guidance](#) provide the framework for sanctions. We also have a [policy on publishing disciplinary findings](#).

100. For the period in question, none of the barristers and BSB entities that were subject to our compliance monitoring (as set out above) have received a sanction for breaches of the Regulations. Our strategy in undertaking our supervision activity is to foster a constructive relationship with those we regulate, to achieve appropriate outcomes, resulting in less enforcement action and better protection and promotion of consumers' interests. Whilst we seek to engage constructively through Supervision action, we will refer issues to the relevant team to consider whether enforcement action is needed when the subject is unwilling to engage, potential serious misconduct is identified and/or the level of risk indicates that it is appropriate and proportionate to do so. Those subject to review in this period have engaged constructively with us to strengthen controls and enforcement has not been necessary.

## Conclusion

101. This report highlights a busy period for the regulatory decision-making functions of the BSB, during which we have implemented a major programme of reform to how we take those decisions and how we receive and assess incoming information. Through the report we have identified areas of focus for the coming years as well as consolidated our efficiency in the handling of individual cases. We will continue to monitor the impact of COVID-19 on the profession and in particular on pupillage so that we can provide appropriate regulatory intervention where it is needed either to address areas of concern or to remove unnecessary barriers.



**BAR  
STANDARDS  
BOARD**

REGULATING BARRISTERS

## **Independent Decision-Making Body**

**Annual Report 2019/20**

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## Chair's introduction

- 1.1 I am pleased to present, on behalf of its members, the first Annual Report of the Independent Decision-making Body (IDB). The contents of this report provide an overview of the background to the creation of the IDB and the work it has carried out since 15 October 2019 when it started operating.
- 1.2 For me, it was a somewhat daunting prospect to take on the responsibility of chairing a new body, despite having previously been the Chair and Vice Chair of the Professional Conduct Committee (PCC) for a total of almost four years. I had been involved in both the development of the structures for the IDB and the recruitment of panel members. Nevertheless, theory is different to practice and the previous high-quality work of the Professional Conduct Committee and the Authorisations Review Panels, which the IDB replaced, was always going to be a hard act to follow.
- 1.3 This first “annual report” of the IDB covers only the period 15 October 2019 to 31 March 2020 to allow future reports to align with the BSB’s standard reporting year. Inevitably, the first six months’ operation of the IDB involved a very steep learning curve for all members including me. For those of us who had previously served on the PCC we were familiar with the fundamental decision-making process, which had not changed, and the terms of the BSB Handbook. However, the structure of meetings, the more direct responsibility for decisions including responsibility for reading the full case file and the need to provide reasoned decisions, presented substantial challenges in adjusting to the new regime. For new members, their learning curve in all areas was even steeper.
- 1.4 I am pleased and proud that all members of the IDB rose to the challenges of operating a new system: their patience, understanding and goodwill in dealing with the inevitable teething issues and adjustments to the operational systems was admirable. By the same token the executive provided excellent support and showed an extraordinary willingness to be flexible and adapt the support systems to reflect feedback from panel members. The result is that the first six months of the IDB’s operation was successful, with robust decisions taken by members who had received comprehensive and effective induction as well as ongoing training.
- 1.5 The IDB is still a work in progress in terms of refining the underlying operational processes and ensuring that meetings run effectively and efficiently. In the period covered by this report, the number of IDB meetings was relatively low and therefore not all panel members were able to apply in practice the learning gained from their training. I understand that the number of meetings and cases considered has increased substantially since I stood down in April 2020 and this is to be welcomed. Nevertheless, during my tenure, given the guidance and support provided by the executive, I saw no discernible decrease in the quality of decision making of IDB panels as compared to that of the PCC.

## Overview of IDB

### Background

- 2.1 The creation of the Independent Decision-Making Body (IDB) was a long time in the making. The concept had its genesis back in 2016 when the BSB, as part of its ongoing Governance Review, commissioned independent research into options for reforming the governance of the enforcement and authorisations decision-making regimes to reflect modern best practice. The proposals put forward from that research included an option to create a pool of expert decision makers, from which small panels could be constituted to take regulatory decisions that required consideration independent of the BSB executive.
- 2.2 After detailed consideration of the issues by the BSB Board, a public consultation was carried out in March 2018 on Modernising Regulatory Decision-making. This included the proposal to create an independent decision-making body to replace the existing Professional Conduct Committee (PCC) and Authorisations Review Panels (ARPs)<sup>1</sup>. The public response was supportive of the proposal and in February 2019 the BSB Board formally agreed that such a new body should be created. On 15 October 2019, the Independent Decision-making Body (IDB) commenced operation.

### Composition of the IDB

- 2.3 The IDB consists of a pool of suitably qualified persons, both lay and barrister, who are tasked with taking regulatory decisions on behalf of the BSB that require independent input to ensure that fair and reasonable decisions are taken in the public interest. The size of the “pool” and thereby the membership of the IDB is designed to be flexible and can be scaled up or down according to need.
- 2.4 When developing the concept of the body, the optimum number for members was considered to be 30. However, in order to ensure an acceptable level of continuity of experience and knowledge, the initial membership, as at 15 October 2019, was 40 comprising 23 lay members and 17 barrister members. This larger pool accommodated the transfer of members of the PCC and the ARPs as well as 13 newly recruited members. The combination of existing experience/knowledge and new members unfamiliar with the old regime has proved successful in ensuring continuity between the old and the new decision-making regimes, whilst ensuring the new system includes those with a fresh perspective and is not just the old bodies operating under a new name.
- 2.5 The IDB has two formal Office Holders, a Chair and a Vice-Chair. During the six months covered by this report, Aidan Christie QC was the Chair, and Iain Christie the Vice Chair. Aidan stood down in April 2020 and Iain took on the role of Chair with Cindy Butts, who was previously an ordinary member of the IDB, being appointed as Vice Chair.
- 2.6 An open recruitment was held in early 2019 to appoint the 13 new members including the Vice Chair. The exercise attracted 157 applications and 34 candidates were shortlisted and interviewed. The field was incredibly strong and the decisions on who to appoint were difficult. The 13 successful candidates came from a range of diverse backgrounds - the full list of IDB members, as at 1 September 2019, can be found on the BSB website [[here](#)].
- 2.7 While the IDB commenced operating on 15 October 2019, its members were formally appointed to their roles on 1 September 2019 to allow for induction training to be completed. To ensure the IDB

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<sup>1</sup> The Professional Conduct Committee was previously responsible for taking decisions on whether enforcement action, including disciplinary action, should be taken against barristers or BSB regulated entities for breaches of the BSB Handbook. Authorisation Review Panels (ARPs) replaced the BSB Qualifications Committee and were responsible for considering appeals against authorisation decisions taken by the BSB executive.



membership is regularly refreshed but continuity is maintained, members were appointed for one, two and three year terms depending on the length of their past service for the BSB: with transferring members having shorter terms and the new members appointed for three years, subject to renewal for a further three years.

## Remit and regulatory framework of the IDB

- 2.8 The IDB, while independent of the BSB executive, is still a part of the BSB and accountable to the BSB Board for its performance (but not its decision making in individual cases). Its remit covers two distinct areas: (1) enforcement decisions in relation to breaches of the BSB Handbook; and (2) considering applications for review of executive decisions taken on authorisations. In theory the IDB can also be tasked by the BSB Board with considering other types of regulatory decisions, but its current remit covers only these two areas.
- 2.9 **Composition of the panels:** the IDB sits in panels of either three or five persons depending on the nature of the case under consideration: three person panels consider authorisation reviews, and five person panels consider enforcement cases. All panels have a lay majority and can be chaired by either a barrister or a lay person. There are no standing chairs of panels and all members of the IDB are trained to chair meetings.
- 2.10 **Enforcement:** the enforcement decision-making powers of the IDB are set out in the Enforcement Decision Regulations, Part 5, Section A of the BSB Handbook. These regulations give IDB panels the power to decide whether, on the evidence presented to them, enforcement action should or should not be taken in relation to an allegation of a breach of the BSB Handbook. The options open to IDB panels are to decide that:
- 2.10.1 there is no evidence or insufficient evidence of a breach;
  - 2.10.2 there is evidence of breach but, in all the circumstances, no enforcement action should be taken;
  - 2.10.3 there is evidence a breach and that the breach should be dealt with by the imposition of an administrative sanction; or
  - 2.10.4 there is a realistic prospect of a finding of professional misconduct and that, having regard to the regulatory objectives, it is in the public interest to pursue disciplinary action, either by a referral to a Disciplinary Tribunal or under the Determination by Consent procedure.
- 2.11 In addition, the Chair of the IDB has the power to impose immediate interim suspensions on individual barristers, pending consideration by an independent Interim Suspension Panel and the conclusion of disciplinary proceedings. This power is exercised only where the conduct alleged presents a serious risk to the public. No such suspensions were imposed during the period covered by this report.
- 2.12 **Authorisation reviews:** the IDB's remit to consider applications for review is found in the BSB Standing Orders (Annex 2c, section 1) and the applications that fall within its remit are set out in various sections of the BSB Handbook. In summary, IDB panels can review decisions taken in relation to:

- 2.12.1 The issue, amendment and/or revocation of a practising certificate or litigation extension (Part 3, C6 of the BSB Handbook);
- 2.12.2 A refusal to grant an authorisation or licence, or impose terms, conditions, modifications or suspend the authorisation or licence (Part 3, E11 of the BSB Handbook);
- 2.12.3 Refusal to admit, or re-admit, an individual as a member of an Inn (Inns' Conduct Committee decisions);
- 2.12.4 The authorisation of entities (BSB authorised bodies and BSB licensed bodies);
- 2.12.5 Any decisions taken under the Bar Qualification Rules (Part 4B of the BSB Handbook) where provision is made for a review, essentially decisions on waivers from the qualifications requirements; and
- 2.12.6 General applications for waivers in relation to compliance with the BSB Handbook provisions (Part 1, Section A4).

## Induction and training

- 2.13 While the IDB became operational on 15 October 2019, members were appointed from 1 September 2019 to allow them to complete induction prior to sitting on IDB panels. In addition to an introduction to the BSB and an overview of the regulatory changes coming into force on 15 October 2019, the induction programme consisted of sessions on the BSB Handbook; chairing of panels; Equality & Diversity awareness; effective drafting of reasoned decisions; and systems training.
- 2.14 Ongoing training is integral to the efficacy of the IDB and therefore quarterly training sessions are embedded in the system and all members are expected to attend. The content of the quarterly sessions is based on feedback from IDB members and finalised in collaboration with the Chair and Vice-Chair. The first quarterly session was held in January/February 2020, covering the role of the Chair/Vice-Chair; the appraisal system; a review of the induction training; and information-sharing systems. Although outside the period of this report, we have continued to hold training events during 2020, with sessions being held virtually in June and September 2020.

## Ways of working

- 2.15 One new feature of the way the IDB works, as compared to the old system, is that panel members are provided with the full enforcement case file rather than just a report containing a summary of the case. Authorisations cases comprise the original application, executive coversheet and decision letter, and the review request, which had been the arrangement previously. To facilitate this sharing of case documentation, the BSB introduced the use of a digital evidence management system, called CaseLines. This is a system widely used in tribunals and courts and allows bundles of evidence to be accessed electronically via an online platform.
- 2.16 CaseLines has also allowed the IDB membership to have easy online access to information resources including an information pack, policy and guidance documents, IDB panel decisions and training materials.
- 2.17 **Anonymisation:** all enforcement and authorisations case files and reports are anonymised to reduce the risk of unconscious bias in decision-making: the name and the gender of the barrister in the case is, where possible and unless it is material to the issues, redacted from all documents presented to IDB panels.

- 2.18 While the concept of anonymising cases is laudable, in practice it is very difficult to achieve effectively. In a case bundle of hundreds of pages, ensuring all references to the barrister's name and gender are redacted is challenging. If only one reference is missed, then the purpose of all other redactions is entirely lost, and unfortunately this is fairly common. This is no criticism of the executive. The level of resource that needs to be put into redacting and checking documentation must be substantial but unfortunately the purpose of anonymisation is not achieved if just one redaction is missed. In light of these difficulties, the BSB may wish to look again at the concept of anonymisation of full case files and consider whether it is proportionate.
- 2.19 **Newsletters:** To ensure IDB members are kept updated on issues that may affect their work, a monthly newsletter is circulated by the executive, containing updates on operational and policy changes, performance statistics, case law summaries, and reports of tribunal and staff decisions. This is a valuable source of information for IDB members and assists with creating consistency in approach and decision-making.
- 2.20 The IDB has relatively sophisticated ways of working, which utilise effective IT systems and the support provided to us by the executive is extensive. Nevertheless, the learning curve for all members has been high. As will be seen from the section below on performance statistics, the volume of work presented to the IDB in the period covered by this report was relatively low and therefore it took some time for all members to become fully conversant with the ways of working and the decision-making processes. In regard to the latter, the presence of members who previously served on the PCC and ARPs has been hugely beneficial.

## Impact of Covid-19

- 2.21 While the Covid-19 pandemic only hit at the very end of the period covered by this report, the impact of the lockdown restrictions was immediate. Due to the existing and stable remote working arrangements already in place at the BSB, and the use of CaseLines, the IDB was able to move swiftly to holding all IDB panel meetings virtually without the need to introduce new structures. While the move to online meetings required all panel members to adjust to the use of the video conferencing technology, such technology had already been used by some members unable to attend meetings in person. The greatest adjustment has been to the different ways of approaching the work that virtual meetings require. It is to the credit of both panel members and the executive team, that there was no break in the schedule of meetings and business as usual was able to continue in an effective manner.

## Performance Statistics

3.1 This section outlines the work carried out by the IDB during the six-month reporting period, 15 October 2019 – 31 March 2020: next year's IDB report will cover the full year 2020/21.

### Number of panel meetings

3.2 During the period, 13 panel meetings were held: ten enforcement meetings and three authorisation Panel meetings. A total of 24 cases were considered: 16 enforcement cases and eight authorisation cases. The detail of the decisions taken by the panels is set out in the table below.

Panel type	Number of meetings	Cases considered	Decisions	Type
Enforcement	10	16	6 - Referred to disciplinary action 5 - Administrative sanctions imposed 5 - Allegations dismissed	-
Authorisations	3	8	6 - Executive & ICC decisions upheld 2 - Executive decisions overturned	4 - Pupillage Reduction 2 - Admission to the Bar as a qualified foreign lawyer 1 - Inns' Conduct Committee (ICC) decision 1 - Withdrawal of authorisation as an Authorised Education and Training Organisation (AETO)

3.3 The number of panel meetings in the period was in line with initial views of the scheduled frequency of meetings i.e. in the region of two per month. However, the number of cases considered at each meeting was initially less than envisaged. The main reason for this is the requirement that panels produce reasoned decisions: initially this took, and still takes, quite a proportion of meeting time. The ongoing feedback loop between the IDB and the executive means continuous learning has allowed the system to speed up as experience is gained, but the need to provide agreed reasons for decisions will remain a contributing factor to the length of time it takes to conclude each case.

3.4 Further, it was always envisaged that ad hoc meetings would take place and be slotted in alongside scheduled meetings to allow for flexibility in addressing fluctuating volumes of cases requiring IDB consideration. Such ad hoc meetings were not included in the programme in the first six months and therefore, with a pool of 40 IDB members, the frequency at which members were involved in meetings was initially quite low. In the first six months, a backlog of cases awaiting consideration built up. While outside the reporting period, this situation has been addressed by the scheduling of increased numbers of panel meetings and the standard frequency of meeting going forward has been increased by 50%.

## Reviews and appeals of IDB panel decisions

- 3.5 IDB panel decisions can be reviewed or appealed under two mechanisms.
- 3.5.1 Decisions to refer cases to disciplinary action or dismiss allegations are not open to appeal. However, the BSB has an internal review mechanism in the form of the Independent Reviewer (IR). The IR has a wide remit in relation to reviewing enforcement decisions that are not subject to a formal appeal mechanism<sup>2</sup>. A review by the IR can be requested by the person who made the original report about the barrister or by the barrister subject to the report. The IR has no decision-making powers and can only make recommendations. If the IR recommends that a decision of an IDB panel should be altered, the recommendation will be put to a newly constituted IDB panel to decide if the recommendation should be accepted. During the period covered by this report no requests were made for IDB panel decisions to be reviewed.
- 3.5.2 Where an administrative sanction is imposed by an IDB panel (or indeed staff members), barristers have the right to appeal the decision to an Appeal Panel, convened by the Bar Tribunals and Adjudication Service. During the period covered by this report, two appeals against decisions by IDB panels to impose administrative sanctions were made. One of these appeals is awaiting a decision. The other appeal was successful (see below).
- 3.6 The successful appeal arose from a warning imposed by an IDB panel in December 2019 for the barrister's use of social media (Twitter), making comments which it was alleged was offensive, bullying and threatening. The IDB panel found that there had been a breach of Core Duty 5 (you must not behave in a way that is likely to diminish trust and confidence in you or in the profession). In a decision handed down on 31 July 2020 (outside the period of this report but included here for completeness), the Appeal Panel found that the IDB panel decision was flawed for a number of reasons: it failed to give full regard to the context of the tweets; the decision was based on the impression that a user "might come away with", rather than on what a reasonable reader would understand the message to mean in context; and the IDB's written reasons were insufficient for the barrister to understand which aspects of the allegations were well-founded and which were not. By the time the appeal was heard, further training had already been carried out on drafting reasons. The case and its implications were covered at subsequent IDB training in early September 2020 and in the September issue of the IDB Newsletter to ensure that the learning points were firmly embedded in the work of the IDB.
- 3.7 Finally, while not an internal route of review, IDB decisions can potentially be subject to scrutiny in the courts via an application for judicial review. Such challenges are rare, and none were received during the period covered by this report.

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<sup>2</sup> Formal appeal mechanisms are in place in relation to decisions to impose administrative sanctions and decisions on authorisations appeals.

## Feedback from members

- 4.1 Obtaining feedback is an important aspect of monitoring the work of the IDB to support continuous improvement. Feedback is received via both formal and informal means. Towards the end of the reporting period, a system of formally inviting panel members to appraise, after each meeting, the performance of other panel members and to reflect on their own performance was introduced. This consists of sending to each panel member, within two days of a meeting, a link to an online feedback form in which they are invited to rate performance according to specific criteria and provide free text comments. Given that only two meetings were held in the reporting period after introduction of this system, feedback was sought from specific panel members for the purposes of completing this report (see paragraphs 4.4 – 4.6).
- 4.2 Feedback is also requested at the quarterly training meetings and, informally, panel members are encouraged to contact the Chair, Vice-Chair, or the executive staff if they wish to raise any issues.
- 4.3 Over the period of this report, these formal and informal mechanisms have provided useful information that has allowed the work of the IDB to develop and become more streamlined.
- 4.4 As noted above, the IDB membership comprises those who transferred from previous decision-making bodies (the PCC and ARPs) and newly appointed members. Feedback from transferring members of the PCC indicates that they found the move to smaller panels to be beneficial as it allows for more inclusive discussions, which they previously found harder in a larger group. This has led to a feeling of greater investment both in the process of making individual decisions and in membership of the IDB as a body. Transferring members have also commented favourably on the greater efficiency and functioning of the IDB as compared to the PCC/ARP.
- 4.5 Feedback from newly appointed members indicates that they appreciate the experience of former members of the PCC/ARP, and that the induction training had prepared them well for their new roles. Both barrister and lay members felt that they had been underused in this initial period, perhaps only attending one panel in the first six months, but that conversely the workload for that panel had been heavy, having to decide two or more cases. These are both issues that have been addressed subsequent to the reporting period (see paragraph 3.4 above).
- 4.6 General feedback also shows that members consider the IDB has an excellent mix of professional and lay members, both new and experienced, which encourages thorough debate. This is felt to be particularly helpful in drafting decisions which accurately reflect the panel's findings. The involvement of BSB staff in ensuring that panels follow a consistent procedure was also seen as invaluable in ensuring a smooth transition and the ongoing efficacy of meetings.

## Conclusions and comments on overall performance

- 5.1 Any change of system, even within an established organisation such as the BSB, is likely to bring with it a period of uncertainty and disruption whilst participants get used to the new processes. The six months covered by this report was a learning period both for members of the IDB and the executive staff while those new procedures were embedded. It has been a remarkably smooth transition without any major issues of management or substance arising.
- 5.2 Lessons learned from the first six months of operation include the need to schedule more regular meetings of differing lengths, with a more balanced case-load allocated to each panel and to fine-tune the processes for drafting decisions, which can be challenging and time-consuming when working in groups of three or five. The outcome of the administrative sanction appeal was helpful in drawing potential errors to the attention of panel members in training and valuable lessons have been learnt. In and of itself it is not evidence of any failing of the new process.
- 5.3 There is an ongoing challenge, given the multiple roles which most members fulfil outside their work for the IDB and the infrequency with which they come together, in ensuring that members of the IDB feel they are working as part of a team and belong to a cohesive group. I am aware that this is something of which my successor and the Vice-Chair are particularly conscious. Their participation in quarterly training sessions and responsibility for pastoral oversight of members, allows them to address such issues, for example by discussing the values which members of the IDB bring to their work. Forthcoming training needs, identified by the members, including raising awareness of unconscious bias, will not only ensure decisions continue to be fair but also enhance working relationships between IDB members.
- 5.4 The Board will have noted the comments at paragraph 2.17- 2.18 regarding anonymisation of case files and may wish to consider reviewing the approach given the practical challenges of both ensuring anonymisation is effective and the resource implications of doing so.
- 5.5 It has been a pleasure to oversee the transition from the PCC to the IDB, which completes the move to fully independent regulation which the BSB wished to establish. I am delighted to hand over my responsibilities as Chair to my successor with the new system and processes firmly in place.

**Aidan Christie, QC**  
**Chair of the Independent Decision-Making Body (October 2019 – April 2020)**

**Iain Christie**  
**Vice-Chair of the Independent Decision-Making Body (October 2019 to April 2020)**

**November 2020**





<b>Meeting:</b>	Bar Standards Board	<b>Date:</b>	26 November 2020
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<b>Title:</b>	BSB Planning, Resources & Performance Committee (PRP) mid-year Report
<b>Author:</b>	Rebecca Forbes
<b>Post:</b>	Head of Governance and Corporate Services

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

1.	<p>a) <b>Note</b> the performance dashboard reporting on the mid year progress against business plan activities and key performance indicators provided in Annex 1;</p> <p>b) <b>Note the assurance</b> that the Committee have scrutinised the detailed BSB quarter 1 and quarter 2 performance reports;</p> <p>c) <b>Note</b> the Committee's approval of the accelerated timetable for recruitment of additional resources in the Regulatory Operations Directorate.</p>
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### Executive Summary

2.	Under the current governance arrangements, the Planning, Resources and Performance (PRP) Committee reports twice a year to the Board on the performance of the BSB against its business plan commitments and its budget. This is the mid year report and will be the final report to the Board in this format. In future, reporting on performance will be directly to the Board itself rather than delegated to the PRP.
3.	Despite the constraints of the health emergency, BSB has met our published commitments for all but one of the Business Plan activities in the first half of the year. We have, in addition, undertaken work in response to the health emergency itself. This has included undertaking a survey of, and publication of a report about, the prospects of pupillage. We have also organised central examinations in both August and October to enable Bar students to progress with their careers, while maintaining standards.
4.	Our performance in handling regulatory casework must be seen in the context of increases in volumes of incoming work, efforts to manage backlogs, and the coincidence of heavy, COVID-related pressures across all teams at the expense of resilience. Despite this, our teams have generally been more productive in dealing with work flows, although KPIs have suffered because of some slow-down in the speed with which work has been dealt with. The Committee's view is that capacity, not capability, is at the root of these performance issues and it has therefore approved recruitment of two additional administrative posts earlier than scheduled. These posts had already been agreed for the next business year and the financial impacts of bringing recruitment forward by one quarter are minimal. Even with these additional costs, we still expect an underspend against budget for staff expenditure at year end.

5. At the end of quarter 2, the BSB had received £290k in directly controlled income against a budget of £290k and expenditure amounted to £2,610k against a budget of £3,1234k. This is a variance of £513k in expenditure which is attributable to an underspend of £97k in staff related expenditure and otherwise substantially due to the deferral of costs when the April examinations did not proceed. Whilst income is on budget for year to date, the year to date budget does not include fees for Bar training, which is usually received in quarter 3 and is the single largest component of our regulatory income (excluding income from the PCF). Early indications are that enrolments are at near to normal levels, and having been somewhat cautious in our estimations for this year, we should receive at least the budgeted income.

## Risks

6. The risks inherent to our lean resourcing model have been realised, with insufficient resilience in our staffing complement to manage concurrent peaks in workload across the business. Whilst controls are in place to mitigate the risks to the delivery of our core regulatory functions and BSB projects and to ensure that they are given proper priority, it nevertheless remains an area that is the subject of close scrutiny by both the executive and PRP

### Mid-year report of the Planning, Resources and Performance Committee (PRP)

1. The PRP has reviewed the mid-year performance of business plan activities as set out in the [2020 - 21 Business Plan](#)<sup>1</sup> (summarised in the dashboard at Annex 1) and an analysis of performance against KPI targets.
2. As the Board has already agreed that the monitoring of performance should revert to the Board itself, this will be the final report in this format. In future, the Director General's *Strategic Report* will report by exception on departures from published Business Plan commitments (and major achievements) and where our performance against KPIs falls significantly short of target. We will provide an annex to that report setting out performance against all KPIs.
3. Continued delivery of our core regulatory functions and business plan commitments is a notable achievement in the context of the current health emergency and the unforeseen work needed in response to that (concurrently with some reduction in staff capacity).
4. For one activity in the Business Plan (moving to paperless working), milestones for quarters 1 and 2 were not completed within the published timetable. The BSB has continued to meet the quarterly milestones for all other project work as published in the Business Plan. This is in part due to the Board's reprioritisation of project work and our Business Plan commitments in early April (prior to publication) in response to the health emergency, and the deferral of some non-essential activities to the next or subsequent years.

### Major programmes

5. Good progress has been made against the BSB's major programmes of work in the first half of the year. Key highlights include:
6. The remotely proctored exams took place in August, with approximately 70% of candidates able to successfully complete them. We have implemented a number of measures for the 30% who were unable to complete their exams. This has included delivering pen and paper exams in October for any students who took the August exams, and the offer of an opportunity to re-sit in December. We have also appointed Professor Rebecca Huxley-Binns to lead the independent review into the issues and announced this when the August marks were released.
7. The exams implementation project of the Future Bar Training programme has continued to meet deadlines, despite deployment of resources to arrange the August and October assessments. Delivery of the new Civil litigation exam in two parts for the new Bar training courses is on track for the first sittings in December. Work towards the introduction of a Professional Ethics exam during pupillage from January 2022 is on schedule. We are preparing an invitation to tender which will enable online registration and computer-based tests.
8. There has been a delay in delivering the Student Registration project, which is now scheduled to be live at the beginning of December (instead of September). For students who have just begun Bar training, there is a minimal impact as they will not yet have completed any examinations.

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<sup>1</sup> <https://www.barstandardsboard.org.uk/about-us/how-we-regulate/our-business-plan.html>

9. We have finalised the waiver requirements, in advance of the mandatory pupillage timetable coming into effect from 1 November. The new versions of the funding and advertising form and guidelines (which includes the possibility of applying for a mandatory timetable waiver) have been published on the BSB website.
10. The work on compulsory courses during pupillage (the development of common assessment criteria for the Advocacy course and development of a compulsory course in Negotiation) has been paused due to the volume of unplanned work as a result of the pandemic. We need to determine a new potential timeline and, in the meantime, clarify how those areas will be signed off during pupillages that commence from Autumn 2021.
11. Although some work streams in the Equality and Access to Justice Programme are experiencing delays as resources were diverted to support the exams to take place in August, this is not envisaged to cause difficulties for the programme. The reverse mentoring pilot has been launched and is attracting significant positive interest from the profession. The Bullying, Discrimination and Harassment research, and research which highlights income disparity by sex and ethnicity, have been published.
12. The first meeting of the stakeholder reference group for the review of the Code, established to provide advice on drafting to ensure the Code is fit for purpose, has taken place. The Board reference group, who will constructively challenge the executive's thinking and review proposals before they go to the Board for approval, has also met. An invitation to tender is being drafted to support our understanding about consumer expectations of a barrister's ethical behaviour, which will also support the proposals to be developed.
13. The project on our approach to conduct arising from non-professional activities is to determine the appropriate point of regulatory intervention in response to potentially inappropriate conduct of a barrister where legal services are not being provided. Whilst this was originally scoped to be completed in quarter 4, the Senior Management Team has agreed that further time is necessary to enable more engagement with stakeholders and robust and transparent proposals to be developed. The quarter 4 commitment will therefore not be met and new timescales are being proposed for the project.

#### **Regulatory decisions: KPIs**

14. Performance against KPIs must be seen in the context of volumes of incoming regulatory work, numbers of enquiries received and throughput of cases. In the last quarter, we have seen increasing volumes of incoming regulatory work and throughput:
  - The Contact and Assessment Team answered 1,971 calls in quarter 2 (compared to 1,158 in quarter 1 of this year);
  - There was a large increase in the number of reports received by the Contact and Assessment Team in September (327 new reports compared with a range between 100 and 200 in the previous 11 months);
  - The Authorisations Team responded to 54% more emails in quarter 2 than in quarter 1 (a total of 1,152 emails sent each month). This has the effect of reducing outstanding emails from 1,200 to 48, enabling the Team to quantify and prioritise its backlog of outstanding applications;
  - The Authorisations Team logged 664 applications in quarter 2 compared with 471 in quarter 1;
  - The Investigations and Hearings Team concluded 33 investigations in quarter 1 compared with 23 in quarter 2. However, closure of cases that are already outside KPI does not improve performance against KPI even though the flow of cases is improving.

15. In the first half of this year, we have met the KPI for one indicator only (response to enquiries by the Contact and Assessment Team itself, rather than those referred to other teams). The PRP Committee has considered a detailed analysis of reasons for performance. Reasons vary across the different teams but there are some common themes. Generally, workloads have been rising in quarter 2, putting additional pressure on our staff who have also been struggling with the impact of the health restrictions on their working lives. Because these pressures have been felt uniformly across BSB and some teams have been exceptionally hard-pressed, there has simply been no spare capacity to re-deploy to meet the spikes in workload. A consequence has been that KPIs continue to be missed. The root problem is one of capacity rather than capability.
16. This is not to say that there are no opportunities to improve productivity. The integration of the CaseLines bundling software into the case management system – due to be completed by year-end – should free up resources in the Investigations and Enforcement Team. We are also reviewing whether to continue with the very time-consuming practice of anonymising cases.
17. Notwithstanding these opportunities, the PRP Committee has questioned whether the BSB's lean resourcing model is too lean for over a year. The work involved in responding to the current health emergency has resulted in a demanding and sustained heavy workload for some teams – for example, the examinations team who were already tasked with “double running” of old and new format examinations and then had to develop and implement solutions to deliver examinations in unprecedented conditions. This is in the context of pre-existing concerns about capacity (in part, illuminated by performance against KPIs in the quarters preceding the health emergency). It is apparent now that there is insufficient resilience when additional demands are put on multiple teams at once, and our usual method of agile resourcing is not viable. In these circumstances, the Committee agreed that the recruitment of two administrative posts already approved for the new year should be brought forward.

### Resources

18. Employee headcount increased by one in this quarter and was 76 at the end of September. The total number of staff on permanent contracts was 70, with two on fixed term contracts. The BSB has four members of staff on maternity leave. The turnover rate decreased this quarter and now stands at 25% for the year ending 30 September, with voluntary turnover of more than 12% and involuntary turnover of more than 12%. During the six months to end September, two members of staff left the BSB and three joined the BSB.

### Finance

19. Annex 2 provides the headline financial performance information. In the quarter to 30 September 2020, the BSB received £290k in income against a budget of £290k. This is our directly controlled income i.e. does not include income from the PCF. Increased numbers of applications for exemptions and waivers have led to greater than anticipated income in Authorisations, and we have already received more than the full year's expected income from fees for the Bar Course Aptitude Test (BCAT). Early indications are that student enrolments will be at near to normal levels and so we expect to receive at least the anticipated budget for Bar training fees. Income from recovery of costs of prosecution at Disciplinary Tribunals is well below budget but offset by (unbudgeted) income from disciplinary fines – the delay in convening tribunals and incurring costs inevitably requires a change in phasing of the associated income.

20. Expenditure was £2,610k against a budget of £3,123k, an underspend of £513k. Salary budgets have been revised to reflect the savings that will be made by the pay freeze. Underspends in salaries and non-salary related staff costs (given little if any expenditure on travel and subsistence) have been partly offset by an overspend on recruitment and temporary staff but we are still £97k underspent. The significant component of the underspend in non-operating costs is due to the postponement of the examinations costs that would have been incurred in quarter 1 had the April sitting proceeded. There is also a delay in incurring costs for representation at Disciplinary Tribunals, and some research costs are being incurred later in year than expected.

**Annexes**

21. Annex 1 – Mid year performance dashboard  
Annex 2 – Management Accounts summary

**Lead responsibility**

Steven Haines, Chair of PRP Committee  
Rebecca Forbes, Head of Governance and Corporate Services

Q2 Dashboard (2020-21)

Strategic Aim 1

Delivering risk-based, effective and targeted regulation

Task	Assigned to	Size	Priority	Status/ On Target	Budget	Ctrl	Ref
1 BSB Handbook Review	S&P	4	High	●	●	BSB	
2 Regulatory Decision Making	LED/ROD	2	Medium	●	●	BSB	
3 Regulatory return	ROD	4	High	●	●	BSB	
4 Modernising decision-making	LED/ROD	2	Medium	●	●	BSB	
5 FBT - development of new exams	ROD	3	High	●	●	BSB	
6 FBT - evaluation	ROD	2	High	●	●	BSB	
7 Compliance with LSB IGRs	DG	2	High	●	●	BSB	
8 Non-professional activities	LED	2	Medium	●	●	BSB	
9 Moving to paperless working	LED	2	Medium	●	●	BSB	4
10 Costs Recovery - Disciplinary Tribunal	LED	2	Medium	●	●	BSB	
11 Risk based regulation	S&P	2	High	●	●	BSB	
12 Money laundering regulations	ROD	1	Medium	●	●	BSB	

Strategic Aim 2

Encouraging an independent, strong, diverse and effective legal profession

Task	Assigned to	Size	Priority	Status/ On Target	Budget	Ctrl	Ref
13 Bullying and Harassment	S&P	2	Medium	●	●	BSB	
14 Research publications	S&P	2	Medium	●	●	BSB	
15 Professional Indemnity Insurance	S&P	1	Medium	●	●	BSB	
16 Equality and Diversity Strategy	S&P	1	High	●	●	BSB	
17 Assuring standards at the Bar	ROD	3	Medium	●	●	BSB	

Strategic Aim 3

Advancing access to justice in a changing market

Task	Assigned to	Size	Priority	Status/ On Target	Budget	Ctrl	Ref
18 Public Legal Education	CPE	3	High	●	●	BSB	
19 Evaluation of transparency rules	S&P	3	High	●	●	BSB	

2020 - 21 Q2 YTD Actuals v Budget

	(k)	(k)	(k)
	Actual	Budget	Var
Income	290	290	0
Expenditure	2,610	3,123	513

Key

Size ↑ 4 Large piece of work  
↓ 1 Small piece of work

Weighting



Directorates

CPE: Communicat  
LED: Legal and E

KPIs

General Enquiries

The % of substantive responses to general enquiries, that can be addressed by CAT, provided within 5 working days



The % of general enquiries, which cannot be answered by CAT, that are referred to another team within 3 working days



Initial Assessment

The % of reports assessed and concluded by CAT, or referred to another team for action, within 8 weeks



Referral of cases

The % of cases referred by CAT to another team for regulatory action that are accepted or referred back to CAT within 2 weeks

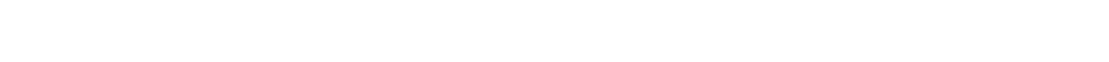


Investigation of allegations

The % of investigation of allegations of breaches of the Handbook completed, and a decision taken on disposal, within 25 weeks of acceptance



Quality Indicators



Entity (including ABS) Authorisation

The % of authorisation decisions made within 6 months of receipt of the application and associated fee







General Council of The Bar  
Bar Standards Board  
BSB Summary

Sep-20	Month Actual	Month Budget	Variance A/B	Y-T-D Actual	Y-T-D Budget	Variance A/B	YTD v Out-turn %	P6 Forecast Out-turn	P5 Forecast Out-turn	Variance F/F	Variance % Total Mvmt	Annual Budget	Variance F/B
<b>Income</b>													
Practising Certificate Fees	906,088	906,087	1	5,436,525	5,436,526	(1)	50%	10,873,052	10,873,052	0	0%	10,873,052	0
Inns Subvention Income	0	0	0	0	0	0	0%	0	0	0	0%	0	0
Other Regulatory Income	131,589	59,270	72,319	289,899	289,612	287	23%	1,278,025	1,178,642	99,383	8%	1,448,024	(169,999)
Share of RGP Income	9,620	8,928	692	22,556	53,568	(31,011)	21%	109,885	109,759	126	0%	107,135	2,750
<b>Total Income</b>	<b>1,047,297</b>	<b>974,285</b>	<b>73,012</b>	<b>5,748,980</b>	<b>5,779,706</b>	<b>(30,726)</b>	<b>47%</b>	<b>12,260,962</b>	<b>12,161,452</b>	<b>99,510</b>		<b>12,428,211</b>	<b>(167,249)</b>
<b>Staff-Related Expenditure</b>													
Staff Costs - Salary Related	351,402	364,781	13,379	2,112,251	2,188,687	76,436	49%	4,331,853	4,352,275	20,422	0%	4,377,374	45,521
Staff Costs - Temp Staff/Recruitment	7,330	2,000	(5,330)	46,770	33,500	(13,270)	81%	57,770	61,441	3,670	6%	44,500	(13,270)
Staff Costs - Non- Salary Related	(304)	21,715	22,019	2,110	35,930	33,820	5%	39,832	55,437	15,604	28%	65,245	25,413
<b>Total Staff-Related Expenditure</b>	<b>358,428</b>	<b>388,496</b>	<b>30,068</b>	<b>2,161,131</b>	<b>2,258,117</b>	<b>96,986</b>	<b>49%</b>	<b>4,429,456</b>	<b>4,469,152</b>	<b>39,696</b>		<b>4,487,119</b>	<b>57,663</b>
<b>Operating Expenditure</b>													
Non - Staff Costs	90,308	201,426	111,118	448,798	864,643	415,845	25%	1,789,010	1,909,935	120,925	6%	1,762,912	(26,098)
<b>Total Operating Expenditure</b>	<b>90,308</b>	<b>201,426</b>	<b>111,118</b>	<b>448,798</b>	<b>864,643</b>	<b>415,845</b>	<b>25%</b>	<b>1,789,010</b>	<b>1,909,935</b>	<b>120,925</b>		<b>1,762,912</b>	<b>(26,098)</b>
<b>Total Staff and Operating Expenses</b>	<b>448,736</b>	<b>589,922</b>	<b>141,186</b>	<b>2,609,930</b>	<b>3,122,760</b>	<b>512,830</b>	<b>42%</b>	<b>6,218,465</b>	<b>6,379,087</b>	<b>160,621</b>		<b>6,250,031</b>	<b>31,565</b>
<b>Non-Operating Expenditure</b>													
LSB Charge	49,253	49,253	0	295,521	295,521	0	50%	591,041	591,041	0	0%	591,041	0
DB Pension Fee	76,408	76,408	0	458,445	458,445	0	50%	916,890	916,890	0	0%	916,890	0
Corporate OH - Staff Costs	2,814	3,568	754	620	10,704	10,084	100%	620	(2,194)	(2,814)	128%	32,500	31,880
Corporate OH - Non Staff Costs	28,324	60,801	32,477	203,423	372,757	169,334	26%	772,923	767,570	(5,353)	-1%	767,739	(5,185)
Finance - Staff Costs	30,136	27,941	(2,195)	169,389	167,641	(1,748)	49%	348,915	335,821	(13,094)	-4%	336,268	(12,647)
HR - Staff Costs	34,746	14,505	(20,241)	104,909	86,072	(18,837)	65%	160,883	170,309	9,427	6%	171,439	10,556
IS - Staff Costs	36,208	35,927	(281)	197,907	219,440	21,533	47%	420,874	423,415	2,540	1%	442,407	21,533
IS - Non Staff Costs	37,354	37,352	(2)	222,593	199,421	(23,172)	52%	429,172	430,545	1,373	0%	406,882	(22,290)
PMO - Staff Costs	5,579	6,494	915	41,583	38,403	(3,180)	54%	77,725	78,639	915	1%	74,545	(3,180)
PMO - Non Staff Costs	1,354	0	(1,354)	5,417	0	(5,417)	100%	5,417	4,063	(1,354)	-33%	0	(5,417)
Records - Staff Costs	13,417	12,924	(493)	84,031	84,498	468	50%	169,751	169,259	(493)	-0%	170,219	468
Facilities - Staff Costs	9,128	9,621	492	55,944	57,161	1,217	49%	113,246	113,738	492	0%	114,462	1,217
Property Costs	81,187	80,650	(537)	454,683	512,072	57,389	47%	972,026	972,896	870	0%	1,010,392	38,366
Depreciation	56,033	52,192	(3,841)	338,689	313,153	(25,536)	50%	673,321	673,401	79	0%	626,307	(47,015)
<b>Total Non-Operating Expenditure</b>	<b>461,941</b>	<b>467,636</b>	<b>5,695</b>	<b>2,633,153</b>	<b>2,815,288</b>	<b>182,135</b>	<b>47%</b>	<b>5,652,805</b>	<b>5,645,393</b>	<b>(7,412)</b>		<b>5,661,091</b>	<b>8,285</b>
<b>Net Surplus / (Loss) after Adjustments</b>	<b>136,620</b>	<b>(83,273)</b>	<b>219,893</b>	<b>505,897</b>	<b>(158,343)</b>	<b>664,239</b>	<b>130%</b>	<b>389,692</b>	<b>136,972</b>	<b>252,719</b>		<b>517,090</b>	<b>(127,398)</b>



<b>Meeting:</b>	Bar Standards Board	<b>Date:</b>	26 November 2020
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<b>Title:</b>	Annual report of the Governance, Risk and Audit Committee (GRA)
<b>Author:</b>	Nicola Sawford / Myriam Moussaif
<b>Post:</b>	Chair of GRA Committee / Corporate Risk and Assurance Officer

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

1. The Board is asked to **note** the contents of the annual update report.

### Executive Summary

2. This report summarises the key aspects of the Committee's work over the past year. The report also provides the Board and public with assurance that the risk, governance and control processes within the organisation are robust and appropriate.
3. GRA publishes an annual report on its activities over the last year. GRA has continued to focus on processes to identify, evaluate and mitigate corporate and regulatory risks and the iterative development of an integrated approach to reporting of corporate and regulatory risks. It has challenged the executive on its evaluation of those risks which pose the greatest threat to our regulatory objectives or to delivery of our programme of regulatory reform. The risk profile has changed as a result of the current health emergency, with more risks deemed a higher priority for action, as you would expect in times of uncertainty or change.
4. Crowe has completed the third year of its first three-year programme of internal audit. It continues to be invaluable in providing independent assurance of core BSB processes and in identifying areas for development and improvement. Crowe commenced the programme of internal audit in September 2017, and is appointed until the end of March 2021, for a total of three and a half years. This term of appointment was to achieve alignment with our business and reporting year. We will consider renewal of the contract in the near future.



## GRA Annual Report 2020

### Recommendation to GRA

1. GRA is invited to comment on the draft GRA Annual Report before it is presented to the BSB Board in public session. Standing Orders require that the Board's committees must report to it at least annually.

### Introduction

2. The Governance, Risk and Audit Committee (GRA) is a standing committee of the Board with oversight of: governance; risk management; risk strategies; key organisational controls; internal business processes; the Assurance Framework; and the work of the Internal Auditors.
3. The Committee meets regularly throughout the year and has met six times since the last report.
4. The Committee currently has a membership of five – one of which is now vacant due to the recent appointment of Naomi Ellenbogen QC (Vice Chair) as a High Court Judge. The others are two Board members: Nicola Sawford (Chair) and Elizabeth Prochaska; and two independent members; Stephen Hickey and Liz Butler. During the reporting year, one independent member, Tim Fry, came to the end of his maximum term on the Committee, and one Board member, Adam Solomon QC, concluded his membership of the Committee and was replaced by Elizabeth Prochaska. We are grateful to them for their contributions.

### Risk Management

5. Risk is a fundamental element of the BSB's approach to regulation. At a strategic level, understanding regulatory risks enables the Board to identify emerging risks within the legal services market and helps the BSB to support the profession to respond positively to mitigate those risks and to ensure that the public interest is protected, and the needs of consumers are met. At an operational level, the Committee uses risk to determine the best allocation of resources and to identify challenges to the delivery of projects and programmes.
6. A core function of GRA is to provide the Board with assurance on the oversight of risk. This includes the identification, management and control of both regulatory and corporate risks. It does this through holding the executive to account for its risk management strategies and in challenging the evidence and rationale for regulatory risks that are identified. Over the last year, the Committee has focussed in particular on:
  - i. Risks arising from the current health emergency, including to our finances, our staff and our capacity to continue to deliver our core regulatory functions;
  - ii. The risks arising from the August online examinations, including scrutiny of proposed Terms of Reference for an independent lessons learned review of the examinations; and
  - iii. General Data Protection Regulations (GDPR) compliance – including reports on breaches; the Committee reviewed the annual Data Protection Compliance report.
7. The Committee approved comprehensive updates to the corporate risk register with new, revised and restructured risks, primarily in response to the impacts of the current health emergency.
8. The Committee requested the implementation of a categorisation system for corporate risks similar to that already in use for regulatory risks, taking the view that a thematic level of classification might help to develop a more systemic approach to the mitigation of risk. The five new categories of corporate risks are as follows:

- a) Operational
  - b) Strategic
  - c) Governance
  - d) Financial
  - e) People
9. The Committee has also had oversight of a significant number of changes to our assessment of our regulatory risks resulting from deep dives, consideration of longer-term implications of the health emergency and research evidence evaluation.
10. The Committee oversaw a deep dive into a risk related to the delivery of Information Management systems during this year. In the latter part of the year, the Committee agreed a schedule of deep dives to allow for review of regulatory risks in greater detail over the coming year. The Committee will also receive deep dives into corporate risks as it identifies risks which require closer scrutiny.

### Revised GRA Committee Terms of Reference

11. The Committee has considered changes to its Terms of Reference which more clearly set out its remit, its delegated authority and the areas in which it provides assurance to the Board.

### Assurance and Internal Audit

12. The BSB continues to follow the four lines of defence model of assurance<sup>1</sup> which ensures a holistic approach to risk management with controls at various levels of a process.
13. The Assurance Framework was reviewed and approved by the Committee during the latter part of the year. This framework focuses on how the BSB is assured by the quality of the evidence it has, the effectiveness of the controls in place and the implementation of those controls.
14. A three-year audit plan was approved in November 2017 and annual plans have been agreed for each of those three years, with a plan for this business year agreed in May. In this reporting year, Crowe LLP (our internal auditor) completed a series of audits on:
- a) Cybersecurity
  - b) Contact and Assessment Team
  - c) Culture Audit
  - d) Regulatory Risk
15. The Committee monitors the progress and impact of agreed management actions at every meeting. Furthermore, there is an agreed schedule of independent reviews by the Internal Auditors to ensure that management actions have been completed.

### Other Business

16. The Committee has had oversight of the revision of the business continuity plan (BCP) which was approved in November 2019. The BCP Emergency Management Team (EMT) began meeting in early March 2020 to discuss the General Council of the Bar's (GCB) internal response to the emerging health emergency. The Committee continues to monitor this closely.
17. The Committee oversees the BSB's compliance with its obligations under the Money Laundering Regulations. It has been provided with an annual report which provides the Committee with the required assurance.

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

**Part 1 - Public**

18. The Committee has had oversight of the Deloitte Independent Programme Health Check Report which was conducted by Deloitte LLP to assess if the IT components of our programmes were on target to be delivered on time and to sufficient standard. Deloitte made a number of recommendations and an action plan was developed as a result of this. Good progress is being made against the Deloitte recommendations which has provided assurance that the IT elements of our programmes will be delivered on time and to a good standard.
19. The Committee reviewed the annual report on complaints about service provided by the BSB itself (as distinct from complaints about the regulated profession). The Committee noted the rise in complaints which was attributable to backlogs and delays following an internal departmental restructure.
20. The Committee received the second annual report on the BSB's compliance with its statutory obligations. The Committee welcomed the assurance given by the report.
21. The Committee scrutinised the BSB's submission to the LSB setting out compliance with the new Internal Governance Rules (IGRs), before making a recommendation to the Board to approve the submission.
22. The Committee received the inaugural report from the Independent Reviewer, who was appointed to provide assurance of the BSB's assessment of incoming information, enforcement and supervision systems and processes; carry out requests for review of individual decisions; and periodic system audits of random samples of cases to give assurance that processes and procedures are being properly followed. The Independent Reviewer concluded that policies and systems in place at the BSB were effective, and cases were being assessed and investigated in line with relevant regulations and policies.

**Forward View**

23. As well as the routine business defined by its terms of reference, over the coming year the Committee will continue work refining processes for its oversight of risk and mechanisms for considering the interdependencies between risks to our regulatory objectives and those to the organisation. A cycle of deep dives is planned, enabling GRA to fulfil its function as part of the fourth line of defence in our Assurance Framework, and to give assurance to the Board. The Committee will also monitor the actions agreed following an Internal Audit of the BSB's governance processes relating to a specific decision taken by the Board.
24. The next GRA Annual Report will be presented to the Board in November 2021.





<b>Meeting:</b>	Bar Standards Board	<b>Date:</b>	26 November 2020
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<b>Title:</b>	<b>BSB Anti-Racist Statement</b>		
<b>Author:</b>	Amit Popat		
<b>Post:</b>	Head of Equality and Access to Justice		

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

1. The Board is asked to approve the attached statement about the development of an anti-racist approach at the BSB and at the Bar.

### Executive Summary

2. Race equality is a focus of our Equality and Diversity Strategy for 2020 to 2022, which drives our work to encourage an independent, strong, diverse and effective legal profession (Legal Services Act 2007) and meet our duties under the Equality Act 2010.
3. The attached statement has been produced in line with these objectives and in the context of the Black Lives Matter movement, which has created a significant amount of positive energy within the BSB and at the Bar, to tackle race inequality. It is the product of discussions with our Race Equality Task Force and our specialist APEX advisor for equality and diversity.
4. The first part of the attached statement explains what steps the BSB is taking to evaluate and strengthen its own commitment to anti-racism. It is important for us to lead by example by setting, and meeting, high standards in our own approach.
5. The second part of the statement sets four anti-racist expectations for chambers and BSB entities to fulfil. The expectations have been framed in terms of the requirements set by the Equality Rules of the BSB Handbook and suggest how practitioners, chambers and entities can embed an anti-racist approach in their work to fulfil those requirements (for example, by including actions to address race inequality within their equality and diversity action plans.)
6. This statement is not intended to have the same status as the Equality Rules and therefore will not form the basis of disciplinary action, however we would expect all chambers to have regard to the four actions set out in the statement in reviewing their own action plans.
7. We plan to begin a thematic review in 2021/22, which will ask chambers how they have responded to this statement. The review will take into account any challenges related to Covid-19, where appropriate. We will undertake additional activity to promote the statement in the new year and expect to arrange a webinar or workshops to discuss how to implement the recommended actions.
8. The statement has been shared with the Bar Council's Race Equality Working Group, the Legal Practice Management Association and the Institute of Barristers' Clerks. It supports the Bar Council's recent work on positive action and signposts to a number of resources for the Bar to consider.

**Risk**

9. By publishing the attached statement, we aim to influence good practice in managing our key regulatory risks relating to working cultures and equality in the profession.

**Resources (Finance, IT, HR)**

10. Appropriate resources will be allocated across departments to complete the thematic review, as part of the 2021/22 Business Plan.

**Equality & Diversity**

11. The attached statement commits the BSB to good internal equality and diversity practice, and encourages good practice at the Bar.

## BSB Anti-Racist Statement

The BSB has a statutory duty to promote diversity at the Bar and in our Code of Conduct for the Bar one of the core duties upon barristers is not to discriminate unlawfully against any person.

Throughout history, law and regulation have been shaped by campaigns against injustice. In the UK, this includes the Race Relations (Amendment) Act 2000, brought about by community campaigning which led to the MacPherson Inquiry, after the racist murder of Stephen Lawrence. The Black Lives Matter movement in the US and UK has impressed on us all the need for cultural and structural change.

We recognise the role all organisations can play in challenging racism and delivering anti-racist practice<sup>1</sup>. We have considered our approach in consultation with the BSB's Race Equality Task Force. Regulatory bodies have a unique role that can provide a framework for professions to influence positive change. We also know the BSB has a role to assess its own internal culture and commitment to anti-racism, and to lead by example. To this end and as a start, we have:

- Completed a survey of all staff to identify their experiences of race at the BSB;
- Produced an action plan to improve anti-racist practice – including management leadership behaviours and workplace cultures;
- Trained the Equality and Access to Justice Programme Board, which includes all members of the senior management team, on anti-racist practice;
- Appointed a race and diversity specialist to our Advisory Pool of Experts; and
- Committed to training all our staff on anti-discriminatory practice.

### In addition to commitments made in the emerging action plan, we will:

Ensure that anti-discriminatory competencies<sup>2</sup> are integrated into our staff performance frameworks, staff inductions and the training of our Board. All staff will attend Dignity at Work training, which will focus on the creation of inclusive working cultures.

Continue to develop our anti-racist practice and provide direction to the Bar to do the same.

### Call to action:

In addition to our commitment to the Public Sector Equality Duty, our regulatory objective to *encourage an independent, strong, diverse and effective legal profession* drives our commitment to address racism through our regulatory tools. We aim to dismantle barriers that inhibit true racial equality through our role as a regulator.

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<sup>1</sup> Racism is the major obstacle to racial equality. "Anti-racism" recognises this and is the active process of identifying and eliminating racism in its many forms, by changing the systems, policies and practices, structures, attitudes and cultures which inhibit racial equality.

<sup>2</sup> "Anti-discriminatory competencies" means the knowledge and skills with which to challenge procedures and practices which lead to some people being treated in a way that disadvantages them based on a feature of their identity.

Since 2012, the [Equality Rules of the BSB Handbook](#) (Equality Rules) have required all chambers and BSB entities to embed the principles of equality and diversity into their day-to-day work, by developing and implementing an equality and diversity policy and action plan. In addition, all self-employed barristers have a personal obligation to take reasonable steps to ensure compliance with the Rules. The steps which it is reasonable for a Head of Chambers or Equality and Diversity Officer to take are likely to be more significant than the steps which it is reasonable for an ordinary member of chambers to take. The [Supporting Information](#) to the Rules includes a model equality action plan and CIPD has published "[Developing an anti-racism strategy](#)".

We appreciate the actions that are needed will differ depending on individual circumstances, but we expect chambers and BSB entities to take this opportunity to deliver the following four actions:

1. **Complete a race equality audit** to identify the barriers to race equality, which should include:
  - a. Engagement with members of chambers from Black, Asian and Minority Ethnic groups (e.g. in the form of a survey, workshops or the establishment of a network or working group);
  - b. An analysis of available data, which should include but not be limited to data about recruitment (of lateral hires as well as pupil barristers), work allocation, ethnicity pay gaps and opportunities for development or progression (for example, external marketing opportunities and the membership of internal committees.) The Equality Rules require all chambers and BSB entities to be managed in a manner which is fair and equitable for all members, pupils and employees, including the fair distribution of work. They also require all chambers and BSB entities to monitor the allocation of unassigned work and set an expectation for chambers to monitor recruitment data. The "[Supporting Information to the Equality Rules](#)" includes guidance on these requirements. The Bar Council has published [guidance about discriminatory instructions](#) and [this article](#) in Counsel Magazine is useful.
  - c. A critical analysis of procedures for recruiting, retaining and supporting the progression of barristers from Black, Asian and Minority Ethnic backgrounds. You should refer to "[Race in the workplace: The McGregor-Smith Review](#)" and "[Race at Work 2018: The Scorecard Report](#)", which was published by Business in the Community in response to the McGregor-Smith Review. The Bar Council's "[Fair Recruitment Guide](#)" is signposted in the Equality Rules.
2. **Design and implement positive action measures**, where the audit shows that there is an underrepresentation of, or adverse impact on, people from Black, Asian and Minority Ethnic backgrounds. The Bar Council has published [two guides to positive action at the Bar](#). Examples of positive action may include targeted adverts to recruit people from Black, Asian and Minority Ethnic backgrounds into work experience or pupillage opportunities, and measures to support practising barristers from those backgrounds with development, marketing or progression opportunities. Where appropriate, and in response to evidence, positive action measures should be targeted at specific groups (e.g. Black Caribbean) and take an intersectional approach (e.g. Black Caribbean women.)

3. **Undertake comprehensive anti-racist training for all barristers and staff.** To be comprehensive, training should support the implementation of practical, tailored strategies to address barriers to race equality and have a positive impact on behavioural change by individuals and cultural change within organisations. In July 2020, we published [this case study](#) about compulsory anti-oppression and anti-racism training at One Pump Court Chambers.
4. **Produce and publish an anti-racist statement for members of chambers and the public,** to set out your commitments to address race inequality and ensure senior level buy in to, and accountability for, those commitments.

We expect this work to involve and, in many cases be led by, Heads of Chambers, Equality and Diversity Officers and other senior barristers within chambers.

#### *Sole practitioners*

We encourage sole practitioners to take proportionate steps to fulfil the expectations in this Statement. It would be proportionate for sole practitioners to undertake training on race equality, particularly if they employ staff and come into regular contact with lay clients. Similarly, it would be proportionate for sole practitioners to review their approach to recruitment if they employ people, and publish an anti-racist statement if they have a website.

#### *Employed barristers*

The Equality Rules do not apply to employed barristers. Notwithstanding this, they are encouraged to discuss the expectations in this Statement with their employers (for example, with a race or equality and diversity network), and take proportionate steps to support their fulfilment. Employers may already be taking steps to address race inequality, independently or in line with expectations set by another regulator.

#### **Next steps**

In the course of the business year 2021 to 2022, we will launch a thematic review of the profession's response to this statement. We will ask what actions have been taken in response to the actions identified above. We will take in to account the resource challenges experienced by some chambers, as a result of Covid-19.



<b>Meeting:</b>	Bar Standards Board	<b>Date:</b>	26 November 2020
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<b>Title:</b>	How can the BSB improve its engagement with consumers?
<b>Author:</b>	Wilf White
<b>Post:</b>	Director of Communications and Public Engagement

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

1. The Board is asked to **decide** whether the BSB should re-establish a Consumer Panel or whether alternative forms of engagement with consumers might be more effective.

### Executive Summary

2. The attached paper reviews our current work to engage with consumers in our research and policy making and, considers the case for re-establishing a BSB Consumer Panel. It concludes that the idea has merit but that care would need to be taken to ensure that such a Panel was truly representative; was affordable; did not seek to duplicate or rival the work of our APEX consumer expert, the Legal Services Consumer Panel, the LSB's new pool of consumers provided by Community Research or the expertise of the Board of the BSB; and did not lead to our neglecting consumer bodies which were not members of the Panel.

### Risk

3. If we do not engage effectively with consumers, we may fail to meet our statutory objective of "protecting and promoting the interest of consumers".

### Resources (Finance, IT, HR)

4. If a Consumer Panel of say a dozen members were to meet for half a day perhaps four times a year at APEX rates with some allowance for expenses this might cost in the region of £10,000 pa. We would not expect much by way of additional resources needed from IT or HR and we would aim to service the Panel from existing staff resources.

### Equality & Diversity

5. Better engagement with consumers, provided we engage with genuinely diverse groups, should improve our ability to make policy which promotes equality and diversity and meets our duties under the Equality Act 2010.





## How can the BSB improve its engagement with consumers?

### Status

1. For discussion and decision.

### Executive Summary

2. This paper reviews our current work to engage with consumers in our research and policy making and considers the case for re-establishing a BSB Consumer Panel.
3. The paper concludes that the idea has merit but that care would need to be taken to ensure that such a Panel was truly representative; was affordable; did not seek to duplicate or rival the work of our consumer expert on APEX, the Legal Services Consumer Panel, the LSB's new pool of consumers provided by Community Research or the expertise of the Board of the BSB; and did not lead to our neglecting consumer bodies which were not members of the Panel.

### Recommendation

4. The Board is asked to **decide** whether the BSB should re-establish a Consumer Panel or whether alternative forms of engagement with consumers might be more effective.

### How do we engage with consumers at present?

5. One of the eight statutory objectives imposed on legal regulators by the Legal Services Act 2007 is "protecting and promoting the interests of consumers" and s207 of the Act provides that

"consumers" means (subject to subsection (3)) persons—

- (a) who use, have used or are or may be contemplating using, services within subsection (2) [*ie legal services provided by an authorised person*],
- (b) who have rights or interests which are derived from, or are otherwise attributable to, the use of such services by other persons, or
- (c) who have rights or interests which may be adversely affected by the use of such services by persons acting on their behalf or in a fiduciary capacity in relation to them;

Subsection 3 goes on to provide that

For the purposes of the definition of "consumers" in subsection (1)—

- (a) if a person ("A") is carrying on an activity in A's capacity as a trustee, the persons who are, have been or may be beneficiaries of the trust are to be treated as persons who use, have used or are or may be contemplating using services provided by A in A's carrying on of that activity, and
- (b) a person who deals with another person ("B") in the course of B's carrying on of an activity is to be treated as using services provided by B in carrying on that activity.

6. So, in protecting and promoting their interests it is clear that we must consider that the Act's definition of a consumer is much wider than simply that of a client. In our policy making and public consultations we already seek to gather the opinions of as many people as possible who use barristers' services, or who are affected by their use by others, and we do so in a number of ways. All our consultations
  - i. are accompanied by Press Releases which are proactively sent to a range of journalists;
  - ii. are made available on our website and in alternative formats on request;
  - iii. are promoted on social media;

- iv. are usually accompanied by targeted engagement activities which aim to bring in interested parties including the Legal Services Consumer Panel whose primary role is to provide independent advice to the Legal Services Board about the interests of legal services consumers but who can also offer useful advice to front line regulators; and
- v. usually also follow a period of research again involving targeted engagement in order to gather the evidence needed which might suggest that some policy action is required.

### Do we then need to improve that engagement?

7. In spite of the considerable efforts we make to involve **consumer bodies** in our policy making it remains difficult sometimes to win their engagement. Their resources are limited and we often hear that they don't take much interest in the Bar because they argue that consumer satisfaction with barristers is high and that those whom they represent rarely use a barrister and, if they do, they usually do so through a solicitor, so their contact with their barrister is limited. Statistics suggest that they are right about the extent to which ordinary consumers interact with barristers - the CMA's recent qualitative survey suggested that the proportion of individual consumers using barristers as their main or only source of legal advice is only around 2% as opposed to 69% for solicitors, and public access work does remain limited (although 20% of barristers declared some public access income in the last Authorisation to Practise round about half declared that it made up less than 10% of their income and for only 2% was it more than half their income). But this is to ignore the vital role that barristers have in maintaining the rule of law in the interests of all consumers and the fact that, rather like a consultant surgeon, an individual consumer may spend most of their lives not needing a barrister but their need is likely to become a vital one if it does arise.
8. Reaching out to **individual consumers** is also a challenge – very often their involvement with the Bar has involved a traumatic and very personal event in their life (a criminal trial, a contested divorce or a tragic death for example) and, as we are experiencing with our current work looking at the Coroners' Courts, individuals who have had relevant experience are understandably reluctant to discuss it and need to be handled with great sensitivity. At the same time, we need to be careful not to assume that campaigning consumer bodies are necessarily representative of consumers as a whole (eg groups campaigning for those who feel they are denied justice do not seek to be representative of the experience of everyone in the courts).
9. That said, all our teams continue to try to reach out to consumer groups to improve levels of engagement (in the Communications team we are currently working with the Equality and Diversity team to improve our links with the diversity Press and the Code Review team now have a consumer expert on their Stakeholder Reference Group, for example) and we are constantly looking for new contacts. As well as advancing our work in Public Legal Education, the partnerships we are forming with Law for Life, Support through Court, Citizens Advice, and Refugee Action will also enhance our wider engagement with them. We also set up focus groups at times when we have a specific piece of work which we think needs input from a particular group of consumers.

### Should we re-establish our own Consumer Panel?

10. We do not believe that we are failing to involve consumers in our work but it can be difficult, as explained above, so we remain open to ways of improving our engagement further and options for further improving our engagement with consumers might include:
  - expanding the membership of our Advisory Pool of Experts (APEX) to include more consumer representatives; or
  - re-establishing a Consumer Panel of our own. The previous Panel was abolished some years ago around the time that the LSB's Consumer Panel was formed.

11. Expanding APEX would be easy to do and relatively cheap. We recently appointed Stewart Horne to APEX as a consumer affairs expert. Stew has worked across a wide range of consumer policy areas, starting in central government working on areas such as digital television switchover and nutritional labelling on food before moving into energy policy. He now works at Citizens Advice as their Head of Energy Networks and Systems. For most subjects we have a single APEX member but finding consumer experts whose expertise is wide enough to cover a significant range of consumers can be difficult. We believe that having a consumer expert on APEX will form a useful complement to our existing work with a wider range of consumer bodies. Stew was only appointed very recently so it is too early to tell what impact his appointment will have but we could consider making further appointments if we wanted to strengthen the consumer voice on APEX further. That said, it is important to note that people are appointed to APEX on the basis of their individual expertise and not as representatives of any body of which they may be a member whereas on a Consumer Panel people would be appointed to be representatives of their relevant organisations.
12. Re-establishing a Consumer Panel would allow us to tap into a wider range of expertise but more members would of course involve more cost (assuming that members were offered at least their travel costs and expenses and were paid at APEX rates - some modest remuneration might also assist in recruitment). As with the previous Panel we would need to decide whether the Panel could initiate research and policy proposals of their own or whether they were a strictly advisory body set up to respond to policy proposals from the Executive. By focussing on consumers and barristers such a Panel might be a useful complement to the work of the LSCP which has to cover consumers and all legal service providers but, in setting its terms of reference, care would have to be taken not to duplicate the LSCP's work. The LSCP does regular and very useful research, for example, (such as their annual tracker surveys as to how consumers use legal services) which it would be pointless to duplicate. The LSB and LSCP are also now offering regulators access to a much larger pool of individual consumers run by a company called Community Research who might also prove a useful resource for our research, although they are not designed to be a further expert panel.
13. The Terms of Reference of the old Panel said that it was "*established to provide expert, evidence-based advice to the BSB and its Committees, and in particular to:*
- *Respond to consultations on changes to the rules and procedures of the Board*
  - *Propose areas of work that the Board should consider*
  - *Consider research initiated by the Board and contribute to its development and comment upon the results*
  - *Publish advice given to the Board*
  - *Publish an annual report to the Board.*
14. Its membership was designed to comprise "*members who are able to provide evidence based on experience of the consumption of barristers' services*" and included members drawn from the:
- Institute of Chartered Accountants in England and Wales
  - CBI
  - UNISON
  - Action for Victims of Medical Accidents
  - Resolution
  - Which?
  - Association of Personal Injury Lawyers
  - Local Government Association
  - Citizens Advice
  - NACRO
  - Criminal Litigation Solicitors Association
  - Royal Institute of Chartered Surveyors

- National Federation of Women's Institutes and the AA
15. While the terms of reference seem broadly appropriate, the membership of that earlier Panel now seems heavily biased towards commercial users of the Bar and strangely excluded consumer representatives from some of those areas where our evidence suggests there may be most need for a consumer perspective and for regulatory action (eg the youth courts, immigration, litigants in person etc). On the other hand it does seem right to continue to include business consumers and to see solicitors as consumers given that the Bar remains a largely referral based profession.
16. The former Panel was reviewed in 2009 and eventually abolished. While it was felt that it had done some good work it was also felt that:
- It had not met frequently enough
  - It had not had enough support in terms of staff or funding for research so its evidence was rather anecdotal
  - It had not been sufficiently diverse in its membership and
  - It had not been close enough to the work of the Executive or the Board
17. If we were to establish a new Consumer Panel we would suggest revised Terms of Reference and membership, perhaps as follows:
- “The Panel is established to provide expert, evidence-based advice to the BSB and in particular to:*
- *Assist in the development of consultations on changes to the BSB Handbook and BSB Guidance and to respond to such consultations*
  - *Propose areas of work and research that the Board should consider*
  - *Consider research initiated by the BSB, contribute to its development and comment upon the results*
  - *Publish advice given to the Board and*
  - *Publish an annual report to the Board.”*
18. To ensure that this was a panel with specific expertise in dealing with the Bar, its membership might then comprise *“members who are able to provide evidence based on experience of those who use or are affected by the use of barristers’ services”*. This is not an exhaustive or definitive list but it might then include members drawn from bodies such as:
- Citizens Advice
  - Law for Life
  - Refugee Action
  - Advocate
  - Age UK
  - Inquest
  - The Equality and Human Rights Commission
  - The Youth Justice Legal Centre
  - The Standing Committee for Youth Justice
  - Victim Support
  - The Law Centres Network
  - The Law Society
  - The Federation of Small Businesses
  - The British Chambers of Commerce

19. Provided we were able to recruit successfully to a proposed new Consumer Panel this could be a useful resource for supporting both our research and policy making. Those who had accepted membership of the Panel would have a positive obligation to offer us their views. But we would have to be careful to ensure that:
- Its membership was diverse and truly representative
  - Its work did not duplicate that of our APEX expert, the LSCP or the LSB/LSCP's pool of consumers
  - It was not seen as a rival organisation to the Board of the BSB whose members themselves have expertise in the needs of consumers (it could perhaps be chaired by a lay member of the Board and we suggest that it should have the ability to propose work to our Research team but not to commission work of its own)
  - Having a number of set meetings in a year would help us keep consumers at the top of our agenda but it would make sense for the Panel to have the flexibility to meet when needed and conversely to feel no obligation to meet if it saw no need to do so. We should also allow some flexibility in membership and attendance so that not all members felt obliged to attend every meeting and that new members could be recruited if it were felt that a new area of expertise was needed.
  - Its cost was affordable (a dozen members meeting for half a day say four times a year at APEX rates with some allowance for expenses might cost in the region of £10,000 pa)
  - The time of Panel members was not wasted so that members were invited to contribute to discussions where they had a clear locus but did not feel obliged to take part if the policy proposal was of limited interest to them
  - The Panel did not take the place of other engagement activities, so we did not fail to seek the views of consumer groups who were not members
20. With the caveats noted above we think that recreating a Consumer Panel would enhance our engagement with consumer stakeholders and would offer consumer organisations a real sense of locus in our policy-making. We think that such a Panel might be of particular benefit, for example, in reviewing annual business plans and as we develop our next Strategic Plan. Members of the Board are therefore invited to consider whether
- we should continue to develop and extend our existing consumer engagement activities
  - or whether we should also
    - i. recruit more consumer representatives to APEX or
    - ii. re-establish a Consumer Panel (in which case we would return to the Board with a further paper setting out final Terms of Reference and proposals for its membership)

**Wilf White**  
**Director of Communications and Public Engagement**



## Bar Standards Board – Director General’s Strategic Update – 26 November 2020

### Public session

1. This paper provides a high-level strategic update on external issues and trends that are of relevance to the BSB but that are not the subject of substantive separate papers for the Board, to be noted by the Board.

### Centralised examinations

2. Since the Board last met in September, the October sit of the centralised BPTC examinations – which were scheduled after some students faced difficulties in August – went ahead as planned. Any student who had been unable to access the examinations in August or felt that their performance wasn’t as good as it may otherwise have been, was given the opportunity to sit in October as a pen and paper exercise (the sit was also open to those who deferred and did not attempt to take the August examinations). Around 230 students sat Professional Ethics, 300 Criminal Litigation and 320 Civil Litigation. Results of the October examinations in Civil and Criminal Litigation will be published on 27 November; results for Professional Ethics will be published in the week commencing 18 January 2021. The definitive result for anyone taking centralised assessments in August and October will be whichever is the better performance from the August or October 2020 sit.
3. Results of the August examinations were published in October (Criminal and Civil Litigation) and November (Professional Ethics). Technical problems meant that around a quarter of students who were sitting the exams using Pearson VUE’s OnVUE system could not see all the questions but of those who did the overall passing rate for the August 2020 Civil litigation examination was 64.6%. The equivalent overall passing rate for the August 2020 Criminal litigation examination was 68.4%, and for the Professional Ethics exam it was 78.6%. There is no expected pass rate for these exams but the civil and criminal litigation figures are consistent with the average passing rates for those sitting the exams for the first time over the last three years and the ethics results are consistent with 2019 which was an improvement on the previous two years.
4. Earlier this month, we announced that Professor Huxley-Binns would lead the independent review into the handling of the August examinations. We have encouraged anyone who is interested in this issue and anyone who was affected by the difficulties experienced in August to contribute to the review.
5. We have also made clear that the December exams – which includes BPTC students who deferred from August or October or who are undertaking resits of August exams, and assessments for those students who began their Bar training in Autumn of this year under the new system - are scheduled to take place at venues where Bar course training providers have permission to run them, and where appropriate Covid-safe arrangements can be made. It is therefore currently our intention that the December sit will proceed on an in-person basis wherever possible.

### LSB governance review

6. The LSB’s governance review is underway and we are of course cooperating with their work. A meeting between the two organisations at Chair/CEO level took place on 19 November.

**Pilot reverse mentoring scheme**

7. Our Race Equality Taskforce's reverse mentoring scheme – which sees senior barristers from White backgrounds being mentored by pupils or Bar students from BAME (Black and Minority Ethnic) backgrounds – continues to grow. Thirty-seven people have applied to take part in the pilot and eight pairings have been confirmed so far. The pilot will consist of around ten pairings and its impact will be evaluated in 2021.

**Regulatory return**

8. We have been contacted by a number of chambers and have engaged with the Legal Practice Management Association and the Institute of Barristers' Clerks about the Regulatory Return. We have received feedback that the profession wants to provide us with effective responses, but some chambers are finding this difficult due to Covid-related disruption to chambers staffing. Some questions in the return are key to our understanding of the impact of Covid, so we have retained the original deadline of 4 January 2021 for those questions, but we have extended the deadline for the remainder of the Regulatory Return to 31 March 2021. We do not expect this extended deadline to compromise programmes of work for which the Return provides important evidence.

**Income disparities report**

9. Earlier this month, we published research into income disparities at the Bar by gender and ethnicity. It showed that female barristers are likely to earn less than male barristers and that those from Black, Asian and other minority ethnic groups are likely to earn less than White barristers. This holds true when looking at the income of barristers practising within the same area of law, within the same parts of the country, and amongst those with similar seniority in terms of how long they have been practising. The report shows that income differences are particularly marked when looking at gender and ethnicity together, with female barristers from minority ethnic backgrounds being the lowest earning group and white male barristers being the highest earning group.
10. I am pleased that the importance of this research was reflected in its coverage in national newspapers like The Guardian and The Daily Telegraph, as well as extensive coverage in the legal press.

**Code of Conduct review**

11. The project has now progressed to Phase 2, which will consist of piloting approaches to redrafting the Code of Conduct with a focus on simplification, ease of use, compliance, and implications for enforcement and supervision. We are commissioning some research to test consumer expectations of barristers, which will inform the outcomes that the Code seeks to achieve. The updated draft of the Code will be tested with our newly established Stakeholder Reference Group and the Board Reference Group, culminating in the redrafted Code being issued for consultation in full.
12. To support the Code Review, we have established a Board Reference Group (made up of several lay and barrister Board members) and a Stakeholder Reference Group. This group includes a barrister with experience of presenting BSB cases to Disciplinary Tribunals and one with experience of equality law and developing regulatory rules. It also includes representatives of the Legal Practice Management Association, the



Institute of Barristers' Clerks, the Bar Tribunal and Adjudication Service, the Central Examination Board and the Legal Services Consumer Panel, an independent consumer champion and an independent expert in equality and diversity. A consumer affairs expert we have recruited to our Advisory Pool of Experts (APEX) will also peer review our work.

### Harassment at the Bar

13. In October, we published the results of a qualitative study undertaken by YouGov to understand better why bullying, discrimination and harassment still exist at the Bar in 2020. It was based on 35 telephone interviews conducted with 30 barristers, and five non-barristers, who had directly experienced or observed discrimination and harassment (including workplace bullying) at the Bar.
14. The report found that participants described a wide range of bullying, discrimination and harassment experiences. Some felt that the lack of a formal management and HR structure at much of the Bar let harassment and discrimination “slip through the net”. Most of those who had been subject to this behaviour did not formally report their experience. The lack of clear, anonymous and supportive formal and informal pathways to reporting incidents was seen as a barrier to addressing these issues. The report made clear that for anti-harassment policies to be effective, there needs to be a shift in culture at the Bar to encourage openness and to discourage inappropriate behaviour, with a role for the BSB, the Bar Council and other stakeholders in driving change and offering support.
15. We are in the process of formulating new recommendations to help tackle bullying and harassment at the Bar, and we intend to engage with stakeholders – most likely including roundtables – about these during the first half of 2021.
16. Of particular interest to a range of stakeholders has been the duty on barristers to report harassment. Our policy is, of course, not to take disciplinary action against a person we regulate for failing to comply with this duty if that person may have been subject to the harassment in question. However, while some stakeholders support the existing duty and think it is helpful in combatting inappropriate behaviour others feel that the duty to report has a chilling effect, preventing victims from seeking advice and support within their workplace and decreasing the likelihood of them reporting harassment to the BSB.
17. In response to these concerns, in 2018 we enabled pilot schemes under which groups of properly trained barristers can seek permission for the requirement to report harassment directly to the BSB to be waived in certain clearly defined situations, subject to certain conditions such as appropriate training and anonymised record keeping (to be shared with us at regular intervals). While six of these pilot schemes have been established, unfortunately there does not appear to have been a marked increase in the reports of harassment received by the BSB, or any strong evidence to suggest that these schemes have been widely used. The Bar Council's “Spot” app has also seen very low take up. Reflecting on the duty to report will therefore be a priority in taking forward the anti-harassment agenda and we hope to issue a survey on this issue in the first half of 2021.

### **Decline in the supply of pupillages**

18. In September, we published a report on the impact that Covid-19 is having on pupillages. It found that, while chambers and other organisations have shown a commendable commitment to sustaining pupillages in difficult circumstances, there is likely to be some pressure on the supply of pupillages available from 2020 to 2022.
19. We have been doing everything we can to support pupillages, but the financial pressure on chambers and other organisations has been substantial – especially for those specialising in the practice areas most affected by court closures (such as criminal and family law) during the first lockdown and continuing restrictions.
20. Our data on the number of pupillages commenced in 2020 so far (up until 31 October) show a decrease of around thirty per cent compared with the same ten months last year.
21. It should be noted, however, that some pupillages will also begin in November and December 2020. We also know from our engagement with chambers that some have deferred the start dates by 3 to 6 months, which means that they will instead start in the first quarter of 2021. Despite these caveats, the overall number of pupillages that began this year is nevertheless likely to be down on previous years. We are continuing to watch this very closely and to share data with the Ministry of Justice and other stakeholders. If we see emerging evidence of serious under-supply of pupillage places, we shall take action to bring stakeholders together to discuss ways of sustaining places.

**Mark Neale**  
**Director General**  
**November 2020**

## Schedule of Board Meetings Jan 2021 – Mar 2022

### Status

1. For noting and approval.

### Executive Summary

2. The paper sets out proposals for the 2021/22 cycle of Board meetings. This retains the existing pattern of five Board meetings and one Away Day. This is the minimum number of business meetings allowed under the current BSB Standing Orders.

### Recommendation

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

### Detail

4. The proposed dates for Bar Standards Board meetings (Jan 2021 – Mar 2022) are:
  - Thurs 28 January 2021 – already diarised
  - Thurs 18 March 2021 – already diarised (preceded with joint BSB / OLC meeting)
  - Thurs 27 May 2021
  - *Thurs 15 July 2020 (Board Away Day)*
  - Thurs 23 September 2021
  - Tue 5 or Tue 19 October 2021 (tbc) (morning only) – joint BSB / LSB meeting
  - Thurs 25 November 2021
  - Thurs 27 January 2022
  - Thurs 31 March 2022
5. The exact date in October of the Board to Board meeting the LSB will be confirmed in due course.

**Rebecca Forbes**

**Head of Governance and Corporate Services**

**November 2020**



**Chair’s Report on Visits and External Meetings from 24 September to 26 November 2020**

**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:**

16 November	Met with Lord Chief Justice, Mrs Justice Yip accompanied by Mark Neale
18 November	Met with Becky Huxley-Binns, re Exam Review
19 November	Met with Dr Helen Phillips, Chair and Matthew Hill, CEO of LSB With Mark Neale
24 November	Attended Extra Chairs’ Committee meeting with Mark Neale
24 November	Attended Board Briefing meeting