

BAR STANDARDS BOARD
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REGULATING BARRISTERS

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

Thursday 19 March 2020 (4.30 pm)

etc venues 51-53 Hatton Garden, Holborn, London EC1N 8HN

- Present:** Baroness Tessa Blackstone (Chair)  
Alison Alden OBE – *by telephone*  
Lara Fielden – *by telephone*  
Steve Haines – *by telephone*  
Andrew Mitchell QC – *by telephone*  
Elizabeth Prochaska – *by telephone*  
Irena Sabic – *by telephone*  
Nicola Sawford  
Adam Solomon QC – *by telephone*  
Kathryn Stone OBE – *by telephone*  
Leslie Thomas QC – *by telephone*  
Stephen Thornton CBE – *by telephone*
- By invitation:** Derek Sweeting QC (Vice Chair, Bar Council)  
Malcolm Cree CBE (Chief Executive, Bar Council) – *by telephone for item 8 only*
- BSB Executive in attendance:** Peter Astrella (Regulatory Risk Manager) – *by telephone*  
Joseph Bailey (Policy Manager – Handbook Review) – *by telephone*  
Ben Burns (Policy Manager, Equality and Access to Justice) – *by telephone*  
Rebecca Forbes (Head of Governance & Corporate Services) – *by telephone*  
Andrew Lamberti (Communications Manager) – *by telephone*  
Rupika Madhura (Head of Policy & Research) – *by telephone*  
Ewen Macleod (Director of Strategy and Policy) – *by telephone*  
Mark Neale CB (Director General)  
John Picken (Governance Officer)  
Amit Papat (Head of Equality and Access to Justice) – *by telephone*  
Wilf White (Director of Communications and Public Engagement) – *by telephone*

**Item 1 – Welcome**

1. The Chair welcomed Members to the meeting. Most joined by telephone as a precautionary measure following the coronavirus outbreak.

2. **Item 2 – Apologies**

- Naomi Ellenbogen QC (Vice Chair, BSB)
- Amanda Pinto QC (Chair, Bar Council)
- Grant Warnsby (Treasurer, Bar Council)
- James Wakefield (Director, COIC)
- Oliver Hanmer (Director of Regulatory Operations)
- Sara Jagger (Director of Legal and Enforcement)

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

3. None.

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

4. The Board approved the Part 1 (public) minutes of the meeting held on Thursday 30 January 2020.

**Item 5a – Matters arising and action points (Annex B)**

5. The Board **noted** the updates to the action list.

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

6. Members **noted** the forward agenda list.

**Item 6 – The Bar Standards Board Equality and Diversity Strategy 2020 - 2022**

7. BSB 007 (20)

Amit Popat introduced the report. He stated that:

- the development of the strategy follows extensive consultation with stakeholders with a focus firmly on the role of the BSB as a regulator of legal services;
- it would be helpful to collate views from Board Members prior to the publication date of 2 April 2020.

8. Kathryn Stone commented as follows:

- the risk theme quoted in paragraph 2 implies that working cultures *are* an inhibiting factor whereas it is *damaging* working cultures that are a concern to us. Note – on this point Adam Solomon QC asked that the strategy document explains what we will do to mitigate the risk theme identified;
- “disabled people” is a term that actually represents a diverse group facing a range of different challenges eg mental health, physical health, learning difficulties etc. It may be implicit that the strategy takes this into account, but it would be helpful to have an assurance that this is the case;
- there is considerable knowledge, skills and expertise on E&D matters among Board Members and the Executive could refer to them if, for example, it requires a critical friend or feedback on draft documentation;
- we should not just rely on qualitative research about bullying and harassment but supplement this with quantitative data as well;
- the actions that relate to bullying and harassment should refer to “race *and* ethnicity” and “sex *and* gender” (where appropriate) as these are separate issues in both cases;
- the extent of a *regulator’s* role in promoting wellbeing is questionable. On this point Members agreed that we should make clear that “engagement of experts” refers to our existing stakeholder networks eg LawCare, BTAS. We do not intend to hire consultants.

9. The following comments were also made:

- the proposed actions mutually reinforce one another, though, as currently written this may not be immediately obvious. We could, therefore, consider a slight redraft to make the linkages more apparent;
- the paper confirms our willingness to work with the Bar Council but to keep our focus fixed on *regulatory* issues. This is welcome and supported;
- we should take into account any guidance by the Equality and Human Rights Commission on bullying and harassment and look to align our strategy with those of other legal regulators.

10. In response Amit Popat commented as follows:

- the risk statement derives from the BSB’s risk outlook. The final E&D strategy document will use more nuanced language;
- our intent is to consider all aspects of disability but from the social model perspective ie that barriers and negative attitudes created by society are the factors that disable people rather than any physical or mental impairment;

## Part 1 - Public

- the offer of support and assistance from the Board is both noted and welcome;
- we do intend to complement our qualitative research with quantitative data from the Bar Council's research on bullying and harassment;
- the point on terminology is accepted and the sections will be reviewed to check that relevant terms are used consistently throughout;
- research by the Bar Council suggested regulatory activities eg supervision, investigation and enforcement can have an effect on wellbeing. The need for clarification about engagement of experts is accepted.

11. **AGREED**

- a) to approve the equality objectives as set out in Annex 1 of the report.
- b) that the final strategy document takes account of the comments mentioned above (cf. mins 8-9).

AP /  
BB**Item 9 – Chair's report on visits and external meetings from November 2019-January 2020**

BSB 004 (20)

12. The Board **noted** the report. The meeting scheduled for 17 March 2020 between the Chair and Anna Bradley did not take place and will be rearranged in due course.

**Item 10 – Any Other Business**13. Impact of Coronavirus restrictions

Derek Sweeting QC referred to government action in response to the threat from coronavirus and the detrimental financial effect this will have on chambers and individual barristers (staff layoffs, court closures, effect of self-isolation measures).

14. Mitigating actions include managing costs more effectively, including those for regulation. The BSB might therefore wish to consider:
- extending the period for authorisation to practise until the end of May 2020; and
  - arranging for staggered payments ie part payment by 31 May 2020 and the balance by 31 October 2020.
15. The latter request would require authorisation to practise certificates to be issued without full payment made.
16. Mark Neale commented that:
- extension of authorisation to practise until May 2020 is already under serious consideration;
  - staggered payments are less straightforward to implement because of the cash flow implications both for the BSB and Bar Council.
17. Andrew Mitchell QC asked whether the BMIF is offering similar concessions given that, for many barristers, insurance payments are higher than regulatory costs. As Vice Chair of the PRP Committee, he expressed concern on the potential impact of staggered payments. He noted the considerable income variation within the Bar and that we should be cautious of any "one-size fits all" policy approach.
18. Derek Sweeting QC confirmed that the BMIF has been contacted on similar lines. The aim is to add flexibility for the benefit of those barristers on lower incomes. Staggered block payments will assist the overall financial position of chambers.
19. There was also a discussion on recent mixed messaging from the judiciary about attendance at Court. This creates a tension between a barrister's professional duty to attend and both the BSB's position that barristers should follow the advice of Public Health England and the Bar Council's view that jury trials should be paused. The most recent guidance from the Family and Civil courts is that cases should proceed remotely. This has been well received by the Bar.

20. **AGREED**  
to note and consider the representations from the Bar Council on extending the period for authorisation to practise to 31 May 2020 and for staggered payments. **MN**
- Item 11 – Date of next meeting**
21. • Thursday 21 May 2020.
- Item 12 – Private Session**
22. 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 – 30 January 2020;
  - (2) Matters arising and action points – Part 2;
  - (3) Handbook Review;
  - (4) Business Plan and Budget 2020/21
  - (5) Board Diversity Summary
  - (6) BSB Consolidated Risk Report – March 2020
  - (7) IGR Compliance Update
  - (8) Director General’s Strategic Update – March 2020
  - (9) Any other private business.
23. The meeting finished at 5.10 pm.