

BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

**Meeting of the Bar Standards Board**  
**Thursday 29 January 2015, 4.30 pm**  
**Room 1, First Floor, Bar Standards Board Offices,**  
**289-293 High Holborn, London, WC1V 7HZ**

**Agenda**  
**Part 1 – Public**

			<b>Page</b>
1. Welcome and introductions (4.30 pm)		Chair	
2. Apologies		Chair	
3. Members' interests and hospitality		Chair	
4. Approval of Part 1 (public) minutes: • 27 November 2014	Annex A		<b>3-8</b>
5. Matters Arising			
6. a) Action points and progress	Annex B	Chair	<b>9-12</b>
b) Forward agendas	Annex C	Chair	<b>13-14</b>
<b><u>Items for discussion</u></b>			
7. Aggregated Diversity Data on the Barrister Profession (4.40 pm)	BSB 001 (15)	Rolande Anderson	<b>15-39</b>
8. Education and Training Committee Annual report to Board (4.50 pm)	BSB 002 (15)	Andrew Sanders	<b>41-48</b>
9. Professional Conduct Committee / Professional Conduct Department Enforcement Interim Report 2014/15 (5.00 pm)	BSB 003 (15)	Simon Lofthouse QC	<b>49-72</b>
10. Revised BSB / BC Protocol (*) (5.15 pm)	BSB 004 (15)	Vanessa Davies	<b>73-76</b>
11. Chair's Report on Visits and Meetings: (*), Dec 14 - Jan 15 (5.20 pm)	BSB 005 (15)	Chair	<b>77-78</b>
12. Director General's Report (5.25 pm)	BSB 006 (15)	Vanessa Davies	<b>79-93</b>

*(\*) Note – we are proposing that the papers for starred items on the agenda will not normally be discussed, as these are for noting. Questions can be directed to the report author via email.*

13. **Any other business**  
(5.30 pm)

14. **Date of next meeting**

- Thursday 26 February 2015

15. **Private Session**

**John Picken**

**Governance Officer**

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22 January 2015

BAR STANDARDS BOARD
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REGULATING BARRISTERS

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

Thursday 27 November 2014, Room 1.1, First Floor  
289 – 293 High Holborn, London, WC1V 7HZ

- Present:** Ruth Deech QC (Hon) (Chair)  
Patricia Robertson QC (Vice Chair) – items 7-13  
Rolande Anderson  
Rob Behrens  
Malcolm Cohen  
Justine Davidge  
Tim Robinson  
Andrew Sanders  
Sam Stein QC  
Richard Thompson  
Anne Wright
- By invitation:** James Wakefield (COIC)  
Sir Andrew Burns (incoming Chair, BSB)  
Andrew Mitchell QC (incoming barrister Board Member)  
Adam Solomon (incoming barrister Board Member)
- BSB Executive in attendance:** Viki Calais (Business Manager)  
Andrew Cohen (Business Support Officer)  
Vanessa Davies (Director General)  
Oliver Hanmer (Director of Supervision) – items 7-13  
Andrew Lamberti (Communications Manager)  
Ewen Macleod (Director of Regulatory Policy)  
John Picken (Board & Committees Officer)  
Pippa Prangley (Regulatory Risk Manager)  
Amanda Thompson (Director of Strategy & Communications)  
Stephanie Williams (Legal and Policy Assistant)

**Item 1 – Welcome and introductions****ACTION**

1. The Chair welcomed members and guests to the meeting, in particular the incoming Chair, Sir Andrew Burns and barrister Board Members Andrew Mitchell QC and Adam Solomon. All three were invited to observe the meeting and will commence their formal roles in January 2015.
2. She paid tribute to Sarah Clarke who is leaving the Board at the end of the year and gratefully acknowledged her significant contribution, particularly her work in teaching advocacy. She also thanked the outgoing Officers of the Bar Council, especially Stephen Collier (Treasurer).
3. **Item 2 – Apologies**
  - Sarah Clarke;
  - Simon Lofthouse QC;
  - Sarah Brown (Special Adviser);
  - Emily Windsor (Special Adviser);

- Stephen Collier (Treasurer, Bar Council);
- Stephen Crowne (Chief Executive, Bar Council);
- Joanne Dixon (Qualifications Manager);
- Sara Jagger (Director of Professional Conduct);
- Simon Thornton-Wood (Director of Education & Training)
- Keith Baldwin (incoming Special Adviser);
- Nicola Sawford (incoming lay Board Member).

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

4. The following declarations of hospitality were made:
- Anne Wright and Ewen Macleod – attendance at the BACFI Denning Lecture and Christmas Reception (20 November 2014);
  - Vanessa Davies – attendance at the farewell reception for Charles Plant (outgoing Chair of the SRA).

### **Item 4 – Approval of Part 1 (public) minutes (23 October 2014)**

(Annexes A & B)

5. The Board approved Part 1 of the minutes of the meetings held on Thursday 23 October 2014.

### **Item 5 – Matters Arising**

Education related documents – Chair’s sign off (min P21a – 11 Sept 14)

The Chair referred to an action point arising from the private session of the meeting held on 11 September 2014. She confirmed she had approved the documents listed below in accordance with the authority delegated by the Board:

- a) the BTT Handbook;
- b) the BPTC Handbook;
- c) the General Guide to CPD;
- d) the Pupillage Handbook.

### **Item 6a – Action points and Forward Agenda**

Action points and progress (Annex C)

7. The Board noted progress on the action list. The Chair commented as follows:
- there have been noticeable improvements in the management of E&D issues, both in terms of compliance and monitoring, which is welcome (min 13f – 26 Jun 14);
  - the need for a Memorandum of Understanding in relation to BSB User Group members (min 20a – 16 Jun 11) now seems questionable.
8. In response, the following comments were made:
- notwithstanding the above, there is a continuing challenge for E&D in terms of data collection and efforts are being maintained to improve return rates;
  - the BSB has changed the manner in which it engages with stakeholders since the User Group was first envisaged. This occurs in a more individual and targeted way making the concept of a MoU somewhat redundant. In consequence, the action point will be removed from the list.

**JP to  
note**

Forward Agenda (Annex D)

9. The Board noted the forward agenda list.

**Item 7 – Performance Report for Q2 (Jul – Sept 2014)**

BSB 082(14)

10. Anne Wright highlighted the following points:
- income targets for 2014/15 are likely to be missed. We are already 13% down on the anticipated figure of £1,816k;
  - annual expenditure is forecast to be 2% below the budgeted figure of £5,313k;
  - in response to the income projection issue, the PRP Committee will oversee the creation of new income indicators to give earlier warning on income shortfall;
  - the performance indicators for the Professional Conduct Department (PCD) have improved considerably when compared to those reported for Q1.
11. In respect of the performance dashboard (Annex 1), she commented as follows:
- several activities are rated amber but this is mostly due to projects not meeting anticipated milestones at this point in time. In the majority of cases, it is expected that sufficient progress will be made in the latter stages to make up for time lost;
  - some re-scheduling is likely eg the PCD user feedback survey which may be delayed until Q1 of 2015-16;
  - staff turnover has remained at similar levels to Q2 of 2013/14 but the large increase experienced in Q3 of last year is not likely to be repeated.
12. Members commented as follows:
- the development of income indicators will not address income shortfall so it is not clear why this is being done. We need to avoid successively re-budgeting;
  - the work of the Qualifications Committee should not be seen in terms of income generation. A reduction in applications should not necessarily be regarded as unwelcome;
  - the dashboard has a “green” rating for budgetary expenditure even though the underspend at Q2 is £404k. From a different perspective, however, this could be coded red as it might reflect failure to deliver on previously agreed targets;
  - there should be a half-yearly reconciliation of actual and budgeted expenditure to identify any noteworthy differences and the reasons for this;
  - the report gives a useful overview of performance but it would assist further if variances in the budget summary could be consistently annotated;
  - the improvement in PCD indicators is noted. It would help to know if the Independent Observer will report separately on the management of long-running cases;
  - the Emoluments Committee’s endorsement of the reward and retention policy will assist in stabilising staff turnover;
  - the report refers to the International Strategy (paragraph 11h). In this regard, the BSB might consider establishing a presence at one or more of the higher profile international conferences.
13. In response the following comments were made:
- improved income forecasting will enable the BSB to work through the eventual financial impact at an earlier stage. This will help in making appropriate budgetary adjustments. Demand-led activities such as applications to conduct litigation can only be estimated and therefore need to be closely monitored. There is no intention to re-budget;

- we are still only half way through the financial year and there is a large consultancy contract which is due for payment by February 2015. This will reduce the existing budgetary surplus. Both QASA and entity regulation have been slower in delivery for reasons previously explained to the Board. This has also impacted on previously anticipated expenditure levels;
- the coding would change from green to red were there to be a 10% or higher variance between actual and budgeted expenditure levels.

14. **AGREED**

- a) to note the report, particularly that year-end income projections are likely to fall short of expectations, and to monitor the anticipated underspend in future reports.
- b) that future budget summaries be fully annotated.
- c) to suggest that a reconciliation is undertaken to identify where variances are most apparent and the reasons for this.
- d) to note the suggestion that the BSB raise its profile at international conferences and give this further consideration in due course.

**AC  
VC to  
note  
VLD to  
note**

**Item 8 – BSB annual report on BTAS and the Browne recommendations**  
BSB 083 (14)

15. The Board considered an update to the contract management arrangements in respect of the Council of the Inns of Court (COIC) and the Bar Tribunals and Adjudication Service (BTAS).
16. Vanessa Davies reported the views of Simon Lofthouse QC in relation to paragraph 9 of the report, insofar as this relates to payment of barrister members of BTAS tribunals. He is concerned about this both as a matter of principle and for the potential knock-on effect it may have on the existing pro bono contributions of barristers to BSB Committees. Vanessa confirmed that there is no provision in the 2015-16 budget for payment to barristers.
17. Members commented as follows:
  - the report gives a detailed account of progress to date and provides a useful assurance of the current contract monitoring arrangements;
  - given the satisfactory nature of the report, a quarterly cycle of monitoring visits may no longer be required.
18. In response, Vanessa Davies referred to paragraph 21 of the report which set out the reasons for contract monitoring as well as the suggestion that these may be reduced to a six-monthly cycle. James Wakefield confirmed on behalf of COIC that it was content with the current arrangements, though a quarterly cycle has led to some duplication of data.

19. **AGREED**

to note the report.

**Item 9 – Chair’s Report on Visits and Meetings**  
BSB 084 (14)

20. Ruth Deech QC (Hon) commented as follows:
  - there are some corrections to the text ie:
    - ❖ 11 Nov – should read “Dame Janet Gaymer”;
    - ❖ 23 Nov – should read “Sir Roy Goode QC”;
  - her meeting with Simon Hughes (17 Nov) concerned her Bill on monetary settlements and divorce;

- the speech from Nick Lavender QC on the future of the Bar (1 Nov) will be circulated to Board Members via the Friday mailing;

**JP to  
note**

21. **AGREED**  
to note the report.

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

BSB 085(14)

22. Vanessa Davies referred to the BSB session at the Bar Conference and thanked Fiona McKinson for her organisation of the event as well as the very helpful contributions from Patricia Robertson QC, Joanne Dixon, Amanda de Winter and Paul Mosson.
23. Ewen Macleod referred to paragraph 7 of the report concerning regulatory policy insofar as this relates to current restrictions on the scope of practice of employed barristers whose employers are not authorised bodies. He commented as follows:
- the Bar Association for Commerce, Finance and Industry (BACFI) has made the case that there is no regulatory reason for preventing such barristers from undertaking non-reserved legal activities, given that these can be already be undertaken by unregistered barristers;
  - if these individuals chose to undertake this work, they would then need to give up their practising certificates and not hold themselves out as barristers;
  - the Standards Committee has asked the Regulatory Policy team to gather evidence in support of a rule change proposal for the Board to consider early in the New Year.

24. **AGREED**  
to note the report.

**Item 11 – Any Other Business**

25. a) Entity Regulation  
Vanessa Davies confirmed that the Chief Executive of the LSB had given an assurance that the BSB would receive formal approval as a regulator of entities in the very near future.

*Post meeting note:*

*the LSB formally confirmed changes to the BSB’s regulatory arrangements to enable it to authorise and regulate entities in its Decision Notice dated 28 November 2014.*

- b) Ruth Deech QC (Hon)  
Patricia Robertson QC led a tribute to Ruth Deech QC (Hon) for chairing the BSB over the past six years. Members concurred that she had provided tremendous leadership and resolve during a period of significant change and expressed their appreciation for her valuable work.

**Item 12 – Dates of next meetings**

26.
  - Thursday 11 December 2014 (Board Away Day).
  - Thursday 29 January 2015 (full Board meeting).

**Item 13 – Private Session**

27. The following motion, proposed by the Chair and duly seconded, was agreed:

That the BSB will go into private session to consider the next items of business:

- (1) Approval of Part 2 (private) minutes (23 October 2014);
- (2) Matters Arising;
- (3) Action points and progress – Part 2;
- (4) QASA - update;
- (5) Corporate Risk Register;
- (6) Alternative business structures: compensation arrangements;
- (7) Strategic information management (including data quality update);
- (8) Update from the Regulators' Summit;
- (9) Any other private business.

28. The meeting finished at 5.15 pm.



**BSB – List of Part 1 Actions  
29 January 2015**

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

Min ref	Action required	Person(s) responsible	Date of action required	Progress report	
				Date	Summary of update
14b (27 Nov 14)	ensure future budget summaries are fully annotated	Andrew Cohen	Feb 2015	18/12/2014	Q3 Report will include fuller commentary
20b (23 Oct 14)	research other regulatory models to inform discussion on governance at the December 2014 Away Day	Amanda Thompson	before 11 Dec 14	11/12/14 20/11/14	<b>Completed</b> – discussed at Away Day  Noted for the future - action not yet due; work in hand
20c (23 Oct 14)	feedback views on the structure, remit and continuation of their respective Committee at the December Away Day	Committee Chairs	11 Dec 14	11/12/14	<b>Completed</b> – discussed at Away Day
32b (23 Oct 14)	develop a set of indicators about the management of policy consultation documents such that the Board is properly informed, and at an appropriate stage, based on the subject and content under scrutiny	Vanessa Davies	before 27 Jan 15	20/01/15	Draft indicators prepared by AT and on SMT agenda for 2 February
5 a-b (23 Oct 14)	consult on change: insurance for entities once the entity regulation process is in operation	Ewen Macleod	before Mar 15	20/01/15	Work is on track
15b (18 Sept 14)	include information on end-to-end times for case resolution for future PCD performance reports to the Board	Sara Jagger / Paul Martyn	by Sept 15	15/10/14	Noted for the future - action not yet due
20a & b (22 May 14)	prepare an action plan and public response statement for Jeffrey Report with oversight provided by Board Members	Vanessa Davies / Oliver Hanmer / Sam Stein QC / Justine Davidge / Richard Thompson	originally 24 Jul 14 – re-scheduled 18 Sept 14	20/01/15 20/11/14	Included in QASA Board paper January 2015 (part 2)  Meeting of those responsible to be convened before Xmas

## BSB – List of Part 1 Actions

29 January 2015

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

Min ref	Action required	Person(s) responsible	Date of action required	Progress report	
				Date	Summary of update
				14/10/14	Held over again due to inter-relationship with QASA and impact of stay. Now anticipated November.
				14 /07/14	Completion of proposals delayed by unavailability of key players and now scheduled for September.
				17/06/14	Staff team set up to review the Jeffrey Report and to develop proposals and an action plan. Staff session held on 18 June to discuss the Report. Board members nominated to assist on developing the action plan will be invited to comment on a draft by the end of June with final proposals presented to the Board at its July meeting
12c (21 Nov 13)	undertake a further review to the Standing Orders	Amanda Thompson / Chloe Dickinson	On hold	13/05/14	New timeline needed to reflect decision to undertake fundamental review taken by the Board at the Awayday.
				11/02/14	Consideration to some principles to be given at April Awayday
				14/01/14	Work has commenced
16b (18 Jul 13)	gather feedback on accessibility of information on the BSB website about complaints	Amanda Thompson	before end Mar 14	09/10/14	Proposals from specialist group now received and being evaluated. Once services we will purchase have been agreed between PCD and Strategy and Communications, work will proceed.

## BSB – List of Part 1 Actions

29 January 2015

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

Min ref	Action required	Person(s) responsible	Date of action required	Progress report	
				Date	Summary of update
				15/07/14	PCD members have met with one of the stakeholder group members (which specialises in ensuring people have the knowledge, confidence and skills needed to deal with law-related issues) to discuss how we make complaints information available. A work plan is now being developed.
				17/06/14	Progress on stakeholder work has been very limited given volume of other communications activity. Arrival of new Communications Manager will free up resources to focus on this again.
				13/05/14	Stakeholder session focused on understanding complaints system, reflecting stakeholder group's needs. Further activities being planned to complete this action.
				11/03/14	Feedback will be sought at stakeholder session on 28 March.
				14/01/14	On track
				13/11/13	Stakeholder workshop held on 13 November dealing with QASA. Next session will be as below. Early indications are that engagement will be productive.

BSB – List of Part 1 Actions  
29 January 2015  
*(This includes a summary of all actions from the previous meetings)*

Min ref	Action required	Person(s) responsible	Date of action required	Progress report	
				Date	Summary of update
				17/07/13	Stakeholder workshop/seminar being planned to deal with communicating the work of PCD. Anticipate will be held before end of March 2014 but depends on stakeholder availability. Date will be confirmed when available.

## Forward Agendas

### Thursday 26 February 2015

- BSB Business Plan for 2015-16
- BSB Q3 Performance Report (includes Business Plan update, KPIs, Management Accounts, Corporate Risk Register, SLAs)
- Fees and charges
- Inns Conduct Committee Rules
- Annual report from the Qualifications Committee
- Standard Contractual terms and CRR

### Thursday 26 March 2015

- LETR Plan (including CPD Consultation)
- final version of BSB Strategy update, Business Plan 2015-16 & Budget 2015-16
- LETR – draft consultation on BPTC (part 2)
- Professional Statement (LETR workstream #1) – consultation
- BSB Member email accounts

### Thursday 23 April 2015 (Board Away Day)

- Strategic Plan 2016 – 19

### Thursday 21 May 2015

- BSB Year-End Performance Report (includes Business Plan update, KPIs, Management Accounts, Corporate Risk Register, SLAs)
- Equality Objectives 2015-2016
- Standard Contractual terms and CRR

### Thursday 25 June 2015

- Professional Statement (LETR workstream #1) – proposal for sign-off
- Strategic Plan

### Thursday 23 July 2015

- BSB Draft Annual Report for 2014-15
- PCD/PCC- Year End Report – 2014-15 (*possibly move to Sept to complement IO report*)
- Disciplinary Tribunal Regulations – approval of revisions
- Report on Equality Rules
- E&D Committee Annual Report
- Strategic Plan - consultation

### Thursday 10 September 2015 (budget meeting, including for 2016-19 Strategic Plan)

- PRP Committee Annual Report

### Thursday 24 September 2015

- BSB Q1 Performance Report (includes Business Plan update, KPIs, Management Accounts, Corporate Risk Register, SLAs)
- GRA Committee Annual Report. Note: this paper will also include the annual report from the Independent Observer
- *Professional Conduct Committee / Professional Conduct Department Enforcement Annual Report 2014/15 (possibly move from July)*

### Thursday 22 October 2015

- Supervision Committee Annual Report
- Standards Committee Annual Report

**Thursday 26 November 2015**

- BSB Q2 Performance Report (includes Business Plan update, KPIs, Management Accounts, Corporate Risk Register, SLAs)

**Thursday 17 December 2015 (Board Away Day)**

**Thursday 28 January 2016**

- Diversity data report

**Thursday 25 February 2016**

- BSB Business Plan for 2016-17 and new Strategic Plan 2016-19
- BSB Q3 Performance Report (includes Business Plan update, KPIs, Management Accounts, Corporate Risk Register, SLAs)
- Office of Immigration Services Commission – barristers supervising immigration advisers

**Thursday 17 March 2016**

- **Strategic plan - final**

***Longer term items (dates to note)***

- *July 2016 – Approval of CPD regime changes (Part 2)*
- *October 2016 – Approval of CPD quality mark scheme proposal (Part 2)*

## Aggregated Diversity Data on the Barrister Profession

### Status:

1. For discussion, approval and noting.

### Executive Summary:

2. The Equality Act Specific Duties Regulations 2011 require the Bar Standards Board (BSB) to publish, every January, equality information relating to those who are affected by our policies and practices. The Legal Services Board (LSB) requires the BSB to publish aggregated diversity data on the barrister profession by 31 January each year broken down by the following strands: age, gender, disability, ethnicity, religion or belief, sexual orientation, socio-economic background and caring responsibilities.
3. The attached report (Annex 1) sets out diversity data gathered on the profession from two sources: the Core Database (as at August 2014), the Pupillage Registration Survey 2013-2014. Data has been collected on the diversity strands set out above and has been broken down by seniority.
4. Due to low disclosure levels, the data in the areas of ethnicity, age, disability, religion or belief, sexual orientation and caring responsibilities is not reliable and therefore cannot be used for drawing reliable statistical conclusions.
5. In November 2014 the BSB Equality and Diversity Committee (EDC) considered the diversity data report and the issue of low disclosure rates. It recommended that the issue of low disclosure rates should be raised with BSB Strategy and Communications team in order that communications with the profession can stress the importance of providing the BSB with this data.
6. The EDC recommended that the BSB should produce a clear action plan on how diversity disclosure rates can be increased at the Bar and to explore the techniques other organisations use to monitor diversity data to improve disclosure of the total Bar.
7. The Committee also considered the progression rates of women and black minority ethnic (BME) barristers and recommended the BSB review diversity data and year of call to identify areas of underrepresentation and barriers within the Bar.

### Recommendations

8. The Board is invited to:
  - a. Approve the attached report at Annex 1 for publication by the end of January 2015 in order to meet both regulatory and statutory requirements.
  - b. Note continuing efforts to promote better disclosure of diversity data from the profession.

## Summary of Legal and LSB Regulatory Requirements

### Legal Requirements

9. The Equality Act 2010 Specific Duties Regulations 2011 came into force in September 2011. The regulations require that listed public authorities publish information on an annual basis, beginning in January 2012, to demonstrate compliance with the general equality duty (s.149 Equality Act 2010). The general duty requires public bodies to pay due regard to the need to:
  - Eliminate unlawful discrimination, harassment and victimisation;
  - Advance equality of opportunity between different groups; and
  - Foster good relations between different groups.
10. The information published should include information relating to those who are affected by the public bodies' policies and practices. In the BSB's case, this means data on those we regulate and those to whom we provide services.

### LSB Regulatory Requirements

11. In July 2011 the LSB issued guidance stipulating that Approved Regulators (ARs) must collate diversity data to give an aggregate view of the diversity make-up of each branch of the profession. ARs must publish this data by the end of each year. Data must be published on the following strands: age, gender, disability, race, religion or belief, sexual orientation, socio-economic background and caring responsibilities. The BSB must publish the numbers of individuals in each group, and as a percentage of the total Bar. The data must be anonymised, aggregated, and broken down by seniority (i.e. QC, practising Bar, pupil).

## Background

12. Up until 2012, the Bar Council Records Department collected data on the gender, age, race and disability of every barrister in England and Wales. This was done on application for a practising certificate. In March 2012 the Bar Council introduced a new Authorisation to Practise system (ATP) which requires individual barristers to renew their practising certificate via the online Barrister Connect portal. This online system contains a voluntary monitoring page which allows barristers to input their personal diversity data. This data automatically populates the Bar Council's 'Core Database', which contains an electronic record on every individual barrister.
13. As of April 2014 all individual barristers were required to engage with the Barrister Connect system on an annual basis as part of the ATP process. The ability to delegate responsibility for completing the diversity monitoring form was removed.
14. A letter to the profession highlighting the benefits of providing diversity data was sent out in October 2014 to every member of the Bar.
15. The positioning and signposting of the monitoring form on Barrister Connect has been changed. The form is now much more prominent on the relevant page and should be much easier for barristers to find and complete.



16. A “pop up reminder” now appears immediately prior to completion of the electronic ATP process for individuals who have not completed their diversity monitoring form. The pop up appears once only and will remind individuals that the form has not been completed and that they are strongly encouraged to complete it.
17. The BSB E&D team extracted anonymised diversity data on the profession from the Core Database in August 2014.
18. As a result of the data collection exercise, there is comprehensive data in some areas and very poor data in other areas due to the low disclosure rates. The BSB has high levels of data in the following areas:
- a) Gender
    - Excluding data relating to “prefer not to say” responses and non-returns, the core database has gender data on 98% of barristers.
    - Gender representation still remains an issue as women account for just 13% of QCs while men account for 87%.
  - b) Ethnicity
    - The core database has race data on 89% of barristers.
    - Only 6% of QCs declared that they are BME and 91% declared that they are white.
  - c) Age
    - The core database has age data on 79% of barristers.
    - The data is generally evenly distributed across the Bar, other than those for which there is a reasonable explanation e.g. the majority of pupils who disclosed are aged under 25 and 25-34.
19. There are low levels of data in the following areas:
- a) Disability
    - The core database has disability data on 24% of the total Bar which represents a 9% increase on disclosure rates in 2013.
    - 22% of the Bar stated that they were not disabled. 1% barristers declared that they were disabled.
  - b) Religion or belief
    - The core database has religion or belief data on 20% of the total Bar which represents an 8% increase in disclosure rates in 2013.
    - The highest responses were in the following categories: 11% of the total Bar declared they are Christian, 5% declared they have no religion.
  - c) Sexual orientation
    - The core database has sexual orientation data on 20% of the total Bar which represents an 8% increase in disclosure rates in 2013.
    - 19% of all barristers declared that they are heterosexual/straight, 1% declared that they are a gay man, 0.2% declared that they are a gay woman and 0.3% declared that they are bisexual.

d) Socio economic background

- A total of 20% of the Bar completed the question about what type of school they attended (an increase of 9% on the 2013 figures), and 19% answered the question about whether they were the first generation of their family to attend university which represents a 9% increase in disclosure rates in relation to this question since 2013.
- 11% of the total Bar stated that they attended state schools and 7% attended fee paying schools.

e) Caring responsibilities

- 21% of the total Bar answered the question about caring responsibilities for children (an increase in disclosure of 9%), and 19% answered the question about caring for others which is also an increase in disclosure in this area of 9%.
- 3% of barristers declared that they have childcare responsibilities whilst 1.8% declared that they care for another person e.g. family members, friends, neighbours or others.

20. The data set out in the above paragraphs shows a marked increase in diversity data disclosure rates at the Bar. It is difficult to attribute the increase in disclosure to any one area of activity but it may be argued that the concerted efforts of the Equality and Diversity team and its committee to promote the benefits of providing data and encourage disclosure may well have assisted. However despite the clear increase in disclosure rates, the Research team have advised that the data in relation to ethnicity, age, disability, sexual orientation, religion/belief, socio economic background and caring responsibilities remains unreliable and that greater disclosure is needed before such data can be relied upon. This remains as a problem for the BSB because it has statutory and regulatory duties to promote equality and diversity in relation to **all** the protected characteristics listed in the Act.
21. The E&D team anticipates a continued rise in the numbers of barristers declaring their diversity data via the Barrister Connect system over the course of 2015. This is due to the new online diversity data collection process (via Barrister Connect) continuing for a second year. Communications with the profession on the benefits of disclosing diversity data will continue to be included within the generic BSB authorisation emails, removing diversity data from its perceived “silo” and presenting monitoring as mainstream and part of the BSB’s core function.
22. The Pupillage Registration Survey 2013-2014 attracted a high response rate and since the Diversity Data Report was written pupillage diversity data has been collected via the registration process and appears to be a very effective way of gathering data. Currently practicing barristers have to go to a different section of Barrister Connect which could be a reason for low disclosure.
23. According to the agreed timetable the E&D team will extract diversity data from the core database in August 2015.
24. Once approved by the Board, the aggregated diversity data at Annex 1 will be published by 31 January at the latest in the Equality and Diversity section of the BSB website. It is intended that the report will be publicised to the profession and the public through the BSB Regulatory Update and the BSB Twitter feed.

**Financial implications**

25. There are no financial implications arising from the recommendations of this paper.

**Equality Impact Assessment**

26. It is not considered that the publication of diversity data will have any adverse impact on equality because these activities have been designed to promote and advance equality and diversity. Therefore an Equality Impact Assessment is unnecessary.

**Risk implications**

27. Failure to comply with the Equality Act 2010 Specific Duties Regulations could lead to the BSB being issued with a compliance notice.

28. Failure to meet the LSB's extended deadline for publication of aggregated diversity data under the Section 162 guidance could lead to enforcement action.

**Regulatory objectives**

29. The collection and publication of diversity data on the Bar relates directly to the BSB's regulatory objectives, as defined in Section 1 of the Legal Services Act 2007, namely objective 1 (f): "encouraging an independent, strong, diverse and effective legal profession".

**Annex**

30. Annex 1: Diversity Data Report Autumn 2014.

**Lead responsibility:**

Rolande Anderson (Chair, BSB Equality & Diversity Committee)  
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January 2015



BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

## Report on Diversity at the Bar Autumn 2014

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## Executive Summary

This report presents a summary of the latest diversity data available on the Bar. The report assists the Bar Standards Board (BSB) in meeting our statutory duties under the Equality Act 2010 and sets out an evidence base from which relevant and targeted policy can be developed. The profession provides equality and diversity data voluntarily and it is not mandatory for the Bar to complete this information as a result of data protection laws.

Two distinct datasets were used to compile the findings: the Core Database 2014 and the Pupillage Registration Survey 2013-2014.

Key points from the report are outlined below.

- **Disclosure of pupillage diversity data has improved since 2013. This is largely due to the fact that in 2014 data was collated from the annual Pupillage Registration Survey, which had a very good response rate.**
- **Disclosure has increased since 2012 and in 2014 disclosure was lowest in relation to the “caring responsibilities for others” question. In relation to this area just 19.1% of the profession disclosed. The area with the greatest level of disclosure was gender in relation to which 98% of the profession disclosed their data. (Please see Appendix 1 for a graph measuring the disclosure rates from 2012 to 2014.)**
- **Gender representation in the profession still remains an issue as women account for just 38% of the practising Bar while men account for 62%. In addition, women account for just 13% of QCs while men account for 87%.**
- **The percentage of practising barristers disclosing they are Black Minority Ethnic (BME) is 12%, whereas only 6% of QCs declared that they are BME and 91% declared that they are white.**
- **There has been an increase in disclosure relating to disability at the Bar. In 2014, the percentage of the Bar disclosing their disability status was 24%, compared with 15% in 2013. However, the number of disabled practitioners at the Bar remains low with just 1% of the Bar declaring that they are disabled.**
- **“Prefer not to say” responses are minimal - the highest rates of prefer not to say were in relation to disclosure of religion or belief and sexual orientation.**

## 1. Introduction

This Diversity Data report is published annually to meet the requirements of equality legislation, the specific equality duties, and the guidance of the Legal Services Board. It gives an overview of diversity at the Bar and establishes an evidence base for policy development.

The report summarises available data on the diversity of the barristers' profession. The BSB is committed to providing clear and transparent statistical diversity data for every level of the barristers' profession.

In total there are 15,913 practitioners at the Bar. Table 1 below explains how many people are in each level of the profession that have been analysed in this report:



**Table 1: Total number of people at the Bar (numbers)**

Seniority	Numbers
Pupil	498
Practising Bar	13,814
Queen’s Counsel	1,601

Data contained in the Bar Councils’ membership records (The Core Database) is used as a data source for this report in addition to the Pupillage Registration Survey 2013-14. At the end of each survey year, results are collated into an annual report which is presented to the BSB’s Equality and Diversity (E&D) Committee and Board for approval before publication on the website.

## **1.1 Report Structure**

This report begins with an executive summary, introduction, methodology, and aims. The data sources used for the analysis of the report are individually described. The report compares pupillage, practising Bar, and Queen’s Counsel data simultaneously where possible in order that the broad diversity picture from pupillage to practising barrister can be understood in relation to each stage of a barrister’s career. The results on the protected characteristics are presented throughout the report in the following order: gender, ethnicity, disability, age, religion/belief, and sexual orientation. The next section looks at social mobility, the type of school attended, and first generation to attend university. The last section looks at caring responsibilities, the responsibility for the care of children and the responsibility for the care of others. Data is analysed and the outputs are then presented in tables with descriptive statistics. The conclusion section draws on the key equality issues raised by the analysis of the data and sets out a number of recommendations.

## **2.1 Methodology**

The data sources used in this report are:

- data contained in the Bar Councils’ membership records (The Core Database); and
- the Pupillage Registration Survey 2013-14.

### **The Core Database**

Barristers register their details on “Barrister Connect”, an electronic Authorisation to Practise (A2P) system, which came into force in April 2012 to modernise the authorisation process and bring the arrangements into compliance with the Legal Services Act 2007. The online system includes a section that allows barristers to input their diversity data, which automatically populates the Core Database. Barristers can access the A2P system at any time and update their diversity monitoring information.

The Core Database records diversity data relating to the practising Bar and QCs, and has almost captured the entire population in relation to gender, ethnicity, and age. Figures on protected characteristics from the Core Database were extracted on 6 August 2014. Figures and percentages are calculated in aggregate form using Excel 2013.

### The Pupillage Registration Survey

The Pupillage Registration Survey (PRS) is administered on an annual basis to enable monitoring of the various equality, diversity, and fair access objectives of the BSB and Bar Council. The data in this report was supplied by pupils who completed the survey during the pupillage registration process with the BSB. The data was analysed anonymously and covers the period 2013-14.

### Disclosure Rates

Although rates of disclosure have improved in 2014, in comparison with the 2013 statistics, there is still a large proportion of the Bar that did not disclose their diversity information in relation to certain characteristics:

- **Disability information:** 24% of the profession disclosed their disability status via either the Core Database or the PRS.
- **Religion or belief information:** 46% of pupils, 20% of the practising Bar, and 13% of the QCs disclosed their religion or belief.
- **Sexual orientation:** 45% of pupils, 20% of the practising Bar, and 13% of the QCs disclosed their sexual orientation.
- **Caring responsibility information:** 46% of pupils, 21% of the practising Bar, and 13% of QCs disclosed whether they had caring responsibilities for children. Some 46% of pupils, 19% of the practising Bar and 13% of QCs disclosed whether they had caring responsibilities for family members, friends, neighbours or others.
- **Socio Economic Background:** 46% pupils, between 19-21% of the practising Bar and 12-13% disclosed the type of school they attended and whether they were part of the first generation of their family to go to university.

It should be noted that each question on both Barrister Connect and the PRS contains a “prefer not to say” option, allowing each registrant the option of not disclosing. Although prefer not to say responses are minimal in general, the highest rate of prefer not to say was in relation to the questions on religion or belief and sexual orientation. Due to the generally low disclosure rates no one data set can provide an in-depth understanding on the diversity of the Bar.

### 3.1 Aims

The overarching aims of this report are:

1. To meet the requirements of the Equality Act 2010, the general and specific equality duties, and Legal Services Board data publication requirements.
2. To enable both the BSB and the legal profession to work together to address the inequalities that exist for barristers.
3. To inform the BSB’s equality and diversity objectives that aim to widen access to the profession.

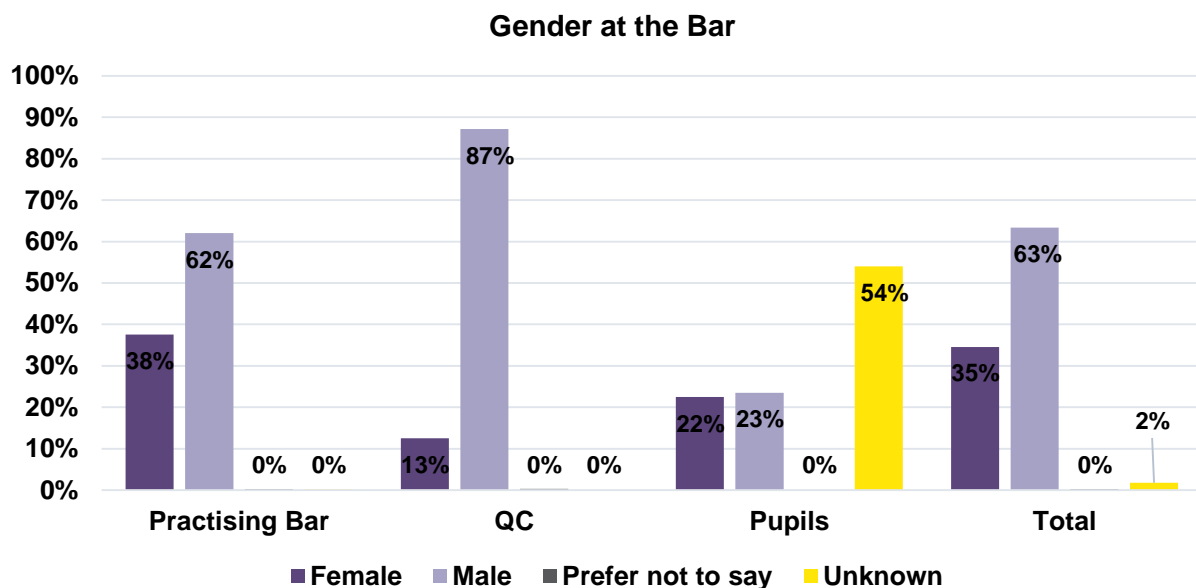
4. To provide the BSB with the latest information on the diversity of the Bar.
5. To challenge inaccurate public perceptions about the current profile of barristers.

## 2. Protected Characteristics

### 2.1 Gender Data at the Bar

Graph 1 below shows gender at the Bar by professional status: a total of 98% of the profession have disclosed their gender. Women account for 38% of the practising Bar while men account for 62%. Women account for 13% of QCs while men account for 87%. Women account for 22% of pupils, men 23%, and 54% are unknown. The figures reveal almost two thirds of the Bar are male and, amongst QCs, the proportion is significantly higher. In comparison to last year's Diversity Data Report there is very little change in terms of gender representation at the practising Bar or in relation to QCs.

**Graph 1: Gender at the Bar (percentages)**



Source: Core Database (August 2014) and Pupillage Registration Survey 2013-2014

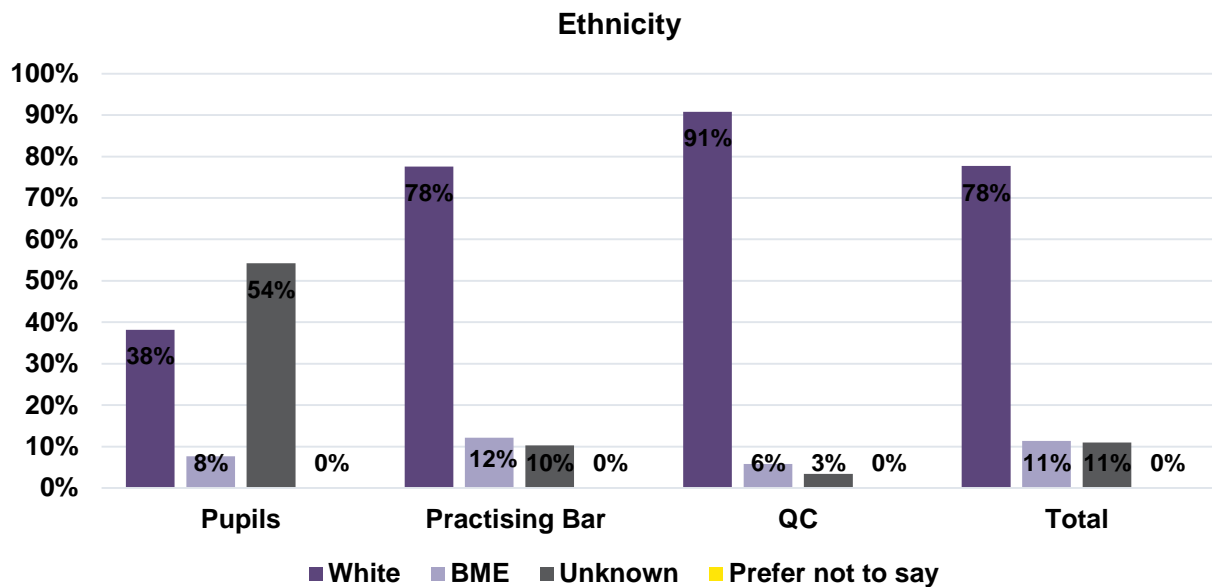
### 2.2 Ethnicity

Graph 2 gives a breakdown of ethnicity at the Bar by professional status: a total of 89% of the profession disclosed their ethnicity.

Among the practising Bar: 78% are white, 12% are Black Minority Ethnic (BME), and 10% are unknown. Among QCs: 91% are white, 6% are BME, and ethnicity data in relation to the remaining 3% is unknown.

In relation to pupils: 38% are white, 8% are BME and 54% are unknown. Overall, of those who disclosed their ethnicity, 78% are white, 11% are BME, and 11% remain unknown.

Graph 2: Core database: Ethnicity at the Bar



Source: Core Database (August 2014) and Pupillage Registration Survey 2013-2014

In 2014, the percentage of the pupils who failed to disclose their ethnicity data rose by 44% since 2013. This is due to using a different system to collect pupillage data in 2014. There is very little difference in the figures from 2013 in relation to disclosure by white barristers. However, there has been a slight rise in the number of BME practising barristers disclosing their ethnicity.

### 2.3 Disability

Table 2 shows the total percentages of the Bar that disclosed their disability status. It also shows unknown data. In 2014 there was an increase in disclosure from the total of Bar in relation to disability as the non-disclosure rate was 76% compared to 85% in 2013. In numbers this means that 3,767 practitioners (of 15,913 practitioners) have chosen to declare their disability information in 2014 – in comparison to 2,379 practitioners (out of 15,694 practitioners) in 2013.

In 2013 92% of pupils did not disclose whether or not they had a disability, whereas in 2014 only 54% of pupil disability data was “unknown”. This represents a significant increase in disability status disclosure rates amongst pupils in the last year.

**Table 2: Core database: Disabled practitioners at the Bar (percentages)**

Disability by Seniority	No	Yes	Unknown	Prefer not to say
Pupil	44%	2%	54%	0%
Practising Bar	22%	1%	75%	1%
QC	15%	0%	84%	1%
Total % of the Bar	22%	1%	76%	1%

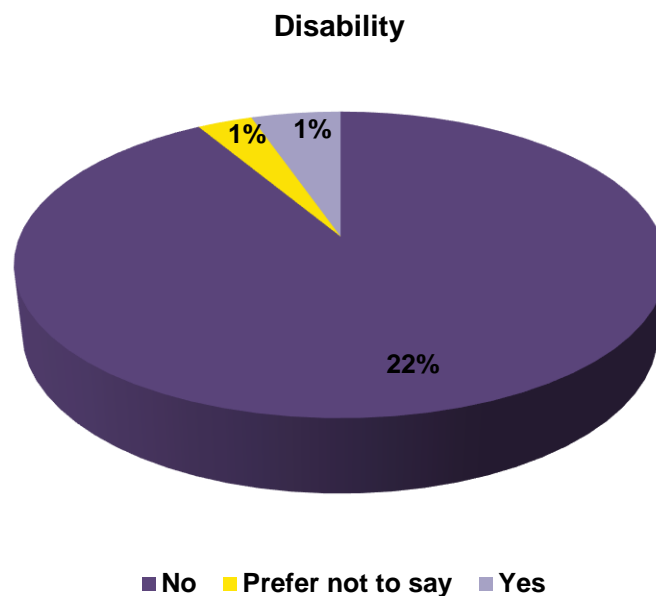
Source: Core Database (August 2014) and Pupillage Registration Survey 2013-2014

Graph 3 shows 22% of practitioners stated they did not have a disability. This is a significant increase on 2013's disclosure which was 14%. Since 2012 an additional 2,801 practitioners have chosen to declare they do not have a disability. In 2014 1.3% of practitioners declared they had a disability, which is a minor increase on 2013's 1% and 2012's 0.7%. Since 2012, an additional 103 practitioners have chosen to declare that they have a disability.

There has been an increase in the number of pupils disclosing their disability data since 2012. In that year just 6 people chose to declare their disability status. In 2013 36 pupils disclosed their data and in 2014 the PRS received 229 disclosures out of a total of 498 pupils. Therefore, between 2012 and 2014 there was a rise in the number of pupils declaring that they are disabled – from 0% to 2%.

Similarly, there has been an increase in the number of disabled practising barristers declaring their status: this has risen from 102 in 2012, to 150 in 2013, to 193 in 2014. This means that there has been a 1% increase in disabled practitioners declaring they have a disability. Graph 3 displays the percentages of the total Bar that disclosed their disability status.

**Graph 3: Disability at the Bar (percentages)**



Source: Core Database (August 2014) and Pupillage Registration Survey 2013-2014

## 2.4 Age

Table 3 shows the breakdown of the Bar, by professional status, in relation to the protected characteristic of age. A total of 79% of the Bar disclosed their age in 2014.

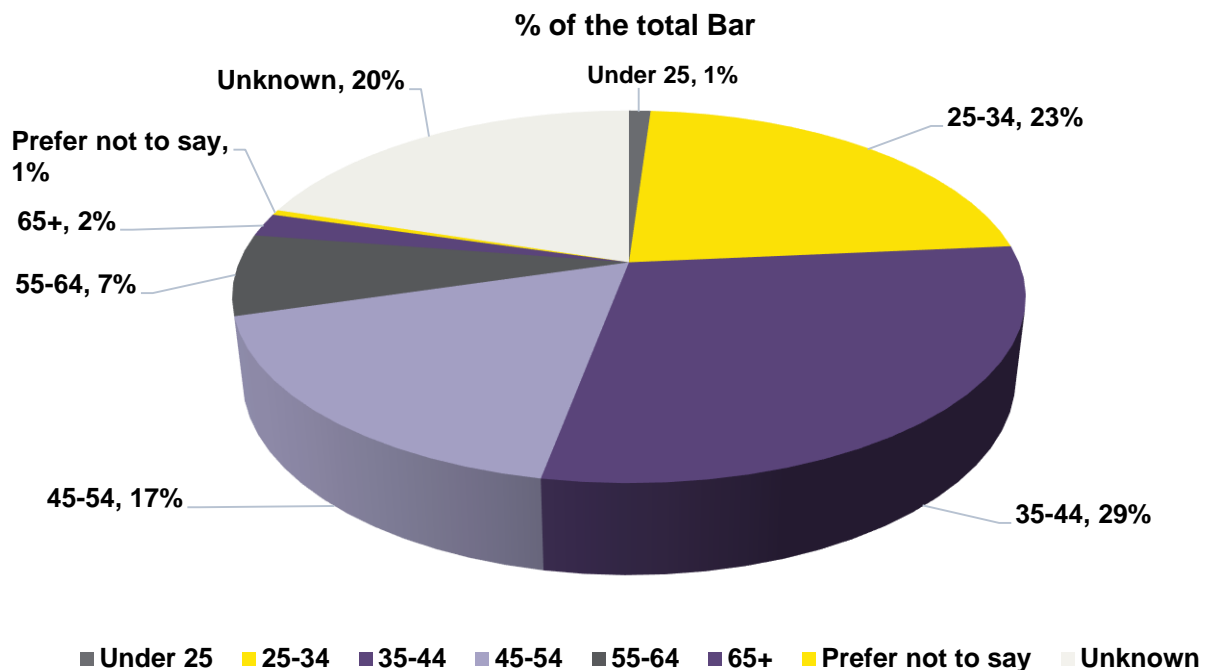
**Table 3: Age of practitioners at the Bar (percentages)**

	Under 25	25-34	35-44	45-54	55-64	65+	Unknown	Prefer not to say
<b>Pupil</b>	14%	27%	3%	2%	0%	0%	54%	0%
<b>Practising Bar</b>	1%	25%	32%	17%	7%	2%	16%	0%
<b>QC</b>	0%	0%	13%	24%	9%	5%	48%	0%
<b>Total % of the Bar</b>	1%	22%	29%	17%	7%	2%	20%	0%

Source: Core Database (August 2014) and Pupillage Registration Survey 2013-2014

As displayed in Table 3, age is generally evenly distributed across the Bar. Among the practising Bar 25% are aged between 25 and 34, and 32% are aged between 35 and 44 years old. Among QCs 13% are between 35 and 44 years old. This is a 3% increase from 2013's figures and may be attributed to an increase in disclosure of age from QCs from 692 disclosed responses in 2013 to 821 in 2014.

Among pupils 14% are under 25 years old – a figure that has risen from 10% in 2013. A large proportion of the Bar did not disclose age information, and non-disclosure in relation to age was particularly high in relation to pupils. In 2013 44% of pupillage age data was unknown, whereas in 2014 it is now 54%.

**Graph 4: Age of the total Bar (percentages)**

Source: Core Database (August 2014) and Pupillage Registration Survey 2013-2014

## 2.5 Religion and Belief

Table 4 gives a breakdown of the Bar, by professional status, in relation to religion or belief.

**Table 4: Religion/belief of practitioners at the Bar (percentages)**

Religion and Belief by Seniority	Pupil	Practising Bar	QC	Total % of the Bar
<b>Agnostic</b>	0%	2%	1%	2%
<b>Buddhist</b>	0%	0%	0%	0%
<b>Christian</b>	19%	11%	7%	11%
<b>Hindu</b>	1%	0%	0%	0%
<b>Jewish</b>	1%	1%	1%	1%
<b>Muslim</b>	1%	1%	0%	1%
<b>Sikh</b>	0%	0%	0%	0%
<b>No religion</b>	23%	5%	2%	5%
<b>Other</b>	0%	0%	0%	0%
<b>Prefer not say</b>	0%	2%	1%	2%
<b>Unknown</b>	54%	78%	86%	78%

Source: Core Database (August 2014) and Pupillage Registration Survey 2013-2014

Disclosure of religion/belief has risen in comparison with 2013's data when only 1,960 people disclosed their religion/belief. In 2014 the number of people who disclosed their religion/belief rose to 3,240 (20% of the profession).

The largest religious group from those who disclosed their diversity data at the Bar are Christians. The second largest group are those declaring no religion/belief. Over half the additional disclosures in 2014 can be attributed to the rise in the number of people declaring their religion as Christian or no religion/belief. In numbers this means an increase of 611 people disclosing they are Christian and 373 people disclosing they have no religion/belief. Another significant rise has come from the number of practitioners declaring they are Agnostic. This rose from 184 in 2013 to 314 in 2014. The number of practitioners declaring they are Jewish also rose from 75 in 2013 to 134 in 2014. Amongst pupils who disclosed their data, the largest group are those declaring no religion. This indicates a different trend pattern from the Practising Bar and QC level where the largest group from those who disclosed their data in this category is Christian. The number of practitioners to disclose 'prefer not to say' is minimal. However, it is the highest out of all the protected characteristics.

## 2.6 Sexual Orientation

Table 5 shows the breakdown of the profession, by status, in relation to sexual orientation. A total of 20% of the profession disclosed their sexual orientation.

**Table 5: Sexual orientation at the Bar (percentages)**

Sexual Orientation	Pupil	Practising Bar	QC	Total % of the Bar
Bisexual	1%	0%	0%	0%
Gay Man	1%	1%	0%	1%
Gay Woman / Lesbian	0%	0%	0%	0%
Heterosexual / Straight	43%	19%	12%	19%
Other	0%	0%	0%	0%
Prefer not say	0%	1%	1%	1%
Unknown	55%	78%	86%	78%

Source: Core Database (August 2014) and Pupillage Registration Survey 2013-2014

Disclosure in this area has increased since 2013 when only 1,951 people disclosed their sexual orientation. In 2014 this figure now stands at 3,240. However, the majority of the Bar did not disclose their sexual orientation.

In relation to those who did disclose this information, heterosexual/straight characteristic is the most populated in the system. Some 43% of pupils, 19% of the practising Bar, and 12% of QCs disclosed they are heterosexual/straight. The percentage of the Bar that disclosed that they are a gay man is 0.7%. This a slight increase from 2013 and in numbers this means that 37 practitioners have chosen to declare they are a gay man. The percentage of the Bar that disclosed that they are bisexual is 0.3%, which is a minor increase from 2013. The percentage of the Bar that disclosed that they are gay woman/lesbian is 0.2%. This is another minor increase on 2013. Finally, 0.1% of the total Bar disclosed their sexual orientation as other, which is also a minor increase on 2013's disclosure.

In 2014 there was an increase in the number of pupils disclosing their sexual orientation. In 2013 just 10 pupils disclosed, but in 2014 that number rose to 226.

## 3. Socio-Economic Background

There is no universally recommended way of gathering data on social class. This varies depending on the type of profession and traditional entry routes into a given profession. Educational background has been used as one of the main ways of determining a barrister's social class. However, the questions and categories vary slightly depending on the data source. The socio economic questions provided by the Legal Services Board are used in this report. This is because there is a strong correlation between a person's social background



and parent's level of educational attainment – particularly when choosing the type of school to attend, type of university, and career choice.

### 3.1 Type of school attended

Table 6 shows the percentages of QCs, practising barristers, and pupils who reported the type of school they attended.

**Table 6: Type of school attended (percentage)**

Status	Attended School outside the UK	Fee paying	State	Unknown	Prefer not to say
Pupil	0%	19%	27%	54%	0%
Practising Bar	1%	7%	11%	79%	1%
QC	0%	7%	5%	87%	1%
<b>Total % of the Bar</b>	1%	7%	11%	79%	1%

Source: Core Database (August 2014) and Pupillage Registration Survey 2013-2014

Table 6 displays data that has been reported and data that is still unknown. In 2014 a total of 20% of the Bar have disclosed the type of school they attended. This is an increase on the disclosure rate in 2012, which was 1.5% of the total Bar. The table shows that a higher proportion of the practising Bar, who disclosed their diversity data, attended a state school (11%) than the proportion which attended a fee paying school (7%). However, in relation to QCs that disclosed their diversity data, a higher proportion attended fee paying schools (7%) than those who attended state schools (5%).

Pupil disclosure rates in relation to this characteristic have increased. In 2013 the percentage of pupils disclosing socio-economic status was 3%. However, in 2014 the percentage of pupils disclosing in this area rose to 46%. The table shows that a higher proportion of pupils, who disclosed their diversity data, attended a state school (27%) than the proportion which attended a fee paying school (19%).

### 3.2 First generation in family to attend to university

Table 7 gives a breakdown of the profession by whether or not the individual was part of the first generation in their family to attend university.

**Table 7: First generation to attend university (percentages)**

Status	Did not attend university	Not 1 <sup>st</sup> generation	1 <sup>st</sup> generation	Unknown	Prefer not to say
Pupil	0%	31%	15%	54%	0%
Practising Bar	0%	10%	9%	80%	1%
QC	1%	5%	6%	87%	1%
<b>Total % of the Bar</b>	0%	10%	9%	80%	1%

Source: Core Database (August 2014) and Pupillage Registration Survey 2013-2014

Table 7 shows the percentages of the total Bar in relation to whether or not they were the first generation in their family to attend university. In 2014 a total of 19% of the Bar disclosed whether they were part of the first generation to attend university. This is the lowest disclosure rate out of all the characteristics. However, this is an increase on the disclosure rate in 2012, which was 1% of the total Bar.

There is very little difference between the total percentage of those who were and were not first generation students. However, there is a significant difference by seniority of those who disclosed this data. The majority of pupils who disclosed this data were not the first generation in their family to attend university. This is in contrast to the majority of the QCs, who disclosed their generation type, who were part of the first generation to attend university. There may be a direct correlation with age in relation to this characteristic, as the majority of pupils are under the age of 34 and therefore their family members are more likely to have attended university than the families of QCs (the majority of whom are aged over 45 years old).

The data shows that the majority of pupils and those at the practising Bar that disclosed their diversity data were not the first generation in their families to attend university. However, there is still a large proportion of the Bar that did not disclose this information. In total 81% did not disclose their generational status – only a slight improvement on the 90% who did not disclose their generational status in 2013.

## 4. Caring responsibilities

The caring responsibilities questions used in this report are those provided to the BSB by the Legal Services Board. These questions are aimed at ascertaining whether or not an individual has child or adult dependants for whom they care.

### 4.1 Care of children

Table 7 shows the breakdown of the profession, by status, in relation to the caring responsibilities for children.

**Table 7: Responsibility for the care of children (percentages)**

Status	Caring responsibilities	Does not have caring responsibilities	Prefer not to say	Unknown
Pupil	3%	43%	0%	54%
Practising Bar	5%	15%	1%	79%
QC	2%	11%	1%	86%
<b>Total % of the Bar</b>	5%	16%	1%	79%

Source: Core Database (August 2014) and Pupillage Registration Survey 2013-2014

Table 7 displays a significant difference between those who do and do not have caring responsibilities. The data indicates that, of those who disclosed this information, the majority do not have caring responsibilities.

The status with the highest percentage in relation to caring responsibilities is the practising Bar, followed by pupils, and finally QCs. The status with the highest percentage for not having caring responsibilities is pupils, followed by the practising Bar, and finally QCs.

Pupil disclosure rates in relation to this characteristic have increased. In 2013 the number of pupils disclosing caring responsibilities for children was 11. However, in 2014 the number of pupils disclosing in this area rose to 229.

There is still a large proportion of the Bar in relation to whom this information is unknown. In total 79% did not disclose whether they had caring responsibilities for children. Nevertheless, this is a slight improvement on the 88% of the Bar who did not disclose whether they had caring responsibilities for children in 2013.

## 4.2 Care of others

Table 8 gives a breakdown of the profession, by status, indicating whether or not they have adult caring responsibilities.

**Table 8: Responsibility for the care of others (percentages)**

Status	No	Yes, 1-19 hours a week	Yes, 20-49 hours a week	Yes, 50 + hours a week	Prefer not to say	Unknown
Pupil	46%	0%	0%	0%	0%	54%
Practising Bar	16%	3%	0%	0%	1%	80%
QC	10%	2%	0%	0%	1%	87%
<b>Total % of the Bar</b>	16 %	2%	0%	0%	1%	80%

Source: Core Database (August 2014) and Pupillage Registration Survey 2013-2014

In 2014 the total percentage of the Bar that disclosed whether they have caring responsibilities for others is 19%. This has increased from 1% in 2012. In relation to those that did disclose their information, 3% of the total Bar declared they had caring responsibilities for others and 16% do not have caring responsibilities for others. The practising Bar and QCs were the only practitioners to declare they had caring responsibilities for others. No pupils disclosed they had caring responsibilities for others.

## **5. Conclusions**

There has been little or no change across all the protected characteristics in the profile of the Bar from the data collected. This is to be expected when monitoring demographic changes in a profession over a one to two year timeframe.

The disclosure of diversity data is still significantly low, which means any results below 95% disclosure cannot be applied to the general barrister population.

With regards to gender, the figures remain unchanged with men representing nearly two thirds of the profession.

Just over one in ten (11%) of the Bar who disclosed their ethnicity are from BME backgrounds. This is an increase of 1% from 2012. This figure decreases as 6% of QCs are BME.

The majority of the barristers who did disclose their disability status did not report having a disability.

The majority of the Bar profession that disclosed their sexual orientation stated they were heterosexual/straight.

The majority of pupils and practising barristers who disclosed their socio-economic background attended a state school. In contrast, the majority of QCs attended a fee-paying school. The majority of pupils were not part of the first generation in their family to attend university, whereas the majority of QCs were part of the first generation in their family to attend university.

The percentage of the Bar that disclosed that they have caring responsibilities for children is 5% and 3% have caring responsibilities for family members, friends, neighbours, or others. However, in relation to this area of the Bar it should be noted that 80% of the Bar did not disclose this information.

There has been greater disclosure across the majority of the protected characteristics. The lowest disclosure rate was 19% of the profession, in relation to the area of responsibility for the care of others. The greatest disclosure rate was 98% of the profession, in relation to gender. In 2014 the BSB has focused on increasing awareness of the requirement to provide diversity data via Barrister Connect. Appendix 1 sets out progression of disclosure rates between 2012 and 2014.

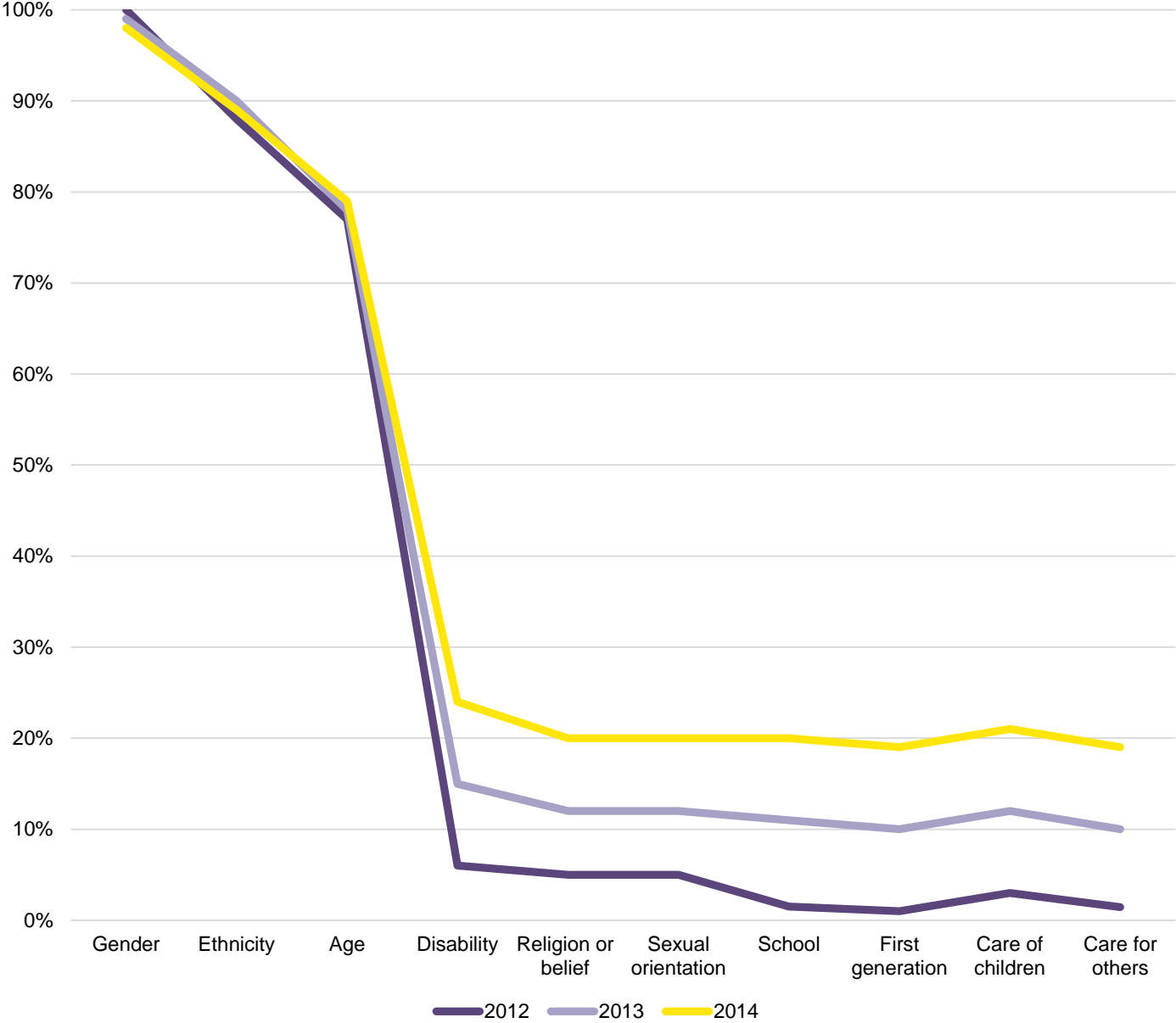
There has been a significant increase in the disclosure of pupillage diversity data, largely due to 2014's data being collated from the annual PRS, which had a very good response rate.

## 6. Recommendations

1. Disclosure rates in relation to the majority of protected characteristics are still low which means the BSB does not have data representative of the total Bar. There is, therefore, a need to show the importance of disclosing this data and how it can help equality at the Bar – particularly the implementation of flexible working and parental leave policies. In order for the BSB to produce meaningful conclusions and recommendations there needs to be an increase in disclosure of diversity data. A letter to the profession highlighting the benefits of providing diversity data was sent out in October 2014 to every member of the Bar. Pupillage diversity data was collected as part of the registration process and it attracted a very high response rates and is clearly a more effective way of gathering diversity data. The BSB should consider operating a similar system for practising barristers and QCs to complete in order to improve diversity data disclosure rates. The BSB should also explore the techniques other organisations use to monitor diversity data to improve disclosure of the total Bar.
2. Women are well represented at pupillage stage but numbers steadily decline with seniority. There is a need to consider in more depth the issues in relation to this and how the profession might better retain women. A review of the BSB's E&D team's qualitative research into the impact of the Handbook equality rules on women should be undertaken by the BSB in order that appropriate evidence based activity can be developed in this area.
3. A review is needed to track women barristers and BME barristers against year of Call to examine whether they are underrepresented at certain stages and to discover if there are barriers to progression at the Bar. The E&D team should continue to work with the BSB's Education and Training Department to deliver the Legal Education and Training Review (LETR) programme to address barriers to entry to the profession and provide an outlook on diversity trends.



**Disclosure Rates 2012-2014**



	2012	2013	2014
Gender	100%	99%	98%
Ethnicity	88%	90%	89%
Age	77%	78%	79%
Disability	6%	15%	24%
Religion or belief	5%	12%	20%
Sexual orientation	5%	12%	20%
School	1.5%	11%	20%
First generation	1%	10%	19%
Care of children	3%	12%	21%
Care for others	1%	10%	19%





## Education & Training: Annual Report for 2014

### Status

1. To note.

### Executive Summary

2. The Education & Training Committee has delegated oversight of all regulatory activity relating to education & training for the Bar.
3. This is a report on the work of the Committee since it last reported to the Board, in February 2014. The Committee has met six times in 2014, including a special meeting in December to consider governance.
4. This has been a year of intense activity, as regular business has been supplemented by the first concrete steps in progressing major review of the BSB's regulatory function in education and training. Key achievements during this period were:
  - Initiation of the Post LETR Plan for change in education regulation – Future Bar Training, with formation of a Programme Board;
  - Development of evaluation for the Bar Course Aptitude Test;
  - Introduction of changes to the Bar Transfer Test, following review in 2012/13;
  - Transfer of the admissions system for the BPTC, to a provider consortium;
  - Initiation of the plan for reform of CPD regulation, including preparation for the existing accreditation scheme to migrate from a course-based to a provider-based system.
5. This progress has been achieved during a period of significant changes in the management and staff team, and reorganisation of a number of roles.
6. The Committee will have a priority in 2015 and beyond to oversee delivery of the Post-LETR plan.

### Recommendation

7. The Board is requested to **note** the report.

### Comment

#### Membership for 2014

##### *Members*

Professor Andrew Sanders (Chair, Board Member)  
 Nerys Jefford QC (Vice Chair, Barrister)  
 Dr Stuart Weinstein (Vice Chair)  
 Emily Windsor (Vice Chair, Barrister)  
 Tope Adeyemi (Barrister)  
 Richard Davies  
 David Fleming  
 Andrew Lyons (Barrister)  
 Dr Richard Ough (non-practising barrister)  
 Benjamin Wood (Barrister)  
 Dr Anne Wright (Board Member)

Prof Paul Kohler  
Justine Davidge (Barrister, Board Member)  
Rolande Anderson (Board Member, appointed September 2014)

*Non-voting Attendees*

Robin Field-Smith (Equality and Diversity Committee Representative)

8. The following member will be leaving the Education and Training Committee as their membership terms have come to an end (effective from December 2014):
  - Dr Richard Ough
9. Michael Edenborough QC has chaired the CPD Sub Committee for the past twelve months, and stands down on completion of the Sub Committee's business (and as the system of accreditation is changed).
10. A newly constituted Pupillage Subcommittee, strictly with a focus on policy, has been convened in 2014 and is chaired by Justine Davidge.

Legal Education & Training Review

11. A Programme Board was constituted in September 2014 to oversee delivery of a change programme for training regulation, chaired by Prof Andrew Sanders. The Programme Board reports to the Education & Training Committee.
12. A Change Manager (Tim Keeling) was appointed in July 2014 to deliver the change programme, supported by a Legal and Policy Assistant, Maya Chopra.
13. Working Groups have been established for each of the programme workstreams, and each has conducted initial meetings in 2014, taking first steps in policy development in their respective areas of activity.

Academic requirements

*Governance and staffing*

14. Management of the QLD/GDL Joint Statement requirements and course accreditation is undertaken by the SRA on behalf of both regulators, with referral of queries that are not addressed by the standard guidelines to the Qualifications Regulations Manager or Director.

*Priorities for 2015*

15. Priorities for the year ahead will be to:
  - Complete the policy review through the Post LETR programme and implementing as appropriate
  - Participate in the completing stages of the review of the QAA Law Benchmark Statement

Vocational training and assessment

*Governance*

16. Oversight of curriculum and quality assurance for the Vocational Stage of training, including the Bar Transfer Test (BTT), is delegated to the BPTC Sub-Committee.

17. The Centralised Examinations Board oversees the delivery of assessments in the three knowledge area subjects of the BPTC.

*Staffing*

18. All but one of the current staff team were recruited in 2014.
19. In the vocational training team, Paras Junejo was appointed Vocational Training Officer in January 2014, leaving in August, and replaced by Sahib Marwaha in October (as Legal Education Officer). Sultana Akhter (Vocational Training Administrator) left early in 2014, and the position was taken by Poonam Sharma.
20. Adrian Coleman was appointed as Assessments Manager in January 2014, and was joined by Robin Briggs (Assessments Officer) to work alongside Carla Gomez, who joined in 2013. The Assessments Administrator position was filled by Racheal Busingye, replaced in August 2014 by Nana Omoako.
21. This substantial level of turnover affected business in the first half of 2014, though greater stability has now been achieved.

*Bar Course Aptitude Test (BCAT)*

22. The BCAT opened to candidates in November 2013, closing in August 2014. Pass rate data for the first two cycles of assessment, coupled with emerging data from evaluation, will be analysed as a basis for consideration of any adjustment in the fourth cycle (open from November 2015).
23. Evaluation of the test was commissioned in 2013, from IFF (for the evaluation of test impact) and the Work Psychology Group (for the evaluation of test efficacy). The two research organisations have worked with the BSB to establish longitudinal studies of progression by the first cohorts that have experienced the BCAT, and the work is in progress.

*BPTC Provider institutions*

24. Kaplan Law School (KLS) announced the closure of their BPTC programme in May 2014, and were closely monitored by the BSB through the closure process, including externally commissioned review.
25. One provider has been the subject of a triggered visit, undertaken in January 2014, and follow-up action, following recruitment in excess of the agreed Initial Accreditation Number for the site and other concerns related to compliance with the published requirements.

*BPTC Candidate enrolment*

26. The number of registered candidates has declined nationally for a second year in 2014 (Table 1). Potential causes of the decline include:
- Conditions in the wider economy;
  - Cumulative impact of fees and student loans, the current (England) policy extending from first degrees (for this cohort) for the first time;
  - Impact of BSB quality assurance in relation to English language and other requirements;
  - Impact of UK immigration policy on recruitment of overseas students.
  - The impact of closure of the KLS course will have been marginal in 2014/15 as places had already been secured and accommodation made for those candidates at other course providers.

**Table 1. Enrolled BPTC candidates, 2010-2014**

2010/11	2011/12	2012/13	2013/14	2014/15
1681	1669	1803	1619	<b>1494</b>

*BPTC Examination performance*

27. Reports were published by the Chair of the Centralised Examination Board (CEB) relating to performance in the first and second sittings of centralised examinations (available on the BSB website).
28. The Final Examination Board (FEB) reported confidence in the integrity of the 2014 assessments (Table 2, below).
29. In relation to the First Sit assessments, the FEB noted the marked decline in passing rates for Professional Ethics as a whole, heavily influenced by the drop in passing rates for the SAQ section of the paper. There was no obvious reason for this decline. However, as in previous years there was some evidence to suggest that the gap in passing rates between MCQs and SAQs tends to widen where cohorts were weaker overall.

**Table 2. Summary of passing rates (%) in the centralised assessments, 2014**

	First Sit			Second Sit (includes referrals and deferrals)		
	<b>2014</b>	2013	<i>change</i>	<b>2014</b>	2013	<i>change</i>
Professional Ethics	<b>65.5</b>	86.4	-20.9	<b>56.0</b>	56.2	-0.2
Criminal Litigation	<b>72.8</b>	68.2	4.6	<b>30.1</b>	62.1	-32.0
Civil Litigation	<b>57.4</b>	56.2	1.2	<b>34.1</b>	59.8	-25.7

*Financial implications*

30. Cost recovery for the BPTC was reviewed in 2014, following the introduction of the cost recovery policy in 2013. As a consequence, providers have been notified of a further significant rise in Candidate fees to take effect in September 2015, from £475 to £550, following the previous year's adjustment from £400.
31. The calculation of fees to achieve full cost recovery has been based upon a minimum 1600 candidates being enrolled.

*Priorities for 2015*

32. Priorities for the year ahead will be to:
- Progress the policy review for the BPTC as part of the Post LETR programme: deciding upon high level options for the future structure of the qualification and completing first stages of planning any changes
  - Finalise the initial round of evaluation of the BCAT and implement any initial policy responses
  - Further develop syllabi for Civil Litigation and Criminal Litigation
  - Complete the review of centralised assessments, and implement any agreed changes
  - Publish data on BPTC Providers and plan the development of data quality to support future publication

Bar Transfer Test (BTT, for transferring solicitors and overseas lawyers)*Governance*

33. The BTT is overseen by an Examination Board that reports to the BPTC Sub-Committee. The Examination Board meets in June and October, with additional meetings as required. A Review Board is convened to consider any challenges to Examination Board decisions.

*Staffing*

34. The vocational training team administer the contract and relationship with BPP for delivery of the Test.

*Candidates*

35. A significant increase in candidates for the first sit test in 2014 (table 3) provided some challenge in its administration, but equally demonstrated robustness in the assessment itself. 190 candidates sat the first sit assessments alone. There was some evidence of overseas candidates being attracted to undertake the assessment through misrepresentation of their chances of success by local advisors. The exceptionally high rate of failure suggests some additional influence on applications, and might provide some reassurance that the test is effective.
36. In 2014, 23 requests for review of BTT results were received (2013: 15). In relation to the May sitting, two requests were accepted for consideration by the Review Board (2013: 1 of 4); 11 were rejected as inadmissible under the regulations; one remains unresolved. Assessment of the nine applications relating to the September sitting has yet to be completed (2013: 9 accepted of 11, of which 1 only partially so).

**Table 3. Bar Transfer Test candidates, 2010-14**

2010	2011	2012	2013	<b>2014</b>
86	82	102	151	<b>293</b>

**Table 4. Summary BTT results 2014**

	May sitting			September sitting		
	Pass	Fail	Other*	Pass	Fail	Other*
First sit	33	102	11	10	33	21
Second sit	10	21	1	3	34	
Third sit	4	7	1	0	2	

\*Mitigating circumstances or academic misconduct (latter relates to two candidates in September sitting)

*Provider*

37. BPP Law School deliver the Test for the BSB. In the First Sit assessments in 2014, significant problems arose in BPP's administration of the Test, leading to a significant review of performance and service levels. No such problems arose in the Second Sit.
38. Following review of the Test in 2012/13, revisions were made to the structure and requirements of the Test, which have been introduced in 2014.

*Financial implications*

39. The Bar Transfer Test yields income based on a proportion of the fees charged by the Provider. From 2014, the BSB levies a fee of 33% of the total charged by BPP (increased from 25%). Fees relate to the number of parts of the test taken, rather than simply the number of candidates.

*Priorities for 2015*

40. Priorities for the following year will be to:
- Complete the implementation of recommendations from the 2012/13 review.

Pupillage*Governance*

41. The Committee is advised on Pupillage policy matters by a newly-convened Pupillage Subcommittee, chaired by Justine Davidge. Monitoring and supervision of pupillage is undertaken by the Supervision team. Administration of pupillage matters is undertaken by the Policy & Quality Assurance team, with some reorganisation planned to bring this together with the approval of Pupillage Training Organisations.

*Staffing*

42. Claire Hogg administered pupillage registration until her resignation in July 2014. Diego Curiel has undertaken the role on a temporary basis through the remainder of the year and the function transfers to the Qualification Regulations team in 2015.

*Pupillages and Approved Training Organisations*

43. Annual pupillage registrations are set out in Table 5, below. The statistics were changed from an academic year measure to a calendar year from 2013 (and historical data adjusted accordingly), following the removal of requirement to adhere to a common recruitment timetable, which created a distortion which is removed with this change.
44. Headline data suggests that the number of pupillage registrations continues to be sustained (with a 1% decline in 2014 from the five year high in 2011). Further analysis is required to obtain an understanding of changes in specific fields of practice.

**Table 5. Pupillages registered January to December**

	2010	2011	2012	2013	<b>2014</b>
Non-practising	443	444	435	431	<b>422</b>
Practising	446	456	449	445	<b>455</b>

*Review*

45. New Guidance was agreed on pupillage funding in September 2014, in light of anecdotal evidence of confusion about the existing Rules and of some creative compliance with the requirement that failed to protect the interests of pupils. Further work is required to address funding and advertising policy challenges.

*Priorities for 2015*

46. Priorities for the following period include:
- Progressing the Post LETR review of pupillage, as part of the programme of work to improve access routes to the Bar;
  - Improving the quality of data and of administrative processes that support pupillage regulation
  - Progressing the revision of governance arrangements for Pupillage Training Organisation approval.

Continuing Professional Development*Governance*

47. Decisions on CPD accreditation are delegated to the CPD Subcommittee. A Steering Group completed a review of CPD regulation in 2013, concluding that significant reform was required; the Board adopted proposals accordingly in July 2013. The Subcommittee has met five times in 2013 to consider applications for course accreditation, and it is planned that the Subcommittee will dissolve at the end of 2014 as new regulatory arrangements take effect.

*Staffing*

48. CPD course accreditation is administered by a staff of 2 FTE: Liz Prats (Continuing Education Officer) and Ruth Beaumont (Continuing Education Administration Assistant)

*Approval of providers and courses*

49. CPD is managed on a calendar year cycle. Applications for the accreditation of single courses are received throughout the year; some providers that run a large number of courses are accredited differently and the total number of courses is reconciled early in the following calendar year.
50. The number of courses accredited continues to rise (Table 6), attributable in large part to growth in the number available online (from 1438 in 2012 to 1589 in 2013).

**Table 6. Accreditation of Continuing Professional Development**

	2010	2011	2012	2013	<b>2014 [excluding applications reported retrospectively]</b>
Courses	6,899	7,700	8,132	8,382	<b>7,201</b>
Providers	528	534	562	556	<b>548</b>

*Public Access Training*

51. A new scheme for Public Access training was introduced in the autumn of 2013, and three course providers approved. Course delivery has progressed in 2014. One complaint about provider service has been addressed and resolved by the team in this period.

*Review*

52. The review of CPD was concluded in 2013 with the adoption of proposals for reform of the regulations in July 2013. The Board agreed a plan in November 2013 for the delivery of changes over the period 2014-2016.

*Priorities for 2015*

53. Priorities for the year ahead include:
- Implementation of first stages in regulatory reform
  - Implementation of the interim provider-level accreditation scheme
  - Delivery of a pilot scheme for the proposed revised rules for CPD
  - Completion of review of the Forensic Accounting Course, and its retender

**Resource implications**

54. Almost all activities covered by this report are subject to the BSB full cost recovery policy, which has led to systematic review of fees and charges for the BPTC (including centralised assessments), BTT and CPD. Resource and financial implications are addressed more specifically in the body of the paper.

**Equality & Diversity Implications**

55. Equality information is gathered in relation to each of the stages of training. Following a period of low response rate to surveys until 2013, more success in data gathering has been achieved in 2014 (particularly in relation to pupillage). This data will be analysed and reviewed by the Equality & Diversity Committee early in 2015.

**Consultation**

56. A draft of this report was reviewed by the Education & Training Committee at their November meeting.

**Lead responsibility**

Simon Thornton-Wood



## Professional Conduct Committee / Professional Conduct Department Enforcement Interim Report 2014/15

### Status:

1. For noting
2. Public

### Executive Summary:

3. Attached is the Interim Report for the Professional Conduct Committee and Professional Conduct Department providing an overview of our enforcement work for the six month period 1 April to 30 September 2014.
4. The main statistical findings are as follows:
  - a. We received a similar number of external complaints (160) compared with the previous six months but opened significantly more internal complaints – 75 compared with 25 across the third and fourth quarters of 2013/14. This increase indicates that we have yet to establish a baseline level for internal complaints under the BSB Handbook. Our caseload increased in the first six months of 2014/15 having steadily decreased over the previous two years.
  - b. In taking enforcement action we imposed six administrative sanctions and made 37 new referrals to disciplinary action, including 32 cases referred to Disciplinary Tribunals. Disciplinary Tribunal hearings in the six month period led to five barristers being disbarred and two suspended.
  - c. We are on course to meet our KPI target for the year, having concluded or referred to disciplinary action 79.6% of cases within our service standards in the first six months of 2014/15. Our target for the year is set at 80% – increased from 75% after that target was met in 2013/14.

### Recommendations

5. There are no specific recommendations but the Board are asked to note the conclusions set out at page 21 of the report.

### Background

6. The Professional Conduct Committee and Department produce an Interim Report and Annual Report to provide the Board and the public with a detailed view of our enforcement work. This includes trends in our caseload, the enforcement action we took and our performance.

### Comment

7. Not applicable.

**Resource implications**

8. There are no new resource implications associated with this report.

**Equality Impact Assessment**

9. Not applicable

**Risk implications**

10. Not applicable

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

11. Not applicable

**Consultation**

12. Not applicable

**Regulatory objectives**

13. Monitoring and reporting on our enforcement work assists with ensuring the regulatory objectives of protecting and promoting the public interest and the interests of consumers are met.

**Publicity**

14. The report will be published on the BSB's website.

**Annexes**

15. The full report is Annex 1 to this paper.

**Lead responsibility:**

Sara Jagger  
Director of Professional Conduct

Simon Lofthouse QC  
Chair of the Professional Conduct Committee

BAR  
STANDARDS  
BOARD

REGULATING BARRISTERS

## Enforcement

### Interim Report 2014/15

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Professional Conduct Committee  
Professional Conduct Department

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## Introduction

- 1.1 The Bar Standards Board publishes a Handbook with which barristers comply. Where there is evidence that the Handbook has been breached, the BSB will consider what action may be necessary by way of enforcement or otherwise. The work of enforcing the Handbook is carried out by the Professional Conduct Committee and Professional Conduct Department of the BSB. We investigate complaints and, where appropriate, take action against barristers who have breached their professional obligations as set out in the Handbook.
- 1.2 This report provides an overview of our enforcement work for the six month period 1 April to 30 September 2014. In this report we focus on the key trends in the new complaints that we received or raised, the caseload that we worked on throughout the period and the outcomes of this work. We then go on to analyse our performance over the six months in terms of the time we took to progress cases. At the close of the year we will take a more detailed look at these and other areas of work in our Enforcement Annual Report 2014/15.

## Data sources

- 1.3 We maintain electronic records on our Enforcement Database of all of the cases we open. This allows us to report on the types of complaints we receive, the outcomes of our investigations and disciplinary action, and performance information in relation to the progression of complaints.
- 1.4 To gain further insight into our handling of complaints, we also carry out a User Feedback Survey. Upon the conclusion of cases, all complainants and barristers are sent a questionnaire and asked to provide

feedback on how we did and how we can do better. Our survey for 2014/15 is ongoing and the results will be published in our forthcoming Enforcement Annual Report 2014/15.

## Our approach to cases

- 1.5 We take an outcomes-focused, risk-based approach to our enforcement activities:
- 1.6 Part 2 of the BSB Handbook<sup>1</sup> sets out the Code of Conduct for barristers and the outcomes the provisions of the Code are intended to achieve – such as that “*the proper administration of justice is served*” (oC2). The outcomes are derived from the regulatory objectives defined in the Legal Services Act 2007. The Handbook also sets out our Enforcement Regulations (Part 5) which outline what will happen when concerns are raised about the conduct of a barrister.
- 1.7 Our Enforcement Strategy<sup>2</sup> sets out our approach to taking enforcement action, underpinned by the provisions of Part 5 of the Handbook. We take a risk-based approach to enforcement – focused on achieving the outcomes outlined in the Handbook. This enables us to concentrate our resources on those issues which present the greatest risk to the regulatory objectives. When we first receive a complaint or information that may lead us to raise a complaint<sup>3</sup>, our first step is to assess whether there is any evidence of a breach of the Handbook and whether there is a risk to consumers of legal services or the wider public. This enables us to make a decision on whether or not to carry out a formal investigation.
- 1.8 Where we investigate a complaint, we will write to the barrister and any other people who we consider might provide information

<sup>1</sup> In January 2014, the 8<sup>th</sup> edition of the Bar’s Code of Conduct was replaced with the BSB Handbook

<sup>2</sup> Our Enforcement Strategy is published on the BSB website on the Complaints and Professional Conduct page.

<sup>3</sup> Under the Enforcement Regulations we can consider complaints made by persons other than the Bar Standards Board and also raise complaints on behalf of the Bar Standards Board.

of relevance to the complaint, asking for comments and relevant documents. Once we have all the information we need we will assess whether there is sufficient evidence that the barrister has failed to comply with the Handbook. Where there is, we will decide the appropriate action to take. This could include the imposition of an administrative sanction in the form of a written warning or a fine of up to £1,000<sup>4</sup>, or, for more serious matters amounting to professional misconduct, disciplinary action.

- 1.9 If we decide that disciplinary action is appropriate we will either refer the case to the Determination by Consent procedure (paragraph 2.33) or refer the complaint, or parts of it, to an independent Disciplinary Tribunal.

## Enforcement structure

### Professional Conduct Committee

- 1.10 The Professional Conduct Committee (PCC) has the full delegated authority of the Bar Standards Board to take decisions on complaints. It has the power to refer complaints to disciplinary action, impose administrative sanctions and resolve complaints with the Determination by Consent procedure<sup>5</sup>. The PCC – split into

two teams – meets every three weeks to make decisions on cases.

### Professional Conduct Department

- 1.11 The Professional Conduct Department (PCD) works under the authority of the Professional Conduct Committee. The staff of the PCD assess and investigate complaints and, where appropriate, assist the PCC in taking action against barristers who have breached the BSB Handbook. The staff also take a lead on drafting policies, managing enforcement projects and the day-to-day work of supporting the PCC and keeping the enforcement system operating efficiently and fairly.

### Prosecutors

- 1.12 When we decide to refer a case to a Disciplinary Tribunal on charges of professional misconduct, it is the BSB's role to bring charges against the barrister before an independent panel convened by the Bar Tribunal and Adjudication Service (BTAS). We rely primarily on a panel of barristers working on a pro-bono basis to represent us at the Tribunals. The panel currently consists of 55 barristers, one of whom will be instructed immediately after a referral to disciplinary action is made and will remain with the case through to the Tribunal.

## Our aims and objectives

Our main aims are to:

- Act in the public interest;
- Protect the public and other consumers of legal services;
- Maintain the high standards of the Bar;
- Promote confidence in the complaints and disciplinary process; and
- Make sure that complaints about conduct are dealt with fairly, consistently and with reasonable speed.

Our objectives are to:

- Deal with complaints made against barristers promptly, thoroughly and fairly;
- Ensure appropriate action is taken against barristers who breach the BSB Handbook; and
- Be open, fair, transparent and accessible.

<sup>4</sup> From January 2014 when the Handbook came into force. Prior to this, administrative sanctions under paragraph 901.1 of the 8<sup>th</sup> edition of the Code of Conduct were fixed at £300.

<sup>5</sup> The full powers of the Professional Conduct Committee are detailed in Part 5 of the BSB Handbook.

## Casework

2.1 We opened a total of 235 complaints in the first six months of 2014/15. As Table 1 illustrates, this was a similar number to the same period of 2013/14. The figures for internal complaints increased in the first six months of 2014/15, having steadily decreased during the previous year. Our overall caseload increased across the six months: we had 224 complaints ongoing at the start of the year and 286 complaints ongoing at the half-way point in the year.

### New external complaints

2.2 We receive complaints from clients of barristers (via the Legal Ombudsman<sup>6</sup>), members of the public, solicitors or other professionals and organisations. We refer to these as external complaints, treating the person who made the complaint as the “complainant” and keeping them informed throughout the lifecycle of the case.

2.3 In the first six months of 2014/15 we received 160 complaints from external sources. This continued the trend of 70-80 complaints per quarter which we have observed since the Legal Ombudsman started operating in October 2010.

2.4 The sources and nature of complaints remained similar to previous years: civil litigants continue to be the source of the highest number of individual complaints (28% of external cases) and by far the most common allegations were of discreditable/dishonest conduct (39%) and misleading the court (29%)<sup>7</sup>.

2.5 We are currently in the process of reviewing the way in which we record allegations – moving away from concepts such as discreditable conduct (as defined by the 8<sup>th</sup> edition of the Code of Conduct) and towards the concepts of honesty, integrity and independence defined in the BSB Handbook. This will ensure that our reports in future reflect the Handbook as accurately as possible and provide the best possible information for identifying and monitoring risks to the regulatory objectives set out in the Legal Services Act 2007.

### New internal complaints

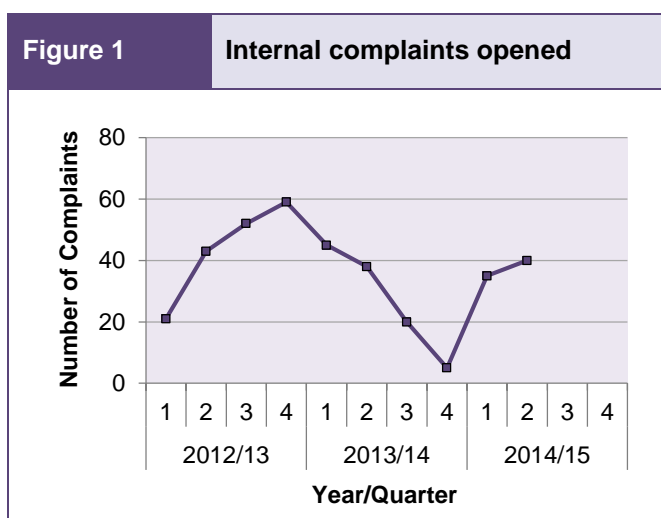
2.6 In using the term “internal complaints” we are referring to complaints raised where the BSB itself identifies a potential breach of the Handbook. Where the breach is brought to the attention of the PCD direct – via either a barrister’s reporting obligations under the

Complaint Source	2013/14	2013/14	2013/14	2013/14	2014/15	2014/15
	Q1	Q2	Q3	Q4	Q1	Q2
External	76	80	69	76	82	78
Internal	45	38	20	5	35	40
<b>Total</b>	<b>121</b>	<b>118</b>	<b>89</b>	<b>81</b>	<b>117</b>	<b>118</b>

<sup>6</sup> The Legal Ombudsman receives complaints from clients of barristers: its jurisdiction extends only to investigating issues relating to the service provided. Where the Legal Ombudsman identifies any potential conduct issues arising from service complaints then those matters are referred to the Bar Standards Board. In the first six months of 2014/15, the Legal Ombudsman referred 17 complaints to the BSB.

<sup>7</sup> No charges pertaining to barristers “knowingly or recklessly misleading the court” were upheld nor concluded during the first six months of 2014/15. This is in common with previous years: the majority of allegations of “misleading the court” are either unsubstantiated or arise from misunderstandings of the role of the barrister and the adversarial nature of court proceedings. Therefore, the high number of allegations of “misleading the court” is not considered to be indicative of a heightened risk to the public or the regulatory objectives.

Code or perhaps an external source such as a press report – a risk assessment is completed and a manager of the PCD or an Office Holder of the Professional Conduct Committee may authorise the raising of a formal (internal) complaint for investigation. We also receive referrals from other sections of the BSB and the Bar Council such as barristers who have failed to comply with the Authorisation to Practice or Continuing Professional Development (CPD) requirements for the profession.



2.7 In our Enforcement Annual Report 2013/14 we highlighted a significant decrease in the numbers of internal complaints we were opening – primarily due to changes to our

CPD regime and our new system of risk assessing cases prior to opening them as complaints.

2.8 We opened a total of 75 internal complaints in the first six months of 2014/15. While this was a marked increase compared with the 25 complaints opened across the previous two quarters, this did include linked complaints about 17 separate barristers originating from a single source. So although the numbers have increased, as Figure 1 illustrates, it is too early to determine the baseline numbers of internal complaints that we should expect to be handling in future years.

2.9 Table 2 shows the types of internal complaints we raised in the first half of 2014/15. Referrals of barristers failing to comply with the annual Authorisation to Practice cycle made up the highest proportion of internal complaints – 15 cases of barristers failing to renew their practising certificates and 12 cases of barristers practising without a practising certificate. The 17 linked complaints led to high instances of cases involving allegations of “failure to act appropriately towards pupils” and “discreditable/dishonest conduct” so the figures in Table 2 are not indicative of an increase in these areas.

<b>Table 2</b> Aspects opened for internal complaints – annual comparison (six months for 2014/15)				
Aspect	2013/14	%	2014/15 (6 months)	%
Discreditable/dishonest conduct	15	14%	26	35%
Failure to act appropriately towards pupil	3	3%	17	23%
Failure to renew practising certificate	3	3%	15	20%
Practising without a practising certificate	40	37%	12	16%
Failure to comply with a sentence of a tribunal/panel	8	7%	6	8%
Criminal conviction(s) - drink driving	1	1%	4	5%
Criminal conviction(s) - other	11	10%	4	5%
Disciplinary finding by other professional body	1	1%	2	3%



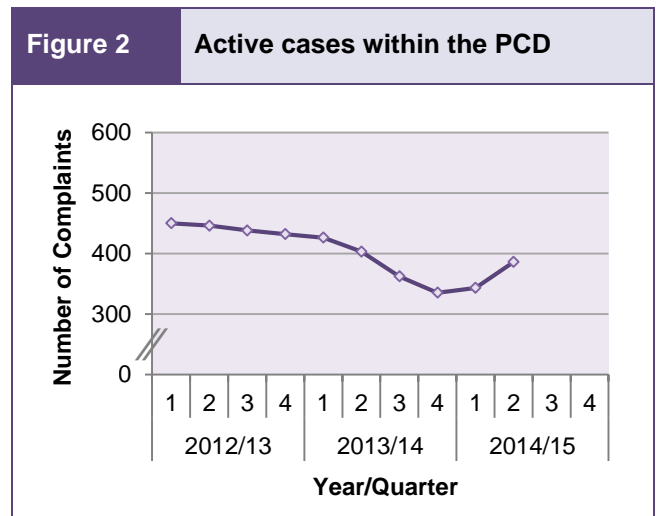
## Reports of serious misconduct

- 2.10 Under the BSB Handbook, barristers are required to report promptly to the BSB when they have committed serious misconduct (rC65.7) and when they believe that there has been serious misconduct by a barrister or a registered European lawyer (rc66).
- 2.11 We received three “self-reports” of serious misconduct and two reports by others during the first six months of 2014/15. Two of these reports – one relating to conduct amounting to dishonesty and one relating to discriminatory behaviour – were assessed to be high risk and were raised as internal complaints. The remaining three cases were assessed to be low risk and were dealt with by way of informal advice rather than raising internal complaints.
- 2.12 The number of reports is too small to draw any conclusions at this stage, but it may be that a proportion of reports will not constitute serious misconduct as defined by the Handbook (gC96). However, it is in the public interest that the BSB is made aware of potential instances of serious misconduct and we encourage barristers to continue making reports. We will look in more detail at reports of serious misconduct in our Enforcement Annual Report 2014/15 when we will have a larger number of reports to analyse.

## Caseload

- 2.13 In our Enforcement Annual Report 2013/14 we highlighted the decrease in the caseload of the Professional Conduct Department over the previous two years. This trend reversed in the first six months of 2014/15: the number of active cases increasing from 335 in the final quarter of 2013/14 to 386 in the second quarter of 2014/15, as Figure 2 illustrates. Essentially, across the first two

quarters of 2014/15 we were opening more complaints than we were closing.



- 2.14 The factors contributing to the increase in caseload include:
- A 35% increase in the number of complaints being opened (compared with the previous six months);
  - A 15% decrease in the number of post-assessment and post-investigation decisions being made on external cases (compared with the previous six months)<sup>8</sup>;
  - An increase in the proportion of external cases being referred for investigation, as opposed to being closed without investigation, from 20% in the previous six months to 31%.

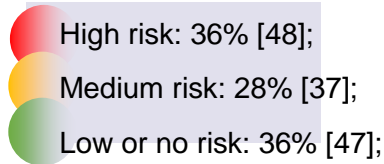
The impact of caseload factors on our performance is explored in the “Performance” section (from paragraph 3.5).

- 2.15 Throughout the year we will continue to monitor our caseload, so as to better understand the contributing factors and predict where our future resources will need to be focused. We will be adding caseload analysis reports to our existing suite of case management reports to facilitate this – with new reports due to be brought online before the close of 2014/15.

<sup>8</sup> The 15% decrease relates only to the previous six months. Compared with the same period of 2013/14 (the first six months) we made a similar number of decisions on external complaints – 178 in 2013/14 compared with 171 in 2014/15.

## Risk

- 2.16 We completed 132 risk assessments in the first six months of 2014/15. The outcomes of these were as follows:



- 2.17 A further 73 assessments were not rated for risk due to a lack of evidence of a breach of the BSB Handbook or an adverse effect on the Outcomes in the Handbook. Cases that are assessed as being low or no risk will not proceed to enforcement action as we focus our resources on the areas which are the greatest risk to the regulatory objectives and the public.

### How do we assess risk?

*Each case is rated High, Medium or Low risk based on a combination of two tests:*

- *Firstly a series of questions covering common areas of risk or possible risk to consumers of legal services and the public (such as whether the information relates to dishonesty on the part of the barrister). The answers are used to calculate a risk level;*
- *Secondly a Case Officer of the PCD will assess the case in context and determine whether the risk level calculated from the answers to the questionnaire is appropriate.*

## Adjournments

- 2.18 We adjourn complaints for reasons such as: where the parties to the complaint are involved in ongoing litigation and the involvement of the BSB at that stage could be disruptive to the resolution of those

proceedings or where there are other ongoing proceedings which may affect our consideration of a complaint. In these cases we contact the parties involved and put our consideration of the complaint on hold. In addition, Disciplinary Tribunal panels may adjourn a hearing<sup>9</sup>. We typically exclude periods of adjournment from our performance figures as all parties are aware that no action will be taken until the adjournment can be lifted. However, in this report, for the first time, we are also reporting on the “end-to-end” times for complaints to the BSB including periods of adjournment (see “End-to-end times” at paragraph 3.22).

- 2.19 Of the 160 new external complaints opened in the first six months of 2014/15, we immediately adjourned 20 (13%). These were complaints made to us which related to litigation which had not been concluded. Typically 12-15% of external complaints are adjourned in this way; with the adjournment lifted at the end of the proceedings.
- 2.20 We lifted adjournments in 26 cases at the earliest stages of our enforcement process. On average, these cases had been adjourned for eight months – during which time we were unable to progress the complaints. We went on to investigate twelve of these cases (46%). The remaining cases were either closed without investigation (10) or are still undergoing assessment (4) at the time of this report.
- 2.21 In total, 55 adjournments were made in the first six months of 2014/15 – 44 at our assessment and investigation stages and 11 at the Disciplinary Tribunal stage. At the moment we record all types of adjournment identically on our Enforcement Database. We are currently developing our system to allow us to clearly differentiate instances where our consideration is put on hold due to ongoing litigation, proceedings or any other

<sup>9</sup> Disciplinary Tribunal decisions to adjourn are taken independently from the PCD. Similarly, the BSB has no control over whether parties issue litigation although the decision on whether or not to adjourn our consideration of a complaint in these circumstances is taken by the PCD or PCC.

factor and adjournments of Disciplinary Tribunal hearings. These new categories will be in place by the end of the 2014/15 year and will allow us to monitor these factors more accurately.

### Complaint decisions

- 2.22 We started the year with 164 cases at our assessment and investigation stages<sup>10</sup> and opened (or reopened) a further 165 cases during the first six months. We came to a decision on 55% of these 329 cases, as illustrated by Table 3.

Outcome	#	%
Closed without investigation	93	51%
Closed after investigation	52	29%
Referred to disciplinary action	37	20%

- 2.23 PCD staff took 66% of decisions – including 24% of decisions to refer cases to disciplinary action – whereas the PCC took 30%. The remainder of cases were referred to the barristers' Chambers for consideration.

- 2.24 In addition we concluded 33 of the cases that had been referred to disciplinary action, bringing the total number of closures for the six month period to 178.

### Decisions to close

- 2.25 In total we closed 145 complaints without making a referral to disciplinary action during the year. Table 4 illustrates the differences in the decisions we made for external and internal cases. The patterns are similar to previous years: complaints from external sources are more likely to be unsubstantiated or do not disclose a breach and therefore not apt for investigation compared with internal complaints, which are only raised where we have some evidence of a breach of the Handbook.

### Referrals to Supervision

- 2.26 Since January 2014 we have been able to refer complaints and information to the Supervision Team of the BSB where we consider that there are wider concerns about a barrister's individual practice that would warrant supervisory intervention.
- 2.27 In the first six months of 2014/15 we made four formal referrals of complaints to Supervision. Three cases (two of which were linked) related to the overall treatment of the complainants by the barristers' chambers.

External:			Internal:		
Outcome	#	%	Outcome	#	%
Closed without investigation	93	72%	Closed without investigation	0	0%
Closed after investigation	23	18%	Closed after investigation	29	60%
Referred to disciplinary action	14	11%	Referred to disciplinary action	19	40%

<sup>10</sup> Also 60 cases that had already been referred to disciplinary action (50 at Disciplinary Tribunals and 10 at Determination by Consent)

An additional case was assessed low risk for enforcement action but there were outstanding chambers issues which needed to be resolved.

- 2.28 As well as making formal referrals, we pass to the Supervision Team any information we obtain while carrying out our enforcement functions that may be relevant to their supervisory functions. This liaison with Supervision is critical across the Bar Standards Board and has triggered a number of supervisory visits in the past year.

### Enforcement decisions

- 2.29 Following investigation of a complaint, either the Professional Conduct Committee or the staff of the PCD will make a decision as to whether or not enforcement action should be taken, either by means of an administrative sanction or a referral to disciplinary action. In line with our Enforcement Strategy since January 2014, the decision will be based on, amongst other factors: the risk posed to, or the impact on, one or more of the regulatory objectives<sup>11</sup>; whether any of the outcomes in the BSB Handbook have been adversely affected and whether there is a realistic prospect of a finding of professional misconduct being made.

### Administrative sanctions

- 2.30 Where the PCC or staff of the PCD consider that there is evidence that the BSB Handbook has been breached but the breach is not so serious as to amount to professional misconduct, we will consider whether to impose an administrative sanction in the form of a written warning or a fine of up to £1,000.
- 2.31 In the first six months of 2014/15 we imposed six written warnings<sup>12</sup> – five in relation to practising certificate breaches and

one for a drink driving offense. No administrative fines were imposed.

### Referrals to disciplinary action

- 2.32 Over the course of the first six months of 2014/15, we referred 32 cases to Disciplinary Tribunals and a further 5 cases to the Determination by Consent (DBC) procedure. In total this equalled 42% of our post-investigation decisions.

### Disciplinary action outcomes

#### Determination by Consent

- 2.33 A total of nine cases were closed after referrals to the Determination by Consent procedure. This is a procedure by which the Professional Conduct Committee can, with the barrister's agreement, make a finding of professional misconduct. In six cases the PCC found the barrister guilty of professional misconduct – in all cases after the barrister

#### *Determination by Consent*

*The DBC procedure is an alternative way of dealing with cases which would otherwise be referred to a disciplinary tribunal.*

*Under DBC, if the barrister agrees, the case against them will be dealt with on the papers and the PCC decides whether the individual is in breach of their professional obligations as set out in the Handbook and, if so, what sentence to impose. Sanctions can include reprimands or fines, but not suspensions or disbarments which can only be imposed by a Disciplinary Tribunal panel.*

*The barrister is given the opportunity to accept or reject the PCC's finding(s) and sentence.*

*The aim of the DBC procedure is to conclude the disciplinary process more quickly than a referral to a Disciplinary Tribunal hearing.*

<sup>11</sup> As set out in Part 1 of the Legal Services Act 2007.

<sup>12</sup> Four administrative sanction were imposed by PCD staff members and two by the Committee. In addition, one written warning was given under paragraph 901.1 of the 8<sup>th</sup> Edition of the Code of Conduct for conduct taking place before January 2014.

had admitted the conduct – and appropriate sanctions were imposed and accepted by the barrister.

- 2.34 The remaining three cases were closed by the PCC without a finding of misconduct: one was withdrawn after the barrister resolved his compliance issues with an earlier fine and two were dismissed following reconsideration of the seriousness of the breaches<sup>13</sup>.

### Disciplinary Tribunals

- 2.35 Where we have made a decision to refer a complaint to a Disciplinary Tribunal, the case is heard before an independent Disciplinary Tribunal convened by the Bar Tribunal and Adjudication Service (BTAS) with the BSB acting as prosecutor.
- 2.36 A total of 24 cases were concluded at the Disciplinary Tribunal stage in the first six months of 2014/15: 18 at hearings and a further six cases which were withdrawn prior to a Tribunal hearing taking place. We reconsidered one case<sup>14</sup> before serving charges on the defendant. The remaining

five cases were concluded at the directions stage.

### Directions

- 2.37 Five of the cases that we referred to Disciplinary Tribunals ended at the directions stage and did not proceed to a Tribunal. In all of these cases we chose to “offer no evidence” – effectively withdrawing the cases without contest. In two cases the barristers voluntarily, albeit very late in the proceedings, apologised and, in the circumstances of the individual cases, it was considered disproportionate to continue with disciplinary proceedings. The remaining three cases were reconsidered on the basis of the receipt of further evidence, information and advice.

### Tribunal Hearings

- 2.38 In 16 cases (89% of cases that were heard before a Disciplinary Tribunal panel), one or more charges against the barrister were proved. In the remaining two cases the Tribunal panels recognised that there were conduct issues but did not consider them to

### Case study

*A barrister who had failed to renew her Practising Certificate and complete the Authorisation to Practise procedure on time was referred to the PCD by the Bar Council's Records department. By missing the renewal deadline, the barrister failed to hold a valid practising certificate for a short period.*

*Barristers are in breach of the Handbook if they undertake reserved legal activities without a valid practising certificate. The Assessment Team assessed the referral as medium risk and opened an internal complaint for investigation. The Investigations and Hearings Team made enquiries of the barrister who accepted that she had carried out reserved legal activities without a practising certificate. She explained that she was experiencing severe financial difficulties at the time and was not aware that she could apply for a reduction in fees on the basis of low earnings. By the time her affairs were in order, the deadline had passed. The barrister accepted that she should have dealt with the situation sooner.*

*The Professional Conduct Committee noted the serious nature of the breach and the impact on the regulatory objectives. The PCC also took into account the genuine remorse of the barrister and the attempts made to address her difficulties. The PCC decided that it was not in the public interest to refer the complaint to disciplinary action and that the breaches of the Handbook could be appropriately dealt with by way of an administrative sanction. The barrister was given a formal written warning.*

<sup>13</sup> In one case the barrister did not hold a valid practising certificate but had not carried out any reserved legal activities during the period in question. The other case – where an unregistered barrister had not complied with the sentence of a Tribunal – was dismissed with advice and will be reconsidered should the barrister return to practice.

<sup>14</sup> On the advice of the prosecutor assigned to the case.

be serious enough to warrant a finding of professional misconduct. No costs were awarded, indicating that the panels considered that the BSB was acting properly in bringing the cases before the Tribunals.

### Charges proved

- 2.39 All of the charges proved in the first six months of 2014/15 related to the 8<sup>th</sup> Edition of the Code of Conduct. Charges under the new BSB Handbook started to be heard in the third quarter and will feature in our Enforcement Annual Report 2014/15. Table 5 illustrates the most common charges that were proved during the six month period.
- 2.40 Charges under paragraph 301(a)(i) and 301(a)(iii) – dishonest/discreditable conduct and acting in a manner likely to bring the profession into disrepute – were the most common in the first six months of 2014/15. Findings under these paragraphs were made in a combined total of 15 cases: six (40%) involving criminal convictions<sup>15</sup>.

- 2.41 All findings of professional misconduct are published on the BSB and BTAS websites and include details of the charges and sanctions imposed.

### Sentences

- 2.42 In total, 22 cases<sup>16</sup> were upheld in the first six months of 2014/15 with findings of professional misconduct made against the barristers. In such cases it is open to the Disciplinary Tribunal panel (or the PCC for Determination by Consent cases) to impose sanctions on the barristers in question. Disciplinary fines were imposed in 55% of cases and reprimands in 41%.
- 2.43 The most severe sanction available is disbarment and five barristers were disbarred in the first six months of 2014/15.<sup>17</sup> These were the most serious cases and included charges relating to criminal convictions, tax evasion and failing to pay a disciplinary fine. A further two barristers were suspended from practice in the first six months of 2014/15.

Charge	Cases	%
301(a)(iii) Acting in a manner likely to bring prof into disrepute	8	36%
301(a)(i) Being dishonest or otherwise discreditable	8	36%
905(d) Failing to respond promptly to a complaint	4	18%
202(c) Failure to renew practising certificate	2	9%
701(a) Failing to act courteously/competently or wasting court time	2	9%
905(b) Failing to report criminal charges or convictions	2	9%
301(a)(ii) Acting in a manner prejudicial to admin of justice	1	5%
202(b) Failure to complete CPD	1	5%
...		

<sup>15</sup> The remaining nine cases resulting in findings under paragraphs 301(a)(i) and 301(a)(iii) involved individual conduct issues including: failure to co-operate with the Legal Ombudsman, failure to comply with a court judgement and making a false declaration on an employment application. A further case originated from a finding of misconduct made by the Solicitors Regulation Authority.

<sup>16</sup> 22 cases is the combined total of cases upheld at Disciplinary Tribunals (16) and cases upheld following the Determination by Consent procedure (6)

<sup>17</sup> The final year figure is likely to be much higher than this as six barristers were disbarred in the third quarter.

## Appeals

- 2.44 Where findings of professional misconduct are made by a Disciplinary Tribunal, barristers have the right to appeal against either the finding or the sentence imposed. One new appeal was made to the High Court in the first six months of 2014/15. Nine appeals were concluded in the same time period, with three allowed<sup>18</sup>.
- 2.45 A total of 11 appeals were still ongoing at the end of the six month period. The outcomes of all the appeals against findings of professional misconduct will be analysed – along with all aspects of our caseload – at the end of the year in our Enforcement Annual Report 2014/15.

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<sup>18</sup> Two of the allowed appeals were linked with a further appeal which was dismissed: a Disciplinary Tribunal panel had made findings against three joint Heads of Chambers. On appeal, the Visitors to the Inns of Court found that only one of the barristers was responsible for the Pupillage Committee at the heart of the complaint. A further appeal had been allowed in 2013/14, uncontested by the BSB, but costs were not settled until the start of 2014/15.

## Performance

- 3.1 We are committed to providing a high-quality service. In particular, we are committed to:
- Dealing with complaints and disciplinary action as promptly as we can, taking into account the need for a thorough investigation and fairness;
  - Making sure the action we take fits the circumstances of the case and is necessary to protect the public, by acting proportionately and taking an outcome focused and risk based approach to maintaining the standards of the profession;
  - Working in an open way which takes account of the need to protect, as far as possible, the confidentiality of clients, complainants and barristers;
  - Giving clear and well-reasoned explanations for decisions; and
  - Being polite and professional in all our dealings with people.
- 3.2 We make every effort to track our performance, particularly by tracking the timeliness of our casework using our Enforcement Database and by surveying both barristers and complainants with recent experience of our service. In our User Feedback Survey we ask questions in five

key areas: accessibility; staff performance; timeliness and efficiency; transparency and openness; and quality of service. In this report we focus on our performance in progressing cases within a reasonable timeframe. Our survey results in the other areas will be presented in our Enforcement Annual Report 2014/15 at the end of the year.

- 3.3 There are also checks and balances in place in the form of an Independent Observer – whose role is to check that the enforcement system is operating in line with its aims and objectives; and the Quality Review Sub-Committee – a sub-Committee of the PCC tasked with checking the quality of the decision-making within the Professional Conduct Department.
- 3.4 The combined approach of database monitoring, surveying and the checks and balances we have in place ensures that we identify both areas where we are performing well and areas where we need to improve.

## Timeliness

### Key Performance Indicator

- 3.5 One of our main aims is to ensure that complaints about conduct are dealt with fairly, consistently and with reasonable speed. We have three “operational” performance indicators (OPIs) against which

**Table 6** KPI performance in the first six months of 2014/15

Indicator	Description	Performance	Target
KPI	The percentage of complaints concluded or referred to disciplinary action within service standards	79.6%	80%
OPI 1	The percentage of complaints concluded or referred to investigation within 8 weeks	82.5%	80%
OPI 2	The percentage of external complaints concluded or referred to disciplinary action within 8 months following investigation	77.1%	80%
OPI 3	The percentage of internal complaints concluded or referred to disciplinary action within 5 months following investigation	72.5%	80%



we track how long it takes us to assess and investigate complaints. We then have an overarching Key Performance Indicator (KPI) which tracks how long it takes us to come to a decision on whether or not to refer complaints for disciplinary action.

- 3.6 Our Performance Indicators for 2014/15 are set out in Table 6 along with our performance figures for the first six months. Our KPI target for the year is to conclude or refer to disciplinary action 80% of cases within our service standards – increased from a target of 75% in 2013/14.
- 3.7 We met the KPI target for the first six months of 2014/15, concluding or referring 80% (79.6%) of cases within service standards. This puts us on course to meet the target for the year, provided we can maintain this performance level.

#### **First OPI: Assessment**

- 3.8 When we receive an external complaint, we aim to make a decision as to whether or not to investigate the complaint within eight weeks. We measure how long it takes from the point at which we receive a complaint until the point at which the complaint is either accepted for investigation or the complainant is provided with the reasons why we do not intend to carry out a formal investigation.
- 3.9 Our target for the year is to conclude or refer to investigation 80% of cases within eight weeks. We met this target in both the first and second quarters of 2014/15, giving an overall performance for the six month period of 83%.
- 3.10 Where complaints were not concluded or referred to investigation within eight weeks, the issues were typically around the need to carry out further enquiries or seek expert advice which took longer than the time we allow. However, staff shortages within our Assessment Team have also been a factor in the third quarter of the year, so we anticipate that our performance figures will be affected in the short term going forward

(see “Forecast of performance” at paragraphs 3.16 – 3.18).

#### **Second OPI: Investigation of external complaints**

- 3.11 For external complaints, we aim to make a decision as to whether or not to refer the complaint to disciplinary action within eight months. We measure how long it takes from the point at which we open a complaint until the point at which the complaint is referred to disciplinary action or dismissed following an investigation. This includes the Professional Conduct Committee stage of the process if the decision was made by the PCC.
- 3.12 Our target for the year is to conclude or refer to disciplinary action 80% of external cases within eight months – increased from a target of 70% in 2013/14. We failed to meet this target in the first quarter (57%) but our second quarter performance brought our overall performance for the first six months of the year up to 77% – just short of the target figure. Due to the small number of complaints involved, we missed the target in the first quarter by the equivalent of just three cases. In our Enforcement Annual Report 2013/14 we highlighted that we had five cases over-running at the end of the year due to further enquiries or expert advice taking longer than anticipated and in clearing this small backlog we were unable to meet the performance target.

#### **Third OPI: Investigation of internal complaints**

- 3.13 For internal complaints, we aim to make a decision as to whether or not to refer the complaint to disciplinary action within five months. We reason internal complaints should take less time than external complaints as we do not need to take the time to clarify the complaint and correspond with a complainant. As with external complaints, we measure how long it takes from the point at which we open a complaint until the point at which the complaint is

referred to disciplinary action or dismissed following an investigation.

- 3.14 Our target for the year is to conclude or refer to investigation 80% of cases within eight weeks. We failed to meet this target in the first quarter (63%) and narrowly missed the target in the second quarter which gave an overall performance for the first six months of the year of 73%. To a large extent the first quarter figures were affected by the nature of the caseload at the end of 2013/14. Having opened a very small number of new internal complaints in the fourth quarter, a significant proportion of the caseload was over-running the five month service standard – despite numbering just 11 cases. We anticipated that by clearing this backlog we would negatively impact on our performance figures at the start of 2014/15 – but looking ahead at the internal complaint caseload (see the following “forecast” section) we anticipate that we will meet the overall target for the year.
- 3.15 In total, fourteen internal complaints were concluded or referred to disciplinary action outside the five month service standard in the first half of 2014/15. Six of these complaints featured links to other complaints – which caused delays as we coordinated

responses and progressed the cases. In an additional four cases, the barristers subject to the complaints took considerably longer than we allow in our service standards to provide their comments, but in the interests of making a fair decision we waited for those responses.

#### Forecast of performance for the year

- 3.16 There will always be some instances where we need to obtain more information from complainants or barristers, seek expert advice or have to deal with other factors which will cause a case to over-run our service standards.
- 3.17 At the end of the second quarter of 2014/15, we had a small number of cases over-running which will contribute negatively to future performance figures when we are able to make a decision on them. They relate to our OPIs as follows:
- OPI 1:** 18 cases outside eight weeks (17%);
- OPI 2:** 3 cases outside eight months (6%);
- OPI 3:** 7 cases outside five months (12%);
- 3.18 These would suggest that this backlog on its own is unlikely to have a significant impact on our performance and we are on course to meet our 80% targets for the year. However, the additional staff factors affecting OPI 1

#### Case study

*Following receipt of information from a firm of solicitors, the Professional Conduct Department raised an internal complaint against an unregistered barrister for holding himself out by providing reserved legal activities when not authorised to do so and describing himself using the term “Counsel”.*

*The Investigations and Hearings Team attempted to contact the barrister numerous times by both email and post but, having received no response, referred the case to the Professional Conduct Committee on the basis of the information received to date. At this point the barrister did begin to engage with the process. As a result of the delays caused by attempting to contact the barrister, the complaint fell outside of the BSB’s key performance indicator.*

*The Professional Conduct Committee considered that there was sufficient evidence that the barrister had held himself out and that the barrister had failed to cooperate with the enforcement process and, having in mind the regulatory objectives, referred the case to a Disciplinary Tribunal.*

*The barrister was charged with six counts of professional misconduct, all of which he admitted. The Disciplinary Tribunal panel took into account the previous good character of the barrister but given the motive of financial gain and conduct over a lengthy period of time, the panel suspended the barrister for two months.*

(paragraph 3.10) are likely to have a short-term impact on performance. We will continue to closely monitor the situation and provide a full analysis in our Enforcement Annual Report 2014/15 at the end of the year.

### Disciplinary action service standards

- 3.19 Our KPI provides a measure of the time it takes us to come to a decision on whether to refer a case to disciplinary action. Once that referral has been made, the BSB acts as the prosecutor in each case and the timely progress of the cases becomes less under our control. This makes the later stages of a complaint less suitable for setting Key Performance Indicators. Nonetheless, it remains important that we monitor the time taken for the Determination by Consent procedure – which is substantially within our control – and Disciplinary Tribunals and make improvements where possible. Table 7 compares our figures for the first six months of 2014/15 for the Determination by Consent and Disciplinary Tribunal stages with our service standards for those stages.
- 3.20 Following on from the trend observed in 2013/14, Determination by Consent procedures continue to take longer than the service standard, with only half of cases concluding within the time limit. As with last year, in two of the three cases that took

longer, there were long delays in the barristers agreeing to the charges and facts of the cases which made it impossible to complete the cases within the time limit. However, as we highlighted in our Enforcement Annual Report 2013/14, the DBC process cannot continue without the barristers' involvement and the alternative – should we terminate the DBC process – would be a more costly and time consuming Disciplinary Tribunal. Nonetheless, in future where undue delay on behalf of a barrister is encountered, we intend to take a more rigorous approach and – if necessary – stop the DBC process and refer the case to a Disciplinary Tribunal. We will continue to monitor this area throughout the year to determine whether there are any improvements we can make.

- 3.21 The time taken for Disciplinary Tribunals to progress from referral to hearing improved compared with 2013/14, with 80% of external three-person Tribunals concluded within our service standard<sup>19</sup> along with two thirds of five-person Tribunals. The issue continues to be the service standard for three-person Tribunals in internal cases which we established in our last Enforcement Annual Report is no longer set at an appropriate and realistic level due to changes in the nature of the caseload within the PCD. We will be reviewing the Disciplinary Tribunal service

Stage	Type	Stages Completed	Service Standard (Days)	Percentage of Stages Within Service Standards
Determination by Consent	Internal	6	88	50%
Three-person Disciplinary Tribunal	Internal	5	86	0%
Three-person Disciplinary Tribunal	External	5	166	80%
Five-person Disciplinary Tribunal	Both	8	197	63%

<sup>19</sup> In our Enforcement Annual Report 2013/14 we reported that 27% of external three person disciplinary tribunals concluded within the 166 day service standard.

standards following our current review of the Disciplinary Tribunal Regulations.

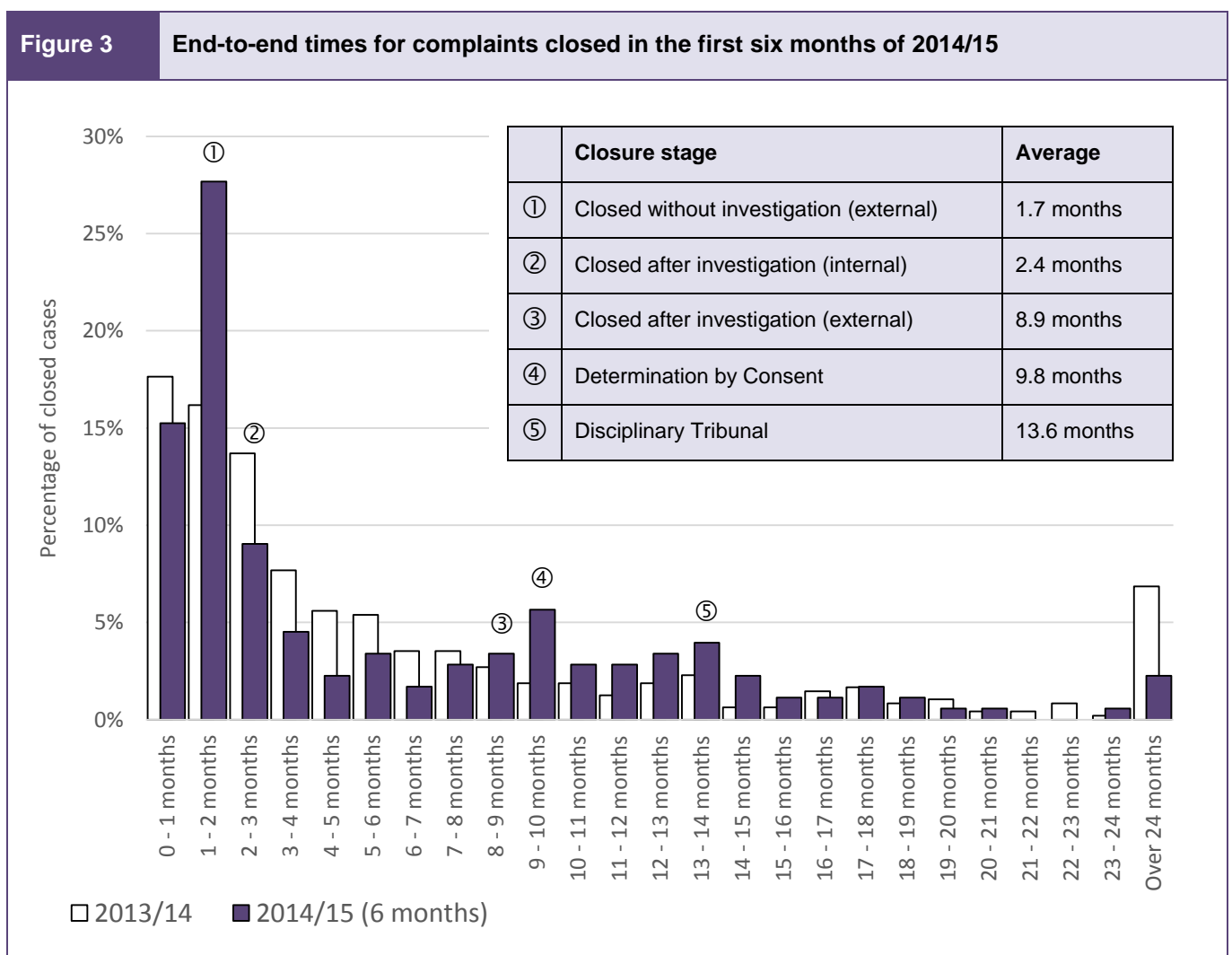
**End-to-end times**

3.22 While our performance indicators have been designed to give an accurate indication of the length of time complainants and barristers should expect for complaints to be assessed and investigated, for the first time we are also publishing end-to-end times for our entire enforcement process. These indicate how long – in real time – complaints

took to close in the first six months of 2014/15<sup>20</sup>.

3.23 Figure 3 illustrates how long each of the complaints closed in the first six months of 2014/15 took from opening to final closure: whether this be at assessment, investigation or a Disciplinary Tribunal. Also marked on the chart are the average times taken for different complaint outcomes<sup>21</sup>.

3.24 The general pattern reflects our performance indicators, with an improvement in the average time for a complaint to be concluded



<sup>20</sup> Periods of adjournment are included in the figures. The proportion of cases that had spent some time adjourned were: closed without investigation: 12 of 92 cases; closed after investigation (internal): 5 of 29 cases; closed after investigation (external): 9 of 23 cases; Determination by Consent: 1 of 9 cases; Disciplinary Tribunal: 9 of 24 cases. Where complaints have been reopened, the time is measured from the date the case was first opened to the date it was finally closed.

<sup>21</sup> As the data is skewed to the right, the figures given are median averages rather than mean averages. Further comparisons with 2013/14 will be provided in our Enforcement Annual Report 2014/15.

from 3.2 months in 2013/14 to 2.4 months in the first six months of 2014/15. The chart also shows a much smaller proportion of cases taking more than 20 months to conclude – although it must be factored in that these complaints are exceptional and may have spanned multiple years of work and periods of adjournment.

### Checks and balances

- 3.25 Our PCD staff carry out regular checks on our caseload (including spot-checking cases to ensure they are progressing as they should), but often a review from outside the PCD is the most effective means of identifying potential issues and driving improvements. To this end we have an Independent Observer taking an overview of our enforcement system and a sub-committee of the PCC reviewing staff decisions.

### Independent Observer

- 3.26 The BSB appoints a lay Independent Observer (IO) to ensure that the enforcement system is operating in line with its aims and objectives. The second IO, Isobel Leaviss, was appointed in May 2011.
- 3.27 The latest IO report to the Governance, Risk and Audit Committee (covering the period November 2013 to June 2014) spanned the first three months of 2014/15 and was summarised in our Enforcement Annual Report 2013/14. In it she gave the work of the PCD and PCC a positive assessment commenting that:
- “I have continued to observe good administrative standards in the handling of complaints and prosecution of misconduct cases.”
  - “I have seen clear evidence of decision makers referring to relevant policies, procedures and guidance to inform their decision-making.”
  - “I have observed a demonstrable commitment to transparency and

fairness when responding to complainants and/or barristers.”

- 3.28 Based on her observations the IO made nine recommendations which were accepted by the PCD. The details of her next report will be featured in our Enforcement Annual Report 2014/15 at the end of the year. In the meantime, all reports by the Independent Observer are published on the Bar Standards Board website.
- 3.29 The work of the Independent Observer is highly beneficial in ensuring the enforcement system is operating effectively and the recommendations made to date have resulted in many improvements to the enforcement processes and the public facing work of the PCD.

### QRSC

- 3.30 Members of the PCD staff are authorised by the Professional Conduct Committee to make certain decisions to dismiss complaints, impose administrative sanctions and refer complaints to disciplinary action. In order to ensure that the quality of the decision making remains high, the Quality Review Sub-Committee (QRSC) of the PCC – a three member panel with a lay chair – spot-checks these staff decisions twice a year. Following the latest report from the Independent Observer, the QRSC are also now asked to assess the timeliness, thoroughness, transparency and accessibility of PCD decision making along with the decision itself.
- 3.31 The QRSC reviewed 10% of dismissed cases and referrals to disciplinary action made in the first quarter of 2014/15. The QRSC also reviewed all four administrative sanctions imposed by PCD staff in the second quarter, as this was the first time that these sanctions had been imposed since their introduction with the BSB Handbook in January 2014.
- 3.32 The QRSC agreed that all of the dismissal cases had been handled in accordance with

the relevant regulations and procedures and were fairly dismissed. They also agreed that the decisions to refer cases to disciplinary action were appropriate given the circumstances of the cases.

- 3.33 In reviewing the administrative sanctions, the QRSC agreed that three of the four sanctions imposed were appropriate and that the handling of the cases was open, honest and accessible. All cases were concluded within the KPI. However, in one case – relating to a criminal conviction for drink driving – the sub-committee disagreed that a written warning was an appropriate sanction in this particular case. There were some concerns that a warning (although it could be appropriate in some cases) as the first administrative sanction to be applied in this type of case, might result in the benchmark for action in relation to a drink driving conviction being reset too low. The next similar case will, therefore, be referred to the PCC for consideration to ensure that the circumstances, if any, are considered in which a drink driving conviction could be appropriately dealt with by administrative warning or fine. This shows the value of the QRSC and more generally the effectiveness of the checks and balances which we have in place.

## Conclusions

- 4.1 After a year of considerable change, where we made the transition to adopting a risk based and outcomes focused approach to enforcement, the first six months of 2014/15 have been a chance to consolidate. This does not, however, mean that we have been standing still. The PCD staff have now been working with the BSB Handbook and risk assessing cases for the best part of a year, identifying both strengths and weaknesses in our approach that give us a platform to build on in the coming months. Following on from our Enforcement Annual Report 2013/14 we have been conducting a review of our Disciplinary Tribunal regulations and we have begun preparations for the introduction of entity regulation as 2015/16 approaches (see “Looking forward”).
- 4.2 Our caseload, which had been steadily decreasing over the previous two years, saw a rise in volume as the number of new internal complaints increased. Due in part to the annual cycle of Authorisation to Practise cases reaching the PCD, we had always expected an increase (having observed the very small figure of five new internal complaints in the fourth quarter of 2013/14), but the increase means that it is still too early to establish a baseline level for internal complaints under the BSB Handbook. External complaints remained at their static level of around 80 per quarter.
- 4.3 The fluctuating caseload had an impact on the performance of the PCD in the time it takes us to handle complaints. While we are on course to meet our performance target of 80% of cases concluded or referred to disciplinary action within our service standards, the nature of the caseload meant that our first quarter figures were lower than we would have liked. This was not a cause for particular concern as we had forecast that this would be the case, but still it is a positive reflection on the work of the department that we were able to markedly improve on those figures when the opportunity arose in the next quarter.
- 4.4 Alongside our casework, the remainder of the year will see projects coming to fruition (Disciplinary Tribunal regulations review; preparation for enforcement against entities) and ongoing work across the department (from database improvements to User Feedback Survey research) – all designed to improve our performance, consistency and the accuracy of our records. We look forward to presenting our work and performance for the year in our Enforcement Annual Report 2014/15.

## Looking forward

- 5.1 In this section we look ahead to the remaining months of 2014/15 and some of the background to the enforcement work we will be carrying out.

## Entity regulation

- 5.2 The BSB's application to the Legal Services Board (LSB) to become a regulator of entities – businesses authorised to carry out and provide reserved legal activities – has been approved. Applications will be accepted from 5 January 2015 and entities will start being authorised from April 2015. We are currently carrying out a comprehensive review of our policies, procedures and systems to ensure that we are ready when the first complaint about an entity or an employee of an entity is received. We also need to ensure that we have the skills available to us to deal with issues as they arise.

## Regulatory risk

- 5.3 From handling complaints, the PCD have a unique perspective on where the Core Duties are breached, where the outcomes in the BSB Handbook are affected and also the issues that complainants are having when accessing legal services. Ultimately, these can all indicate risks to the regulatory objectives set out in the Legal Services Act 2007. Our enforcement records are, therefore, vital to the Regulatory Risk Framework being developed by the BSB. Work is ongoing to ensure that our information is accurate, useful and readily available from a risk perspective. The first changes we make will be around completing our review of the way we record the nature of complaints. This work will be completed before the end of 2014/15.

## Caseload

- 5.4 In the second half of 2013/14, we opened considerably fewer internal complaints than

in any six month period in recent years. This had a considerable impact on our caseload and associated performance figures going into 2014/15. The figures for the next six months will be crucial to our future planning – the figures may dip again (showing that we can expect a seasonal pattern of caseload fluctuation) or they may remain at the level observed in the first six months of the year. Either way we will have gone some way to establishing a baseline level of complaint numbers going forward.

- 5.5 At the halfway point in the year, we remain on course to meet our target of concluding or referring to disciplinary action 80% of cases within service standards. However, a shortage of staff within our Assessment Team is likely to have an impact and there is a chance that the target could be missed – particularly if complaint volumes continue to rise.
- 5.6 Updates on these and all other areas of our enforcement work will be provided in our Enforcement Annual Report 2014/15.

**Sara Jagger**

**Director of Professional Conduct**

**Simon Lofthouse QC**

**Chair of the Professional Conduct Committee**

**January 2015**



Revised BC / BSB Protocol (v2 – revised December 2014)

Bar Council and Bar Standards Board

Protocol for ensuring regulatory independence

Introduction

1. This protocol is designed to fulfill undertakings made jointly by the Bar Council (BC) and Bar Standards Board (BSB) to the Legal Services Board (LSB) in relation to ensuring regulatory independence.
2. The LSB Internal Governance Rules (IGRs) are designed to ensure that structures or persons with representative functions do not exert, or are not permitted to exert, undue influence or control over the performance of regulatory functions, or any persons discharging those functions. This protocol is designed to supplement the IGRs so that the BC and the BSB are able to give assurance that regulatory independence is being achieved.
3. This protocol has been agreed and adopted by the BC and BSB, and will be reviewed from time to time.
4. The Chief Executive of the BC, working with the Director General of the BSB, shall be responsible for ensuring the effective implementation and operation of this protocol, and maintaining documentary evidence of that.
5. The Chief Executive of the BC and the Director General of the BSB shall report to the LSB any material failure to comply with this protocol.

Principles

6. This protocol applies across the whole of the BC and the BSB and is based on the following principles:
  - a. the BC should not ordinarily be involved in the discharge of regulatory actions or obligations;
  - b. the BC is entitled to make representations to the BSB;

b.c. as Approved Regulator, the BC is entitled to be provided with assurance by the BSB that the BSB is fulfilling undertakings made to the LSB;

e.d. in exceptional circumstances the BSB is entitled to seek expert advice from the BC;

d.e. in such cases the decision to seek BC advice should take into account the risk of undue influence and there should be an assessment as to whether the BSB should develop in-house expertise or use other sources in future;

e.f. such BC involvement should only proceed with the express approval of the BSB, under clear terms of reference and governance that are approved by the BSB;

f.g. the BSB should lead all such work, and arrangements and actions should be recorded and transparent;

g.h. individuals providing input to the BSB must do so independently of their responsibilities as staff of the BC.

#### General working arrangements

7. The following working arrangements apply in general.
8. No person exercising a representative function shall attend non-public sessions of the BSB Board or its committees other than in exceptional circumstances. Any such attendance should be by specific invitation relating to a relevant piece of business, and should be documented and made public.
9. No person exercising a regulatory function shall attend meetings of the Bar Council or BC committee meetings with a representative function other than by specific invitation relating to a relevant piece of business. Any such attendance should be documented and made public.
10. Where the BC wishes to give advice to the BSB in relation to a regulatory function from a representational point of view, this should be set out in writing and copied to the Chief Executive of the BC, making clear that this is a representational input. Once the advice has been provided and considered, the Director General of the BSB should confirm that she/he is

content that this has been done in conformity with the IGRs and this protocol.

11. This protocol does not preclude meetings between the BSB and the BC to enable the BC to represent or promote the interests of Barristers. Nor does it constrain the normal professional exchange of information between the BC and BSB. But in both cases the independence of the BSB must be unaffected.

12. It is the responsibility of the Director General of the BSB to provide the Chief Executive of the Bar Council with assurance that the BSB is fulfilling undertakings made to the LSB.

~~11.~~

Working arrangements which will apply when the BSB assesses that the BC is the most appropriate source of external expert advice

~~12.~~13. The following arrangements supplement the general working arrangements set out above and apply when, in exceptional circumstances, the BSB considers it appropriate to seek expert advice from the BC.

~~13.~~14. The Chief Executive of the BC, working with the Director General of the ~~Bar Standards Board~~ BSB, is responsible for delivering awareness at all levels of the BC and BSB of the appropriate governance and behavioral action needed in these circumstances.

~~14.~~15. The risk of undue influence lies with those structures and persons with representative functions. For the BC, this will normally mean the Officers, members of representational committees and associated working groups, and staff in the Representation and Policy (R&P) Directorate.

~~15.~~16. It is the responsibility of the Director General of the BSB and her/his senior managers and of senior managers in the R&P Directorate to ensure that their respective staffs have a detailed understanding of the IGRs and this protocol, and are clear about their specific responsibility for abiding by them.

~~16.~~17. Where the BSB decides to seek advice or assistance in relation to a regulatory function, the Director General of the BSB should make a request in writing to the Chief Executive of the BC. It should set out what is required, from whom, over what timescale.

17.18. When those identified as contributing to advice and assistance are engaged on this work, they shall as far as reasonably practical set aside their representative work. Other than in exceptional circumstances, and then only with the express approval of the Chief Executive of the BC, they should not contribute to representative work on the same issue or issues.

18.19. Once the advice or assistance has been provided:

- a. the senior member of staff responsible in R&P should confirm this in writing to the Chief Executive of the BC and the Director General of the BSB, providing assurance that this has been done in conformity with the IGRs and this protocol; and
- b. the Director General of the BSB should confirm that she/he is content with that assurance.

19.20. Where the advice or assistance is of an on-going nature, interim reports may be required.

20.21. No person exercising a representative function should contribute to the drafting of papers to the BSB Board or its committees on regulatory matters. They may however contribute to drafting supporting material for papers for these bodies, in which case the papers should make that contribution clear.

21.22. No person exercising a representative function should be invited to contribute to discussion in the BSB Board or its Committees in a matter on which advice or assistance has been sought or provided without a specific invitation from the Director General of the BSB and the agreement of the Chief Executive. The reason for their attendance should be made clear and minuted at the relevant meeting.

**Chair's Report on Visits and Meetings December 2014 - January 2015****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:****A. Baroness Deech QC (Hon)**

- |             |  |
|-------------|--|
| 02 December | Lunch with Professor Michael Freeman, Law faculty UCL  |
| 03 December | Attended COIC meeting  |
| 04 December | Participated in debate on Practices and Procedures in the House of Lords   |
| 08 December | Met with the Attorney-General and Solicitor-General<br>Attended the Bar Council Chairman's inaugural address<br>Attended dinner given by Sir Bernard Rix, retired LJ |
| 09 December | Spoke about Divorce Law reform to women lawyers' group at Charles Russell<br>Attended party given by Lord Archer   |
| 10 December | Meeting at BSB about Jeffrey Review  |
| 11 December | Attended the Board Away Day<br>Attended retirement reception   |
| 12 December | participated by phone in at Emoluments Committee   |
| 16 December | Attended BSB staff drinks reception  |
| 17 December | Attended LSB/BSB 4 way meeting<br>Interviewed by Legal Futures<br>Lunch with Sir Geoffrey Nice QC  |

**B. Sir Andrew Burns**

- |            |  |
|------------|--|
| 07 January | Met with the Legal and Policy Assistant<br>Met with the Director of Supervision<br>Met with the Director of Strategy and Communications  |
| 08 January | Attended IT induction<br>Met with the Director of Regulatory Policy  |
| 13 January | Meeting with Sir Paul Jenkins, KCB, QC, formerly Treasury Solicitor and Head of the Government's Legal Service to discuss review of Holocaust Spoliation Panel<br>Lunch with CEO of Bar Council<br>1:1 with Director-General |

	Met with Vice Chair of Bar Standards Board Attended Chairmen's Committee meeting
14 January	Met with the Director of Education and Training Attended SMT meeting Met with the Director of Professional Conduct Attended GRA risk workshop Met with Dr Malcolm Cohen
19 January	Met with the Communications Manager Attended Objective Training
20 January	1:1 with the Director-General Attended Finance Committee meeting Met with Bar Council Treasurer Lorinda Long
22 January	Addressed Permanent Council of the Organisation for Security and Conference in Europe in Vienna on Holocaust Remembrance
23 January	Attended Appointments Panel meeting 1:1 with the Director General
24 January	Attended Bar Council meeting
27 January	UK National Commemoration of International Holocaust Remembrance Day
28 January	Attended Board briefing meeting Dinner with COIC President
29 January	Attended Board meeting

### **Equality Impact Assessment**

3. No Impact

### **Risk implications**

4. These reports address the risk of poor governance by improving openness and transparency.

### **Consultation**

5. None

### **Regulatory objectives**

6. None

### **Publicity**

7. None

### **Lead responsibility:**

Sir Andrew Burns

**Director General's report - BSB meeting 29 January 2015**

For consideration and noting.

**Director General**

1. This report covers late November to mid-January, which of course included the annual Christmas closure. My main focus in that period has been in three areas internally:
  - The handover between outgoing and incoming Chairs, including the Board Awayday, Baroness Deech's departure events and preparation and briefing activity in support of Sir Andrew Burns. Developmental work with the senior management team underpinned this.
  - Oversight of final preparations for go-live of entity regulation and further work on the development of our ABS application and issues associated with that; this has included discussions with BMIF, LSB and external legal advisors
  - Oversight of a significant Supervision event (reported also below), including liaison as needed with the LSB.
2. I have also ensured our instructions to Counsel and solicitors in relation to the Hemming case were attended to. The case was heard in the Supreme Court on 12 / 13 January.
3. I have continued to play an active role in the Future Bar Training programme, especially in relation to disseminating information about the programme with external interested bodies. I also assisted directly with the Education and Training Committee governance work carried out in December.
4. Externally, I spoke at a seminar held by a research centre at Birmingham University, on *Virtuous Character for the Practice of Law*, to mark their publication of a report on that subject.
5. I have also had an initial meeting with the LSB CEO-designate, with whom I look forward to working when he takes over in February.

**Regulatory Policy*****Standards***

6. The Regulatory Policy team continues to finalise the application to the LSB to become a Licensing Authority for alternative business structures. We are currently discussing a draft application with the LSB.
7. The Standards Committee has agreed to publish by the end of January guidance for the profession on barristers acting as supervisors of unregulated immigration advisers. This is something that is permitted by the Immigration and Asylum Act 1999 but was previously prohibited by the old Code of Conduct. Later in the year, the BSB will be conducting a thematic review of immigration, which will include gathering information about the circumstances in which barristers are involved in the provision of immigration advice and services and an assessment of the risks to clients and redress options.
8. The Committee has also agreed to update guidance on taking fixed fees in advance, where those fees are based on an assessment of the likely time commitment and there is an agreement to refund a proportion of the fee if the actual time commitment is lower. This will emphasise the need to do so only after careful estimation of the likely workload

and will ensure that such agreements are only entered into by clients who can reasonably be expected to understand the consequences. It will also ensure that in public access cases the barrister will not take a fee (unless a fee has been agreed simply for assessing the papers) until an assessment has been made that the case is suitable for public access.

### ***Regulatory risk***

9. The Regulatory Risk Programme continues to progress and a workshop was held with the GRA Committee in January. A subsequent SMT workshop has begun to identify the priority work streams for meeting our goals and next year's business plan will be updated accordingly. A fuller update is provided elsewhere on the agenda.

### ***Equality and Diversity***

10. The Equality Act Specific Duties Regulations 2011 require the BSB to publish, every January, equality information relating to those who are affected by our policies and practices. There has been a slight increase in disclosure levels in relation to some protected characteristics, but in some areas disclosure is still too low for the data to be used for drawing reliable statistical conclusions. The Board is asked to approve the aggregated diversity data elsewhere on the agenda prior to publication.
11. The online equality and diversity training course developed by the E&D teams has now been sent to all new Board and Committee members to complete. This training was previously delivered in classroom session; the online training will be fully accessible to all members and they can complete it when it is convenient for them.
12. A new system was created in 2014 to collect pupillage diversity data and improve disclosure rates. Equality and diversity data collection was combined in the registration process, previously this was collected through a supplementary survey alongside registration. The E&D team have aggregated, analysed and broken down by protected characteristics. A draft report on pupillage diversity has been produced and will be presented to the Pupillage Sub-Committee and Equality and Diversity Committee in January.

## **Supervision**

### ***Entity regulation***

13. The entity regulation project went “live” on 5 January 2015 following a very successful and well received external testing phase. Entities can now register their interest with the authorisations team and get prompt access to the online application forms and guidance.
14. Between 5 and 16 January 2015, 36 applicants, excluding the four external testers, were registered. Five completed applications have been submitted, albeit four are from the external testing phase.
15. Whilst, as expected, the initial interest was predominantly from single barristers seeking to incorporate, the interest from bigger prospective entities has been greater than anticipated. For example, the team met recently with a chambers of 55+ members that is proactively considering incorporating each of its practice areas as an entity.



16. Of those registered: -
- 30 are single person entities (including 3 from external testing);
  - 7 are entities of 2-5 persons (including 1 from external testing);
  - 1 entity of 6-15 persons; and
  - 2 have not given a firm indication but this will be determined from their application.
17. The geographical location of the interested applicants is as follows:
- 18 in the Greater London region (including 2 from external testing);
  - 4 in Birmingham;
  - 3 in Manchester;
  - 3 in Liverpool;
  - 2 in Nottingham;
  - 2 in Rotherham (both external test users);
  - 1 in Bournemouth;
  - 1 in Brighton;
  - 1 in Derby;
  - 1 in Guildford;
  - 1 in Rochester;
  - 1 in Wetherby; and
  - 2 in Leeds.
18. Support from the communications team has been integral in increasing levels of interest in the regime amongst the profession. Regular social and more traditional media messages are resulting in growing volumes of calls, emails and new applications and this is boosted by regular updates to the entity section of the website.
19. The current focus for the authorisations team is the development of an online spreadsheet to facilitate the assessment phase. The spreadsheet will capture the team's review of the information submitted by the applicant measured against the mandatory and discretionary criteria in the Handbook. It is intended that the output, a risk profile, will be passed to the Supervision Team for ongoing monitoring.
20. Whilst authorisation decisions cannot be issued until April 2015, it is the team's intention to process each application received in the interim with a view to publishing decisions as early as possible.

### ***Supervision***

21. Significant time and resources have been devoted to dealing with issues concerning one particular high risk chambers. Whilst this process has been extremely resource intensive it has resulted in some tangible benefits for consumers and the regulatory objectives. This experience will be fed into risk and resource planning for the forthcoming financial year.
22. Aside from this the Team has focussed on completing the remaining assessments of Supervision Returns from High Impact chambers. A number of chambers have already received their response and follow up action has begun. Early signs are that Chambers have responded well to feedback and required actions and that some significant improvements have already been made. High risk chambers will all be visited and some productive visits have already been undertaken for those assessed as high risk.

23. Progress has been made on the development of IT systems to support supervision which should be in place by March 2015. In addition, further work has been undertaken with the risk consultants on the development of the risk assessment framework.

### **Education and Training**

24. Key statistics on training regulation are presented in a separate report to the Board.

#### ***Future Bar Training***

25. A series of workshops to inform the development of the first draft of the Professional Statement were held with members of the profession in November and December 2014 in London, Manchester, Birmingham and Bristol. A first draft has been produced on the basis of the evidence gathered and is being reviewed before progressing to wider consultation.
26. Invitations to participate in a pilot of the proposed revised scheme of CPD were sent to a representative sample of barristers in December, with a good uptake from recipients. Rules and guidance documents have been developed to support the pilot, which can now commence. A public consultation on the new scheme will be published in April 2015.
27. Progress has been made in the formulation of policy relating to the vocational, academic and pupillage stages of legal education and training, reported elsewhere.
28. A report on BPTC key statistics is being compiled for publication in the next few weeks, for the benefit of prospective students, with the intention that such a report will be published annually.

#### ***Vocational Training***

29. In the period January to March, all BPTC institutions and their sites will receive annual monitoring visits, the first routine visits for two years following the adoption of a more risk-based approach to monitoring.
30. The new BPTC admissions system ([www.barsas.com](http://www.barsas.com)) is now established, for which responsibility transferred to the course providers in November 2014. Technical difficulties were experienced around the closing date for first round applications in January, with the closing date being extended from 12 to 14 January as a consequence.

#### ***Centralised assessments***

31. A report is in preparation in which the Chair of the Centralised Examination Board, Prof Mike Molan, will set out an overview of performance of the BPTC centralised assessments compared to other modules (that are assessed by the course provider) since centralisation was introduced in 2011. The report is due for publication in February and will permit comparison of performance between course providers.
32. A new Assistant Chief Examiner (ACE) for Criminal Litigation was appointed in November. Recruitment for a further ACE is underway. The Civil Litigation Examination team has undergone major change with a new Chief Examiner and two ACEs appointed in January.

33. Work is progressing on the review of centralised assessments, commissioned by the Education & Training Committee and chaired by Prof Paul Kohler, for which a formal report will be submitted to the Committee in March 2015.

***Pupillage***

34. Following a dramatically improved response rate in the collection of pupillage diversity information – as a consequence of changes in its method of collection – an initial analysis of diversity data has been undertaken, for those pupils registered in 2014 in the period of maximum take-up, August to December. A further report will be provided after review by committee.

***CPD***

35. A revised CPD accreditation scheme, that introduces provider-based accreditation, was launched in January. To date in excess of 400 providers have signed up for the scheme.

***Qualification Regulations***

36. At its meeting on 9 December 2014, the Committee considered five applications for review. In each case, it upheld the original decision of the relevant Panel or staff-member. The Committee was also grateful to receive a presentation from Cliodhna Judge, Authorisation Manager in the Supervision Department, on the entity authorisation process, in order to assist the Committee in its future role in reviewing decisions on entity authorisation.
37. It is hoped that the Committee will approve a final amended schedule of fees and fee waiver policy at its meeting on 9 February 2015.
38. The hearing of the first appeal to the High Court against a decision of the Qualifications Committee since the jurisdiction transferred from the Visitors to the Inns of Court to the High Court will take place on 29 January 2015.

***People***

39. Sahib Marwaha (Legal Education Officer, with responsibility for operation of the BPTC) left in January. Dr Victoria Stec, who was an Education Manager at the BSB until 2011, has been appointed on a short term contract to deliver the annual BPTC monitoring and to take forward some key areas of policy development for the Future Bar Training programme.
40. Diego Curiel (Pupillage Registration Officer) left in December 2014. Appointments are expected to be made shortly to cover pupillage registration and other activities in the Qualification Regulations team.

**Professional Conduct**

***General***

41. The PCD welcomed Rebecca Teague to the role of Assessment Officer in the Assessment Team at the start of December 2014. Rebecca joins us from the Financial Ombudsman. Meanwhile, Sharon Athwal, a Case Officer in the Investigations and Hearings Team, left the PCD in December after four years.

42. More information about the work of the Professional Conduct Department and the Professional Conduct Committee can be found in the Enforcement Interim Report which is included in the papers as a separate agenda item.
43. **Time recording:** In the last Director-General's report published in November 2014, the PCD reported that it would be introducing a time recording system to provide a sound basis for establishing the cost of complaints. Following a successful pilot at the end of 2014, the PCD introduced time recording from 5 January 2015. This exercise is expected to run until April 2015 and it is anticipated that it will also supply information relevant to other departmental projects.

### *Training*

44. **Mental Health Law:** On 27 November 2014, a day course entitled 'Introduction to Mental Health Law and Procedure' was attended by members of the PCD as part of the PCD departmental training programme. The course, delivered by Michael Butler of Central Law Company (CLT), was designed to build awareness of the legal issues that can arise, and the approach to take, when dealing with people with mental health problems.
45. **Data Protection:** Over the last two years, the PCD has experienced an increase in requests for personal data under the Data Protection Act 1998. Known as 'subject access requests' (SARs), those making the requests are normally complainants or barristers who are the subject of complaints. To ensure that there are adequate resources in place to comply with time consuming SARs within the obligatory 40 day timeframe, the PCD organised external training, provided by Amberhawk (experts in information law training), for an additional four members of PCD staff in December 2014. Given the likelihood of other BSB departments receiving SARs in the future, staff from the Education and Training, Strategy and Communications and Supervision Departments were also in attendance as well as representatives from the Facilities and IT Departments of the Resources Group.

### *Amendment to the Complaints Regulations*

46. A number of practical problems have been revealed with the terms of the Handbook in relation to the application of the PCC's powers to decide to take "no further action" (NFA) on a complaint. These problems make it difficult to use the power in any effective way and, with the introduction of the power to apply administrative sanctions to all breaches of the Handbook where appropriate, the view is that the power to decide NFA can be removed without any risk to the regulatory objectives. A short consultation on the proposal to remove the power will be carried out during February/March and, depending on the outcome, an application to amend the regulations, as well as consequentially the definition of professional misconduct, will be made to the LSB in May.

### *Judicial Reviews*

47. The hearing at the Court of Appeal to consider the three applications to appeal the decision of the Administrative Court to refuse permission in relation to the COIC appointment issues, took place as scheduled on 26 November 2014. The judgement was handed down on 16 December 2014 and all three applications were refused. There is no ability for the decision to refuse permission to be appealed further and, as such, the matters are concluded.

48. The PCD is currently handling four applications for Judicial Review. The claim against the Visitors of the Inns of Court with the BSB named as an interested party, issued in October 2014 and reported to the Board in November 2014 remains at the permission stage.
49. Since October 2014, the PCD have received three new applications for Judicial Review, all of which are also at the permission stage. The PCD is expecting a decision on one of these applications, made on the grounds that Professional Conduct Committee's decision to investigate the complaint was disproportionate and irrational, by the end of January 2015. If permission is granted, the PCD have requested an expedited hearing for May 2015 as the barrister has secured an order preventing the BSB investigating the complaint pending the outcome of the JR. In relation to the other two: one concerns the decision to bring disciplinary proceedings and the other a dismissal of a complaint.
50. Finally, in addition to those above, the Court of Appeal considered earlier in January an appeal against a decision by the Administrative Court not to quash a Disciplinary Tribunal finding to disbar a barrister despite the Administrative court having found that there were fundamental flaws in the prosecution process. The Court of Appeal ruled that the Tribunal finding should be quashed and the PCC is now considering what further action should be taken in light of the outcome.

### **Strategy and Communications**

51. Work is underway on writing responses to the Legal Services Board's consultation on its next strategic and business plan and the Legal Ombudsman's Strategy and budget for 2015-17. These will be circulated to members out of meeting as the response timelines do not easily fit with Board meeting dates (being due on 20 February and 23 February respectively).

### **Communications**

52. Since the last Board Meeting and the time of writing, the following press releases and announcements have been issued:
  - 28 November: Launch of a new survey for barristers about standard contractual terms;
  - 28 November: As discussed at the last meeting, publication of the report into the implementation of BTAS;
  - 2 December: Announcement concerning the disbarment of barrister Mr Giles Norton;
  - 2 December: Announcement that the LSB approved the BSB's application to regulate entities;
  - 3 December: Legal Aid Agency publishes timetable for 2015 tender process – prospective BSB authorised entities urged to get in touch;
  - 4 December: Announcement concerning the disbarment of barrister Mr Michael Wainwright;
  - 11 December: Announcement in conjunction with Ilex Law School about in-house legal training at the BSB;
  - 22 December: Announcement about the outcome of the interim suspension panel in relation to barrister Mr Tariq Rehman;
  - 5 January: Announcement about the BSB now accepting applications from prospective entities;
  - 12 January: Statement about the BarSAS application system.
  - 13 January: Real appetite for change at the Bar as BSB sees rush of prospective entities in its first week of accepting applications.

53. The Board will have seen the fortnightly media coverage that the above announcements generated.

### ***Work in Progress***

54. Major ongoing projects within the Communications Team include:
- The development of the organisational wide intranet site which is due to launch in March. Members of the team have recently attended training on the intranet content management system, are continuing to quality assure all of the content which will appear on the site in Phase One of the launch as well as working on the internal communications launch plan.
  - The Future Bar Training programme will shortly enter a phase when a number of announcements will be required and consultations launched. The Communications Team have been working closely with the FBT Programme Manager to ensure that all communications are co-ordinated both from a message and timing point of view.
55. The Communications Manager is introducing a new process to help the BSB better manage the timing of proactive external announcements and the frequency of contact we make with key audience groups, such as members of the profession themselves. This was recently approved by the SMT and is in the process of being implemented.
56. From early February we will be making a change to the monthly email newsletter which we send out to our regulated community. The “Chair’s Update” will become the “BSB Regulatory Update” and we will be launching a new “look” for the newsletter, which for the first time will also be published on the website. A mock-up of the new template will be circulated to members in advance of publication.
57. In order to collate suitable content for the newsletter from across the BSB a new staff editorial group has been formed by Andrew Lamberti. It is hoped that the new approach will enable us to communicate more effectively with the profession and to ensure that, where necessary, important regulatory issues and updates are explained in more depth and in a way which engages barristers.

### ***Online and social media***

58. During November, 27,298 users visited the BSB website and 23,503 visited in December. At the time of writing, we have 10,418 followers on Twitter.

### ***Business Support***

#### ***Service Complaints***

59. A refreshed Service Complaints policy has now been published on the website and a new system has been set up to record such occurrences. The Business Support team will be administering the system from now on and will integrate data from the system into the quarterly performance reports.

#### ***Strategic Planning***

60. Preparation for planning the BSB next three-year strategy has commenced and the team is working with the PRP Committee to undertake a strategic planning review. Board members will hear more about this at the April 2015 Away Day.

***Business Plan and Budget***

61. Work is underway to pull together the BSB Business Plan publication for 2015-16 which the Board will see at its February and March 2015 meetings. This also involves finalising the BSB's budget for 2015-16 which will be signed off by the Bar Council's Finance Committee in February. The team is also working with other departments to improve the way in which we report on our management accounts, particularly income and risks. This ties in with the review of the fees and charges policy which the Board will receive next month.

***Contract Management***

62. The revised Service Level Agreement with the Bar Council's Resources Group is currently being finalised. The Business Support Team is carrying out a project to improve the way that we monitor and manage our contracts, to ensure that we achieve value for money and mitigate contractual risks.

**Regulatory knowledge and information*****Research***

63. The team has taken over the rewrite of BCAT Impact Evaluation project report, revisiting the data available in order to maximise the value of the report that will be produced.
64. The collection and cleansing of the data from individual BPTC providers for the BCAT Performance Evaluation project proved time-consuming as data was provided in different formats by the providers. The available (cleansed) data is now with the research providers for preview before a technical meeting on 15 January. This meeting will be used to firm up the scope, methods and delivery stages.
65. The data collection for the Youth Courts Advocacy Review research project started with a survey which, after an encouraging initial response to both the survey and the invitation to participate to the next stage (interviews), needed a booster. A reminder e-mail and paper copies increased the response rate. As yet very few legal executives' have agreed to participate. IPS is addressing the issue with a revised communication approach. Securing access to the Courts on behalf of the research providers has been resource-intensive but rich in insights for the effectiveness of the fieldwork. The research providers can now take over and arrange observations and interviews.
66. The quarterly update for the Change of Status monitoring project will be delivered by the end of January. Earlier requests for scope amendments were delayed until then to avoid compromising the data set and results before the agreed reporting timescale.
67. The Cab Rank Rule and Standards Contractual Terms survey closed on 14 January. Just over 150 responses were collected. Initial descriptive statistics were compiled to guide the discussion on further analysis.
68. Background data was requested and analysed to support the scoping of the User Feedback Survey follow-up research. The deadline for delivery was firmed up (October).
69. The survey for LSB's first strand of the Cost of Regulation research project (cost for providers of legal services) project closed at the end of December. The results are being analysed. The scoping document for the second strand (cost for regulators of

legal services) is available for comments on the LSB website. An overview will be shared with the reference group on 23 February.

70. The team will attend the Research Forum meeting on 22 January.
71. An interactive presentation on research aiming to introduce the team's remit and approach to delivery at the BSB will be given at an all-staff knowledge sharing session on 15 January.
72. The research section of the website is being redesigned to provide updated and more user-friendly information by the end of January.

### ***Knowledge management***

73. A short presentation was given as part of the Director General's update at an all-staff meeting on 15 December.
74. An initial workshop was run for the SMT on 8 January following the presentation of a positioning paper on knowledge management (KM) strategy at the SMT meeting on 10 November. The workshop was used to check understanding and perceptions, agree a vision and approach to scoping and delivery. There are good opportunities for cross-fertilisation with other corporate initiatives, including the intranet and information architecture projects.

### ***Information and data management***

75. The Information Architecture project was formally launched by the providers at a kick-off meeting on 8 January. Only the high-level phases' timetable was presented (exactly as they were during the procurement process) and the operational planning/resourcing still need to be finalised.
76. Following a scoping exercise, an analytical framework was designed for the Future Bar Training data management analysis with a view to deliver an audit by the end of February.
77. The extraction of data for annual statistics and ad hoc information requests purposes revealed technical issues. The team is cataloguing these and liaising with the IT and Records departments to validate issues and agree remediation options.

## **Resources Group**

### **Current Key Business Projects**

78. ***Authorisation to Practise 2015***
  - Final testing of changes to Barrister Connect and Core Database are completed.
  - On track for planned go live the first week of February 2015.
  - Operational planning complete for internal teams to manage the process through the peak period.
  - Improved reporting and query tracking tools have been set up to monitor the response to barrister queries during the AtP process.



79. ***Intranet***

- Super Users have been trained on the new intranet and the set-up of the system has begun
- Content development underway with teams and progressing well for phase 1 launch in March 2015

80. ***CPD Regulation Implementation***

- Prototype of CPD rules and requirements and guidance complete
- CPD Pilot launched

81. ***Supervision and Entities regulation***

- Development of an IT solution to support the authorisation of entities and the supervision of chambers on track for end of February

82. ***Information Architecture***

- Hart Square contracted to work with us to design the information architecture
- First phase of business process review underway

83. ***Information Management Programme of work***

- A range of projects have been constituted as part of a programme of work to transform the businesses information management and underpinning systems architecture over the next 1-3 years

**Functional & Team Updates****Project Management Office – Richard Thompson**

- PMO Community of Practice – first meeting established for early February
- PMO Organisation Training design underway; first delivery session due for End of February 2015

<b>Projects PMO is managing</b>	<b>Projects PMO is providing business analysis to</b>	<b>Projects PMO is supporting</b>
<ul style="list-style-type: none"> <li>• Intranet</li> <li>• Authorisation to Practise 2015</li> <li>• BSB Supervision and Entities System</li> <li>• CPD Reform Implementation</li> <li>• Information Architecture</li> <li>• Information Management Programme</li> </ul>	<ul style="list-style-type: none"> <li>• Entity Regulation Authorisation</li> <li>• Intranet</li> <li>• Information Architecture project</li> <li>• BSB Supervision and Entities System</li> </ul>	<ul style="list-style-type: none"> <li>• Bar Business Standard</li> <li>• Legal Education and Training Review</li> <li>• Property Strategy</li> </ul>

## **Human Resources – Catherine Shaw**

### ***Performance review***

84. The mid-year performance review process was completed during December. The moderation panel met on 18 December 2014 and confirmed the ratings distribution. We are still awaiting the return of a number of forms. There will be communication to staff and managers during January on the outcome of the process and an opportunity for feedback.

### ***HR team***

85. Neda Adeel joined the team on 19 November 2014 as HR Assistant. She has settled in well and is already doing a good job. Gloria Packer joined the team on 19 January 2015 as HR Manager. This will be a full time role at level 4. Georgina Holton will soon go on maternity leave and her last working day in the office before that will be 12 March 2015.

### ***Reward***

86. A proposal for a reward strategy has been agreed in principle by the Emoluments Committee. This contains recommendations regarding annual salary reviews, performance related progression and non-financial reward. The HR team is now undertaking further work on the details of our policy. The strategy has been launched to the Leadership Group for discussion at the next meeting in February.

### ***HR system and intranet***

87. We continue to work with the PMO in respect of both these projects, and are currently in the process of mapping our HR processes in order to determine the technical specification and of writing content for the HR section of the intranet. HR process mapping should be completed by the end of January.

### ***HR Policies***

- Launched the new Dignity at Work Policy to All Staff. This will be followed up by line manager training in January.
- Launched the new Flexible Working Policy to managers for discussion at the next Leadership Group in February.
- Launched new Recruitment and Selection Policy to managers to be followed up by training in February.

### ***Organisational Changes***

88. Supported the QASA restructure.

**HR Metrics****i) Recruitment – active roles**

Role	Division	Open since	Status
Director of Policy	RPS	01/06/14	Phil Robertson joins 26 Jan 2015
Regulatory Policy Manager x2	BSB	08/09/14	External and Internal advertising in progress
Human Resources Manager	RG	01/10/14	Gloria Packer joined 19 Jan 2015
Supervision and Authorisation Officer x2	BSB	07/10/14	Offer made
Fees Collection Assistant (Mat Cover)	RPS	17/10/14	On hold
Training & Regulations Assistant x2	BSB	27/11/14	Interviews in January
Facilities Helpdesk Assistant	RG	1/12/14	Jack Cottrell moved 5 Jan 2015
Marketing & Business Development Assistant	RPS	16/12/14	External and Internal advertising in progress

**ii) Current headcount**

	RPS	BSB	Resources Group	Total
As at end December 2014	45	76	33	154

**iii) Staff turnover**

89. These figures relate to 'crude' turnover (both voluntary and involuntary), and includes all leavers, including those who left due to dismissal or redundancy.

	RPS	BSB	Resources Group	Total
<b>YTD</b> (Jan-Dec 2014)	44.9% <sup>1</sup>	33.6%	30.5%	36.4%
<b>December 2014</b>	4.4%	5.2%	0%	3.8%

<sup>1</sup> Due to restructure of RPS during this period

**Records – Smita Shah**

90. Authorisation to Practise 2015-16: The team is now focusing on the ATP process for this quarter. Two temps are in the process of being recruited for the duration of three months. Testing is complete with Netextra for the Barrister Connect Portal.

91. General housekeeping on the database has been completed in the last quarter and the team is now focusing in ensuring that the records remain correct for the renewal process by spot checking records on a daily basis.

92. The Records Team have completed testing on the upgrade to the core database and it is now live and has been in place for one month.
93. The Records Team moved to the 4<sup>th</sup> Floor in January.

**Finance – David Botha**

94. We have deferred the implementation of a new finance system to align this project's activities with the review of the organisation wide information management systems starting with the Information Architecture project. We are instead directing efforts to reviewing the business processes and information flows that drive the financial information and transactions to simplify, standardise where appropriate and to streamline in anticipation of implementation of a replacement system at the end of 2015 and to deliver business benefits ahead of the system changes.
95. Preparations for the year end are underway with an interim audit expected in March and the final audit in May. Proposals are also being drawn up for revisions to our annual financial reporting pack to improve the transparency of financial performance, to increase the relevance of the financial information to stakeholders and to increase accountability.
96. We are completing the review of corporate risk reporting and management activities initiated in 2014 for review in the spring.
97. We are recruiting for a permanent Financial Controller to replace the interim Financial Controller, who leaves us in February. Patricia Payne took on a challenging role and in a short space of time had established her credentials as an experienced and professional finance leader. She has performed admirably in delivering a series of improvements to business and finance practise and we will miss her on her return to Canada.

**Facilities – Sam Forman**

98. The Facilities Department was restructured at the end of 2014 and the new team structure took effect from 5 January 2015. The Print Room has seen a reduction in headcount, the Facilities team has a newly created helpdesk post and the operational hours of Reception have increased.
99. The Records Office has been relocated from the Ground Floor to the Fourth Floor and various options are to be discussed regarding the space they vacated.
100. Staff training has been rolled out for key users of the new Starleaf (Video/Audio 'Virtual Meeting Room' conferencing solution) system. Feedback from staff has been positive.
101. Potential new tenants for floors 5 and 6 are in lease negotiations with the Landlord.
102. Phase II works to the common areas, Basement to 4<sup>th</sup> floor, have been aborted due to a number of different factors including a) timeframe for receiving costs from landlord, b) budget associated with the works, c) repairs v improvements and d) available use of time for the Bar Council. Repair obligations under each lease will be carried out in 2015.
103. Works to the HVAC system on the 1<sup>st</sup> Floor are due to take place at the end of February.

**IT Department – Tony Cook**

104. The IT department is currently working on a number of high profile projects along with the Project Management Office, each of which are currently running as per schedule. Key Projects:

- Authorisation to Practise: currently completing the 2<sup>nd</sup> stage of testing and are due to go live on Monday the 2<sup>nd</sup> February.
- Information Architecture : working with the PMO and external consultants Hart Square in delivering this project
- Entity Regulation: the BSB's Entity Regulation project is currently in development stage and will be delivered on time in March 2015.
- Find a Lawyer (Bar Council): the Find a Lawyer project is currently on hold until the AtP project has completed in order to avoid any risk to that development.
- Objective DMS Review: the review of the DMS solution is progressing and we have received the first draft regarding usage data.

105. Additionally we are currently working with the four Inns of Court to establish areas where we can work more collaboratively particularly in regards to Data Sharing.

Vanessa Davies  
Director General BSB  
22 January 2015