

**Note: the timings quoted on the agenda sheet are indicative only and the meeting may extend beyond the anticipated finish time.**



REGULATING BARRISTERS

**Meeting of the Bar Standards Board  
Thursday 23 February 2017, 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.	<b>Welcome and introductions (4.30 pm)</b>	Chair	
2.	<b>Apologies</b>	Chair	
3.	<b>Members' interests and hospitality</b>	Chair	
4.	<b>Approval of Part 1 (public) minutes</b> <ul style="list-style-type: none"><li>• 26 January 2017 (*)</li></ul>	Annex A Chair	<b>3-10</b>
5.	<b>Matters Arising (*)</b>		
6.	a) <b>Action points and progress</b>	Annex B Chair	<b>11-13</b>
	b) <b>Forward agenda</b>	Annex C Chair	<b>15-16</b>
7.	<b>Performance Report Q3 (as at end December 2016) (4.35 pm)</b>	BSB 012 (17) Anne Wright	<b>17-35</b>
8.	<b>Youth Proceedings Advocacy Review Update: Youth Proceedings Competencies and Guidance (4.45 pm)</b>	BSB 013 (17) Oliver Hanmer / Ruby Newton	<b>37-49</b>
9.	<b>Future Bar Training: Consultation update (*)</b>	BSB 014 (17) Chair	<b>51</b>
10.	<b>Chair's Report on Visits and Meetings: February 2017 (*)</b>	BSB 015 (17) Chair	<b>53</b>
11.	<b>Director General's Report (5.05 pm)</b>	BSB 016 (17) Vanessa Davies	<b>55-62</b>
12.	<b>Any other business</b>		
13.	<b>Date of next meeting</b> <ul style="list-style-type: none"><li>• Thursday 23 March 2017</li></ul>		
14.	<b>Private Session</b>		

**John Picken**  
**Governance Officer**  
[JPicken@barstandardsboard.org.uk](mailto:JPicken@barstandardsboard.org.uk)  
16 February 2017

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

**BSB 230217**



<p>BAR STANDARDS BOARD</p>
------------------------------------

REGULATING BARRISTERS

**Part 1 - Public**

**Minutes of the Bar Standards Board meeting**  
Thursday 26 January 2017, Room 1.1, First Floor  
289 – 293 High Holborn, London, WC1V 7HZ

- Present:** Sir Andrew Burns KCMG (Chair)  
Naomi Ellenbogen QC (Vice Chair)  
Alison Alden OBE  
Rolande Anderson  
Rob Behrens CBE  
Aidan Christie QC  
Justine Davidge  
Steven Haines  
Zoe McLeod  
Andrew Mitchell QC  
Nicola Sawford  
Adam Solomon  
Anu Thompson (items 9-14 by phone)  
Anne Wright CBE
- By invitation:** Isobel Leaviss (former Independent Observer)
- Bar Council in attendance:** Stephen Crowne (Chief Executive, Bar Council)  
Andrew Langdon QC (Chairman, Bar Council)  
Andrew Walker QC (Vice Chairman, Bar Council)
- BSB Executive in attendance:** Corrine Charles (Head of Research and Information)  
Vanessa Davies (Director General)  
Rebecca Forbes (Governance Manager)  
Sara Jagger (Director of Professional Conduct)  
Andrew Lamberti (Communications Manager).  
Ewen Macleod (Director of Strategy and Policy)  
Oliver May (Senior Policy Officer, Equality & Diversity)  
John Picken (Governance Officer)  
Wilf White (Director of Communications and Public Engagement)
- Press:** Max Walters, Law Society Gazette
- Item 1 – Welcome**
1. The Chair welcomed Members and guests to the meeting, in particular those attending the meeting for the first time as Board Members ie:
    - Alison Alden OBE;
    - Steven Haines;
    - Zoe McLeod.
  2. He also welcomed Andrew Langdon QC (newly appointed Chairman of the Bar Council), Andrew Walker QC (newly appointed Vice Chairman of the Bar Council) and two staff members attending their first meetings (Corrine Charles and Oliver May).

**Item 2 – Apologies**

3.
  - Judith Farbey QC
  - Lorinda Long (Treasurer, Bar Council)
  - James Wakefield (Director, COIC)
  - Mark Hatcher (Special Adviser to the Chairman of the Bar Council)
  - Viki Calais (Head of Corporate Services)
  - Oliver Hanmer (Director of Regulatory Assurance)
  - Amit Popat (Head of Equality & Access to Justice)

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

4. The Chair and Members congratulated Rob Behrens on his recent appointment as the new Parliamentary and Health Services Ombudsman. He commences this role from April 2017.
5. Rob Behrens thanked the Board for its support but also explained that the Ministry of Justice falls under the jurisdiction of this post in the same way as other government departments. To avoid a conflict of interest, therefore, he confirmed his intention to resign from the Board with effect from 31 March 2017. The Chair accepted this point but also expressed his regret at losing such a long standing and valued Board Member.

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

6. The Board approved the Part 1 (public) minutes of the meeting held on Thursday 24 November 2016.

**Item 5 – Matters Arising**

7. None.

**Item 6a – Action points and progress**

8. The Board noted progress on the action list. The Chair referred to the action point concerning the Youth Proceedings Advocacy Review (min 27c – 19 May 16). Vanessa Davies confirmed that a report will be presented to the Board at the next meeting.

**Item 6b – Forward Agenda (Annex C)**

9. The Board noted the forward agenda list. Vanessa Davies referred to the items for the Board Away Day in April 2017. She confirmed that the MoJ’s response to the CMA’s market study on legal services will be made available in time for that meeting.

**Item 7 – Independent Observer’s Report – November 2016**

BSB 001 (17)

10. Isobel Leaviss presented her final report as Independent Observer (IO). She was appointed in May 2011 and concluded the role in December 2016. The Chair therefore gratefully acknowledged that her attendance was outside her contract period.
11. Isobel referred to her report and highlighted the following:
  - the considerable degree of change within the Professional Conduct Department over the five-year period eg
    - ❖ its change of remit to cover issues of potential misconduct only (not also complaints of inadequate service) and its new “risk based” approach to regulation;
    - ❖ introduction of new IT systems and changes in staffing;
    - ❖ new Handbook and Code of Conduct;
    - ❖ change in tribunal service administration following the Browne Report.

## Part 1 - Public

- the high level of assurance the IO can provide on the robustness and integrity of the complaint handling system. Due processes are followed to ensure fairness and consistency for both complainants and barristers facing complaints;
  - the resilience of the Department's service levels despite the upheaval of change, including turnaround times and the proportion of cases before Tribunals resulting in disciplinary findings;
  - improvements in the case management process implemented during the period which have included:
    - ❖ better risk analysis and knowledge management;
    - ❖ introduction of KPIs to monitor turnaround times;
    - ❖ increased transparency about decision-making;
    - ❖ clearer and more accessible information for complainants and barristers facing complaints;
  - the challenges and issues for the future which include:
    - ❖ focusing regulatory resources on areas of greatest risk;
    - ❖ regulating the use of social media by barristers;
    - ❖ standard of proof (ie most other professional regulators apply the civil, rather than the criminal standard);
    - ❖ busy and complex caseloads;
    - ❖ the ongoing need to support staff in their dealings with complainants and barristers at times of great stress in their lives, particularly given the increase in home working.
12. Members warmly thanked Isobel for her work as IO and for her report recommendations which have been the drivers of operational improvements. Her detailed scrutiny of how the Professional Conduct Committee has functioned was also recognised.
13. Vanessa Davies confirmed that the budget previously reserved for the Independent Observer will now be used more widely as part of a broader risk based assurance framework that covers the whole BSB rather than just one Department. This will be overseen by the GRA Committee.
14. Members commented as follows:
- several recommendations that are still to be completed relate to equality and diversity. It would be helpful to know the current position;
  - the work of the Planning, Resources and Performance Committee has been enhanced by introduction of KPIs. They have proved very useful in monitoring performance;
  - the report highlights the very high standards achieved by the existing process for managing complaints about barristers and does not find any systemic issues of concern. We therefore need to apply considerable caution to proposals for further change and ensure the same rigour is achieved in any revised structure;
  - the role of the IO has been pivotal in enabling reform as her advice has been a source of expertise that is subsequently acted upon. It is important that the new but broader assurance framework is able to have the same impact.
15. In response the following comments were made:
- only two E&D returns are outstanding from Board Members. Around half of all committee members have completed the monitoring forms;
  - the assurance framework will apply internal audit resources in a flexible but closely focused way so that sufficient scrutiny is given to areas of greatest risk.

16. Rolande Anderson also referred to the content of E&D training programmes as well as the currency of the training undertaken by relevant individuals. She asked that both elements be kept under regular review. Ewen Macleod confirmed that Amit Popat (Head of Equality and Access to Justice) is undertaking an audit of the training content and that records on dates of training are now maintained.
17. **AGREED**  
to note the report and to thank Isobel Leaviss for her excellent work as Independent Observer.

**Item 8 – BSB section 69 order – responses to the LSB consultation**  
BSB 002 (17)

18. Ewen Macleod highlighted the following
- the paper concerns a consultation paper issued by the LSB on the draft section 69 order that will extend the powers of the BSB as previously agreed by the Board;
  - this would normally be a consultation simply on the draft order (the BSB having consulted already on the policy issues) but the original drafting of the order identified further policy issues which needed to be consulted on. The responses to the consultation have since been received and the Board's views are now sought on the proposed way forward;
  - assuming we continue and that there is sufficient Parliamentary time, we hope to have the order in force by the end of October 2017.
19. The Chair suggested taking each of the consultation responses in turn. The Board referred to the draft order (Annex 2) and commented as follows:
- a) **Appellate body for regulatory decisions**
- Clause 3 is a general enabling power for the BSB. Providing there is no intent to change current arrangements for disciplinary tribunals, we should proceed with the order as drafted.
- b) **Powers of intervention**
- (i) the points raised by the Bar Council as set out in paragraph 17 of the report are pertinent and should be discussed further. That said, they are not unique to barristers. There should be other regulatory models available that have also addressed these concerns.
- (ii) it would help to understand the safeguards in place to prevent the overuse of these powers. It is important that any action taken is truly proportionate and only in circumstances where there is a genuine risk to the public.
- (iii) In response, Ewen Macleod commented as follows:
- a recent similar order for the Intellectual Property Regulation Board might serve as a useful reference point in respect of the matters of detail raised by the Bar Council;
  - the Board has already stated that statutory intervention should be an option of last resort. It will only apply to those cases where all other possible regulatory action has already failed. This will be published as a policy statement and formalised within the BSB's rules;
  - the Board will be notified of cases where statutory intervention powers have been used, though the decision to invoke these will lie with the Director General.

- c) **Information gathering**
- There were no new policy issues to discover here. It was noted that the power would be useful in cases where we are not receiving appropriate co-operation from a barrister in addition to strengthening our regulatory regime in relation to cases where the disclosure of privileged information may be requested.
- d) **Disciplinary arrangements**
- the advice of Parliamentary Counsel may be useful on this part of the order but we should proceed albeit considering the extent to which the Bar Council's suggestions about narrowing the scope of the disciplinary power are feasible.
- e) **Practice rules on engaging further disqualified persons**
- we should seek advice from the MoJ as to whether this article (Article 8) is required in the order in the light of the Bar Council's claim that existing rules in the BSB Handbook are sufficient.
- f) **Compensation arrangements**
- No new issues were raised and the Board did not need to revisit its previous decision to seek these powers. It is important that we are able to adapt to changing markets which may, indeed, require compensation arrangements at some point in the future.
20. Ewen Macleod confirmed that any further drafting amendments required after discussions with the MoJ will also need the agreement of the LSB, who must make the recommendation to the Lord Chancellor. A further report will be presented to the Board in due course. This will include the internal guidance to staff on the use of these powers which the Board will need to agree.
21. **AGREED**
- a) to continue with the s69 order taking into account the comments raised at the meeting.
- b) to discuss detailed drafting points of the s69 order with the MoJ and the LSB before finalising it, in particular around intervention and disciplinary powers.

EM

**Item 9 – Publication of diversity data**

BSB 003 (17)

22. Ewen Macleod referred to the diversity data report at Annex A of the paper which the BSB is required to publish annually under the LSB's statutory guidance issued in July 2011. This shows a small rise in disclosure rates though some areas do not have sufficient response rates to enable statistically valid conclusions to be drawn.
23. Members commented as follows:
- the increase in disclosure rates is small but nevertheless pleasing to note;
  - it is not clear what can be regarded as a statistically valid disclosure rate. The report states that the completion rate for questions on disability was "low" at 35% but then claims it to be sufficient to draw "possible conclusions";
  - there is a distinction to be drawn between fact and opinion. We need to be sure that our interpretation of the statistics is properly factual and that our press release reflects that;
  - the chart on gender at the Bar suggests a high attrition rate for retention of women. This leaves us open to challenge on barriers affecting the progression of women in the profession. We need to be alive to the possibility of poor public perception of these figures;

## Part 1 - Public

- we need to be clear in our explanation of the variables. It takes time to qualify as a silk. Those reaching that stage of their career now started in the profession some years ago when the prevailing work culture was different;
  - it would help to know how our disclosure rates compare with other legal regulators and how we intend to improve these for the future;
  - there are other avenues from which diversity data can be collated eg pupillage gateway. It ought to be possible to import this across.
24. In response, the following comments were made:
- it is not possible to identify a single figure beyond which survey results become statistically valid in all instances. It depends on the variables involved;
  - in some instances where disclosure rates are low eg on schooling, it is nevertheless possible to state that an overrepresentation of those from fee paying schools exists because that would be the case even if all non-respondents came from a state school;
  - the press release has been worded to avoid overstatement;
  - the experiences of female barristers have already been researched and follow-up work identified to better understand the barriers to progression;
  - we will explore comparative figures for other legal regulators to benchmark how we compare. We are not able to compel barristers to provide this information. However, we do intend to make clear the importance of the data collection as part of our preliminary work on the Authorisation to Practise fee collection for 2017;
  - improvements in our IT system will allow us to track barristers through the various stages of their careers, so it will be possible to import data across in the longer term.
25. **AGREED**  
to approve the Diversity Data Report for publication on the BSB website.
- AP /  
WW**
- Item 10 – BSB Equality Objectives for 2017-19**  
BSB 004 (17)
26. Ewen Macleod commented as follows:
- the Equality Act 2010 requires public bodies to publish their equality objectives at least every four years. This time, we had planned (but are not obliged) to do this at the same time as the Diversity Data Report;
  - the proposed new equality objectives are set out in Annex B of the paper and have been developed in line with the BSB's new governance arrangements with APEX input.
27. Members commented as follows:
- the scope of the objectives as set out in Annex B is welcome;
  - the proposed actions for Equality Objectives 1 and 2 could more closely reflect the language of the Objectives themselves ie focus on the causes of discrimination and progression / retention issues.
28. Aidan Christie QC referred to Annex A of the paper which gave an update on the previous E&D Strategy Objectives. He referred to the update to Objective 7 which reported that research indicated that gender was a significant predictor of the outcome of complaints. Subsequent to this, the Professional Conduct Committee had introduced gender anonymisation procedures to its complaint handling process. This should be noted in the report.



## Part 1 - Public

29. **AGREED**
- a) to note the progress on the previous equality objectives at Annex A and to request the report is updated in accordance with minute 28 above. **AP**
- b) to approve the 2017-19 equality objectives at Annex B subject to re-drafting the text of the proposed actions for Objectives 1 & 2. **AP**

**Item 11 – Standing Orders and Scheme of Delegations – proposed amendments**

BSB 005 (17)

30. Rebecca Forbes commented as follows:
- the BSB’s Standing Orders have been re-drafted to take account of the Board’s prior agreement to develop an assurance framework which in turn affects the Terms of Reference for the Governance, Risk and Audit Committee and the Planning, Resources and Performance Committee. It also reflects the transitional arrangements that are a precursor to disbanding the Qualifications Committee and enable the operation of review panels comprising three committee members;
  - additional proposed amendments have been included following review of the Standing Orders in entirety and in part to simplify the BSB’s committee member recruitment process;
  - the report also seeks approval of proposed changes in the Scheme of Delegations in relation to:
    - ❖ all “first instance” decisions from the Qualifications Committee to the Executive (via the Director General);
    - ❖ a correction to the references underpinning the delegation made by the Board of its power to take action as a result of assessment against compliance with the BSB Handbook;
  - a review of the Governance Manual has been conducted in the light of the above proposals and some minor amendments are proposed as a result.
31. Stephen Crowne queried the proposed change to the recruitment criteria for barrister committee members which no longer explicitly states they have to be practising. In response Vanessa Davies explained that appointments will be made according to the competency requirements of the committee in question. Where these particularly require the knowledge of a practising barrister, the appointments will reflect this but there may be instances when the experience of a non-practising barrister is still equal to the skills criteria required.

32. **AGREED**
- a) to approve the proposed revisions to the Standing Orders as set out in Annex 1 of the paper and that these take immediate effect and be published on the BSB website. **RF**
- b) to note the delegations made by the Qualifications Committee of its powers to the Director General.
- c) to approve the amended wording of the Board’s delegation of its power to take action as a result of assessment against compliance with the BSB Handbook.
- d) to note the minor amendments to the Governance Manual.

**Item 12 – Chair’s Report on Visits and Meetings: Dec 2016 – Jan 2017**

BSB 006 (17)

33. **AGREED**  
to note the report.

**Item 13 – Director General’s Report**

BSB 007 (17)

34. The Board considered the Director General’s report. Justine Davidge referred to the consultation event on the Future Bar Training programme held on 19 January 2017 at Kings College, London. She commented positively on its organisation and the high level of interest and participation shown by the delegates who attended, particularly from students.
35. Andrew Mitchell QC also referred to Future Bar Training in the context of the recent consultation document. He reminded Members that the deadline for this had to be extended to allow time to consider an addendum concerning the joint Bar Council / COIC proposal for a two-stage BPTC. Its earlier omission from the consultation document continues to be a source of dissatisfaction for some in the profession and has the potential to put stakeholder relations under strain.
36. In response, Vanessa Davies acknowledged the sensitivity of the issue and confirmed that the Board will have access to the consultation responses as from early February 2017. It will receive a broad overview of the responses at its February meeting before receiving a formal report in March 2017. She also advised that the PRP Committee will receive further details on the project’s timeline and costs at its meeting on 2 March 2017.
37. Nicola Sawford referred to paragraph 5 concerning the ASPIRE programme and two points arising from this ie.
- the request from the ASPIRE Programme Board that GRA Committee members scrutinise the final self-assessment reports;
  - the two current vacancies on the Programme Board for which the GRA Committee had been approach to fill.
38. She confirmed that the GRA Committee will undertake the scrutiny role referred to above but that the Programme Board vacancies will be filled by Board Members who are *not* on the GRA Committee to avoid any conflict of interest.
39. **AGREED**  
to note the report.

**Item 14 – Any Other Business**

40. None.

**Item 15 – Date of next meetings**

41. • Thursday 23 February 2017.

**Item 16 – Private Session**

42. 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;
  - (2) Matters Arising;
  - (3) Action Points and Progress;
  - (4) Future Property Options;
  - (5) Professional Conduct in relation to taxation (PCRT);
  - (6) CMA report – next steps
  - (7) Statements on the role of the Board & the governance principles it will follow;
  - (8) Any other private business (to include an update on the FBT Programme);
  - (9) Review of the Board meeting in terms of conduct and outcomes.
43. The meeting finished at 6.00 pm.

**BSB – List of Part 1 Actions  
23 February 2017**

*(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
21b (26 Jan 17) – section 69 order to extend BSB’s powers	discuss detailed drafting points of the s69 order with the MoJ and the LSB before finalising it, in particular around intervention and disciplinary powers	Ewen Macleod	before end February 2017	15/02/17	<b>In hand</b> – discussion held. MoJ lawyers have come back with advice and request for further instructions. We are currently considering the points raised, will update Board in due course.
25 (26 Jan 17) – diversity data	publish the Diversity Data Report for publication on the BSB website	Wilf White	immediate	27/01/17	<b>Completed</b>
29a (26 Jan 17) – E&D objectives	update the progress report on the on the 2013- 16 equality objectives with reference to the anonymisation of gender in cases presented to the PCC	Amit Popat	immediate	10/02/17	<b>Completed</b> – text amended
29b (26 Jan 17) – E&D objectives	re-draft the text of the for Objectives 1 & 2 of the 2017-19 equality objectives as discussed at the Jan Board meeting and publish on the BSB website	Amit Popat	immediate	10/02/17	<b>Completed</b> – updated document now published on the BSB website
32a (26 Jan 17) – governance (SOs)	publish the revised Standing Orders on the BSB website	Rebecca Forbes	immediate	27/01/17	<b>Completed</b> – published on 27 January 2017
15b (27 Oct 16) – definition of “employed barrister (non- authorised body)”	draft a rule change to amend the scope of in-house employed practice subject to further information discussions with stakeholders and the establishment of a Task Completion Group to agree associated guidance	Ewen Macleod	by end Jan 17	15/02/17 17/01/17	<b>Ongoing</b> – awaiting meeting with BACFI  <b>In hand</b> – have had useful discussion with the Bar Council on drafting practicalities. To share with BACFI before finalising.

**BSB – List of Part 1 Actions  
23 February 2017**

*(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
27c (19 May 16) – Youth Proceedings Advocacy Review	seek further discussions with the MoJ and Legal Aid Agency on how to address the financial value placed on the youth justice system	Oliver Hanmer	Review April 2017	18/1/17	<b>In hand</b> – Taylor report published in December 2016. Meeting with MoJ officials to discuss next steps arranged for 18 Jan 2017. Board to discuss Youth Court regulation at its February 2017 meeting
20d (26 Nov 15) – Gov review & revised SOs	establish two new roles to support the changes in education and training ie <ul style="list-style-type: none"> <li>• a “Visitor” to hear challenges against Centralised Examination policy and procedures</li> <li>• an increased role for the Independent Observer to the Centralised Examination Board.</li> </ul>	Victoria Stec	before 31 March 16	15/2/17	<b>In hand</b> – Meeting with Governance team took place. Proposals for internal audit are not yet at a stage where any change to interim arrangements is proposed and nature of expertise required is, in any case, likely to mean that these roles cannot be undertaken by an internal auditor. Agreed no change at present.
				13/01/17	<b>In hand</b> – Meeting with Governance team set up on 1.2.17 to discuss how to move on from interim arrangements.
				08/11/16	<b>In hand</b> – Interim Independent Examinations Observer participated in the resit Boards and this worked well. The arrangement will continue until internal audit is clarified.
				17/10/16	<b>In hand</b> – Interim Independent Examinations Observer appointed for work on resit Boards in October 2016. Contract will be ongoing but with 3-month termination clause so that when future of internal audit is clear, other arrangements can be made if needed.

## BSB – List of Part 1 Actions

23 February 2017

*(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
				20/09/16	<b>In hand</b> – title of “Independent Reviewer” rather than “Visitor” has been agreed and interim Independent Reviewer is in place on an ad hoc basis from July 2016; recruitment processes for permanent role not yet complete.
21b (23 July 15) – insurance for single person entities	seek a rule change to require single person entities to obtain their primary layer of professional indemnity insurance from the BMIF	Rob Wall	by 31 Jul 15	15/02/16	<b>Ongoing</b> – Apex discussing next steps on 21/02/17
				16/11/16	<b>On track</b> – oral update on Part 2 agenda
				20/10/16	<b>For discussion</b> - see Board paper BSB 080 (16) – item 6 on the Part 2 agenda
				20/09/16	<b>On track</b> – economic analysis now complete. This will be considered by a Task Completion Group on 22/09 and presented to the board in October.



**Forward Agendas****Thursday 23 Mar 2017**

- BSB Business Plan for 2017-18
- Assurance Framework update
- Authorisations Governance Project
- Qualifications Fees – Consultation Update
- Shared Parental Leave
- Entity Review
- Response to FBT Consultation
- Regulatory Risk Prioritisation
- Quality Assurance for Advocacy

**Thursday 27 Apr 2017 (Board Away Day)**

- Remuneration for barrister members
- BSB public image, including logo and strapline
- Scenario planning for LSB Vision paper / MoJ response to CMA recommendations

**Thursday 25 May 2017**

- PRP Report: includes the BSB YE Performance Report (includes Business Plan update, KPIs, Management Accounts, SLAs)
- Corporate Risk Register

**Thursday 22 Jun 2017**

- CMA report: approval of action plan
- Draft Annual Report 2016-17

**Thursday 27 Jul 2017**

- Annual Report 2016-17
- Enforcement Report 2016/17
- Authorisations Governance Project
- Regulatory Standards Framework – BSB self-evaluation

**Thursday 28 Sept 2017**

- PRP Report: includes the BSB Q1 Performance Report (includes Business Plan update, KPIs, Management Accounts, SLAs)
- GRA Committee Annual Report
- Schedule of Board meetings Jan 2018 – Mar 2019
- CMA recommendations on transparency: approval of consultation
- Business Planning and Budget Bid for 2018-19
- Corporate Risk Register
- Standard of Proof Draft Consultation Paper

**Thursday 26 Oct 2017****Thursday 23 Nov 2017**

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

**Thursday 7 Dec 2017 (Board Away Day)**

**Thursday 25 Jan 2018**

**Thursday 22 Feb 2018**

- PRP Report: includes the BSB Q3 Performance Report (includes Business Plan update, KPIs, Management Accounts, SLAs)
- Draft BSB Business Plan for 2018-19
- Corporate Risk Register

**Thursday 22 Mar 2018**

- BSB Business Plan for 2018-19



**Performance Report Q3 (as at end December 2016)**

1. For discussion and decision.

**Executive Summary**

2. This paper provides an update to members of the Board on the BSB's progress and performance in Q3 against the aims and activities set out in its 2016-17 Business Plan. It covers a wide range of information (see the dashboard in Annex 1) relating to projects, financial position and performance measures, and it provides the Board with an assessment of progress against our plans.
3. The main "exception" areas highlighted in this report are:
  - a) Eight Business Plan activities are showing as amber on the BSB performance dashboard. High priority programmes and projects are having an impact on business as usual (BAU) and on smaller, less time critical pieces of work.
  - b) Although there has been an improvement in the overarching KPI since Q2, PCD missed its target of 80% in Q3 by 1.3 percentage points; target achieved 78.7%.
  - c) The Authorisations function (qualifications) dealt with 57 % of its applications within six weeks, missing the 75% target.
  - d) The overall staff turnover is 43%, with voluntary turnover at 19%.
4. Catherine Shaw (Resource Group HR Director) updated the PRP Committee on HR leavers' data, and presented her detailed analysis of ongoing high turnover, as well as the action plan that is being put in place. The Committee has asked that HR provide detailed leavers' information biannually.
5. The Corporate Support Team will review the way that the performance data is reported to the Committee and Board. The team will be focusing on how we can improve our reports taking into account the various audiences and feedback that has been received.
6. The private annexes to this report are attached to BSB paper 017 (17)BSB : the Resource Group report and the HR Dashboard.

**Recommendations**

7. Members of the Board are invited to:
  - a) **scrutinise** the detail of the report;
  - b) **discuss** the main areas highlighted;
  - c) **make recommendations** to the Executive or the Committee as necessary.

**Background**

8. We are approaching the end of the first year of our new Strategic Plan<sup>1</sup>. The 2016-19 Strategic Plan sets out the way in which we will regulate barristers and specialised legal services businesses. It also sets out how we will respond to potential proposals for change in the regulatory landscape and its underpinning legislation. The work which is to take place over this three-year period has been organised into the following three strategic aims:

---

<sup>1</sup> 2016 – 19 Strategic Plan

[https://www.barstandardsboard.org.uk/media/1746768/bsb\\_strategic\\_plan\\_2016-19.pdf](https://www.barstandardsboard.org.uk/media/1746768/bsb_strategic_plan_2016-19.pdf)

- a) Regulating in the public interest;
  - b) Supporting those we regulate to face the future; and
  - c) Ensuring a strong and sustainable regulator.
9. The Business Plan<sup>2</sup> for 2016-17 outlines our key activities for the year, as well as our budget and staffing requirements. This report describes our performance against our objectives and budget, as well as the overall performance within the BSB and RG.

### Reporting process

10. On a quarterly basis, the Corporate Support Team gathers information, in liaison with the Senior Management Team (SMT), and then reviews the activities in the Business Plan and provides progress updates. It is SMT members' responsibility to provide explanations for delays or overspends and the associated risks or impacts and how they are being addressed. Resource Group colleagues provide the figures underlying the HR and IT performance data on a quarterly basis. The revised report has been designed with the aim to increase accountability and to rationalise how management information is presented (see annex 6).
11. The live document against which business activities are reported was last updated on 20 January 2017, whereas our performance indicators and management accounts are for Q3 only (as at 31 December 2016).

### Areas for further consideration

12. Activity is reported to the Board and to the PRP Committee by exception. This means that only items which are not running to budget, timetable or have other resourcing issues are highlighted below, and have been listed in the order that they appear in the 2016-17 Business Plan.

These include:

- a) Research
  - (i) IRN Research Ltd have been commissioned after going through a tendering process. The aim of the research project is to gather information on the consumer experience of family law barristers. In order to provide an in-depth review and analysis of their consumer experience, the research will be limited to three stages of their engagement with family law barristers: engagement, service experience, and outcome/follow up.
  - (ii) This business activity which is within our control (C1) has been delayed by a quarter due to high priority projects and programmes which are having an impact on less time critical pieces of work and BAU.
- b) ABS (Alternate Business Structures) - Portal
  - (i) Testing of the ABS portal system started in June 2016 internally and in August 2016 externally. As part of the pilot a number of staff were given scenarios to use whilst testing the system, and they provided feedback on technical faults, the language used and identified issues with the system and process. Board members are asked to note that the external pilot contained real life applications.

<sup>2</sup> Business Plan - [https://www.barstandardsboard.org.uk/media/1750592/bsb\\_business\\_plan\\_2016-17\\_31.3.16.pdf](https://www.barstandardsboard.org.uk/media/1750592/bsb_business_plan_2016-17_31.3.16.pdf)

- (ii) In Q3 feedback from the external pilot was reviewed and, where appropriate, reflected in the final version of the online application portal. We are operationally ready to launch the regime pending parliamentary approval, which is anticipated in early 2017. Subject to parliamentary approval this activity will be completed by the end of the business year and will be launched in Q1 2017/18.

c) Public and Licensed Access

- (i) Our Public and Licensed Access rules enable barristers to be instructed by a client directly without a professional client (usually a solicitor) also being instructed.
- (ii) The aim of the Public and Licensed Access review is to assess whether the current regulatory regime with regard to public and licensed access is suitably transparent, accountable, proportionate, consistent and targeted. The review involves gathering and analysing evidence, setting up a Task Completion Group, and drafting a final report with recommendations to the Board. This report should inform decisions on whether specific policy or other regulatory responses are required to effectively manage risk in this area; whilst the report will make recommendations in this regard, the actual decision making and implementation of any decisions will be outside of the scope of the initial review, and a separate consultation (and an application to the LSB) will be needed prior to any changes to regulatory arrangements.
- (iii) Board members will recall that this business plan activity was reforecast into this business year. The evidence gathering activities have been completed (for example, evidence has been gathered from supervision activity and independent research was commissioned to gather views from barristers and clients). Analysis of the evidence has taken place and has met its target of completion by Q1 as set out in the 2016-17 Business Plan.
- (iv) Following the publication of the Competition and Markets Authority (CMA) final report into the legal services market, the interim Public and Licensed Access review report is being revised to ensure that it is consistent with work the BSB undertakes in response to the CMA's report. The final review report will be published in due course, with proposed changes to regulatory arrangements put to consultation.

d) Chambers' Governance

- (i) The aim of this project (Delivery Models Used by Barristers) is to gather information on the different models used by practising barristers to deliver legal services, including how barristers receive instruction. This project also aims to provide information on delivery models using the term barrister, or purporting to be a barrister, to deliver legal services. The research objectives are as follows:
- To provide an understanding of the different models used by barristers to provide legal services;
  - To provide an up-to-date overview on how barristers receive instruction; and
  - To identify the risks and the benefits associated with each delivery model.

- (ii) On 12 May 2016 we invited external experts in legal services to a workshop to get their views on the research objectives and the findings of the desk research. Based on the feedback that we received, the processes of reviewing the methodology has changed and the revised project timeline has been agreed with the contractor Pye Tait and signed off by the project sponsor. We received the final report from Pye Tait in December 2016. We are presently in the process of reviewing the report and planning the second phase of the piece of work.
- (iii) This activity, which is currently within our control (C1), although is not deemed to be time critical, has been impacted by a number of higher priority projects and programmes. The completion of this activity has been moved to the end of Q4 and we are confident that this activity will be completed by the end of the business year.
- e) Future Bar Training (FBT)
- (i) Board members will recall that our FBT programme focusses on changing the way we regulate, in order to foster innovation, protect the rule of law, protect access to justice, and safeguard standards for all those who rely on barristers' services. The FBT is a programme that consists of six work streams which are:
- clearly defining the benchmark that describes the knowledge and skills that all newly qualified barristers should possess on their first day in practice;
  - making our rules covering education and training less prescriptive and ensuring that they are proportionate, and transparent and address the main risks;
  - establishing a more flexible approach to continuing professional development;
  - reviewing how the BSB manages and shares data to support its regulatory objectives in education and training;
  - improving access routes to the profession by reviewing the vocational stage of training for the Bar and pupillage; and
  - reassessing the regulation of the academic stage of qualification.
- (ii) We should have stated much more accurately in the Business Plan our original timelines. The consultation which started on 3 October and was due to close in December was extended until 31 January 2017. This extra time allows time for the Council of the Inns of Court (COIC) and the Bar Council proposal<sup>3</sup> to be fully considered by respondents. Therefore the analysis and review of the consultation will take place in Q4 (rather than Q3 as shown in the Business Plan) and a paper will be brought to the Board in March 2017. Nevertheless we are confident that we will complete this activity by the end of Q4.
- f) Diversity – Equality Objectives
- (i) We stated in the business plan that within Q3 the Board would approve new Equality Objectives. Due to staff resourcing and the level of engagement events that occurred in Q3, this activity has slipped by a month and went to the Board on the 26 January 2017.

3

[https://www.barstandardsboard.org.uk/media/1798993/bptc\\_coic\\_bar\\_council\\_proposal\\_final\\_dec\\_2016.pdf](https://www.barstandardsboard.org.uk/media/1798993/bptc_coic_bar_council_proposal_final_dec_2016.pdf)

g) Ministry of Justice consultation on regulatory independence

- (i) The matter was originally escalated onto the risk register when it was thought that the Ministry of Justice (MoJ) would issue a consultation on the independence of legal services regulators or that the Competition and Markets Authority (CMA) would find problems and impose a remedy in this area. As yet we have not heard anything from the MoJ and on the 15 December 2016 the CMA published their final report.
- (ii) The CMA final market study report aims to institute remedies to increase competition in the legal services market and includes measures aimed at increasing price transparency and improving consumers understanding of the legal market. They also suggest that while the current system of legal services regulation is not a major barrier to competition, it may not be sustainable in the long term. The report can be assessed through the link below.  
  
<https://assets.publishing.service.gov.uk/media/58518dc1ed915d0aeb0000a4/legal-services-market-study-final-report.pdf>
- (iii) We are currently in the process of reviewing the CMA report. The operational CMA recommendations will cause significant reprioritisation of the BSB 2017/18 Business Plan.

h) Assurance Framework

- (i) The BSB's assurance framework is aiming to:
  - assess the performance of our internal systems;
  - ensure we are able to assess our effectiveness as a regulator in terms of our market impact; and
  - combine our assessment and management of the corporate and regulatory risk.
- (ii) In June 2016 a joint meeting was held between the Governance, Risk and Audit Committee and the PRP Committee, where members discussed and agreed in principle the direction of travel on development of the assurance framework.
- (iii) This activity, which is within our control, is marked as amber in relation to the timeline. The reason for the current delay is because of the need to align this work with other projects and developments (e.g. wider regulatory reporting). The size of the project and the time needed to liaise with committees, were larger and longer than first anticipated. This has meant that the timeline stated in the business plan is now unrealistic.
- (iv) The Corporate Support team is currently negotiating with the preferred supplier over the cost and scope of the Assurance Mapping work. This has delayed the envisaged start date, but it is still expected to be delivered by the end of Q4.

**HR Dashboard**

13. The rolling turnover remained the same in comparison to Q2 with a voluntary turnover of 19%. During Q3 six members of staff left the BSB in comparison to 11 in Q2 and seven in Q1. From the leavers in Q3 one left due to the restructure of the senior management team, two failed their probation and one was at the end of fixed term contract.

**Resource Group (RG) - Performance against the Service Level Agreement (SLA)**

14. On a whole the SLA between the BSB and RG are working well. Majority of the aims, objectives and deliverables have been met and are on track. Over the next quarter the Corporate Support Team will be working with the RG in order to agree high level deliverables that we can jointly measure from the beginning of the 2017 - 18 business year.
15. Due to staffing issues and missed deadlines the Finance department is highlighted as red on the dashboard, annex 1.

**PCD Operational Performance Indicators**

16. Performance against the KPI this quarter is overall slightly below the 80% target, although it has improved by almost 1% point in comparison to quarter 2 and we are still on target to achieve the 80% target at year end. That said, performance in Q4 is predicted to drop given the department is carrying four vacancies and the need to devote more resource to the ongoing up-skilling of staff.
17. The Board will note that performance in relation to OPI1 is substantially above the KPI although this is counteracted by the low performance under OPI2. The former is explained by an Officer, who departed in December, spending her last few days concentrating on 'quick wins' in order to reduce the volume of casework anticipated during a vacancy. This high level of work over an intensive period of time would not be sustainable longer-term, nor would it in fact represent an appropriate, balanced approach to case work but was appropriate as a short term reaction to circumstances.
18. In relation to OPIs 2 and 3 there were two main factors which have affected the quarter's figures. The lower number of cases that have fallen to be closed in the period and the high number of closed cases that were already substantially outside the OPIs (10 out of the 15 cases). From a longer term perspective this is positive in that the overall age profile of the caseload has improved with the closure of the older cases.
19. PCD Managers are satisfied that there are no obvious areas of unavoidable delay within the system and that the reason for the cases being closed outside KPI were legitimate e.g. due to complexity, delays in receiving information/responses and/or the need to bring together linked cases. Nevertheless, improvements are continually being made to ensure we are as agile as possible. For example, detailed investigation plans have now become mandatory for all but the most straightforward cases (as opposed to previously when such plans were only required for more complex cases). While this extends the work at the start of an investigation it is hoped that it will assist in ensuring that the request for information are made as early as possible in the process and delays in receiving the responses may not impact so greatly on the KPIs. Only time will tell whether this initiative will have a positive effect on turn round times

**Authorisations (previously Qualifications)**

20. Whilst we are disappointed to have missed our targets (see annex 4), the position can be largely explained as follows:
- There was an existing back-log of applications which needed to be dealt with before more current applications could be addressed. The number of these outstanding applications is being actively and materially addressed and reduced.
  - Two members of staff were receiving training on several application types during Q2 and into Q3 and so were unable to deliver to full capacity. All staff in the team are now fully trained (releasing training capacity), able to work independently and at full capacity.
  - A significant amount of time was occupied with delivery of a key phase in the Authorisations Governance Review Project, i.e. delegation to staff with revision, drafting and approval of application criteria and guidelines. Apart from a small number of outstanding actions, this stage of the project has been delivered, releasing capacity for application processing.
  - Following the summer break, there were multiple panel meetings in October and December within relatively short periods of time. The preparation for, and administration of, these meetings resulted in a reduction in the amount of time available for application decision making. With delegation to staff, said preparation is no longer required with associated release of staff time.
  - While not as significant as in the previous quarter, several members of the team took annual leave over the period so resource availability was somewhat reduced.
  - It is worth noting we are currently recruiting a 6 month fixed term resource to assist with application processing and hope to have the post filled in early February.
21. Although we are disappointed not to have met the 75% target for determination of applications within 6 weeks, it is worth noting that the application criteria and guidelines state that the Qualifications Committee and its Panels “normally deals with all applications within 8 weeks of receipt”. In addition, the standard acknowledgement emails to applicants indicates that we “aim to determine all applications... within 6-8 weeks of receipt”. The figures for Q3 show there was a significant increase in the number of applications dealt with in the period from 6 to 8 weeks:
- 227 (72.3%) of applications were processed in 7 weeks.
  - 254 (81.4%) of applications were processed in 8 weeks.
22. These figures show an increase of 24.4% in the number of applications processed in the period from 6 to 8 weeks. A similar trend is apparent in the figures for the previous quarter when there was an increase of 18% in the number of applications processed in the period from 6 to 8 weeks.
23. In such circumstances, we will include an additional category with our quarterly KPI monitoring to indicate performance at 8 weeks and provide assurance that applications are being appropriately and properly managed.

**2016-17 Budget and Forecast**

24. Following the migration to a new finance system, the finance team has encountered significant processing delays for both customers and suppliers. All members of the Finance Team were re-tasked to resolving these issues. As a consequence the preparation and dissemination of the management accounts for November and December was delayed.
25. The management accounts were distributed to the committee for review late. The Corporate Support Team is currently preparing the year end forecast, to be reported to the PRP in the event of significant variation from the last forecast.
26. Below are the headline figures for Q3 and further details can be found in the management accounts:
- a. The BSB has received a total £321k income against a year to date forecast of £287k (+12%). On this non PCF income we are forecasting significantly more income than originally expected (290k) primarily down to Supervision income including the Bar Course Aptitude Test (BCAT)
  - b. The BSB has spent the following to the end of Q3:
    - i. £3,115k on staff and related costs, against a forecast of £3,121k, a £6k underspend.
    - ii. £594k on non-staff costs, against a forecast of £694k (14%) an underspend of £101k.
27. Detailed information on each department's budget, which sets out the departmental forecasts and commentary on each line of the budget, can be provided upon request. The key pressures and challenges have been summarised from these documents.
- a. **Income**
    - i. Alternative Business Structures aren't launching until April 2017, as such we are unlikely to deliver the income target for Entity Regulation and Alternative Business Structures. The team are currently working on reforecasting year-end income.
    - ii. Supervision income is weighted toward the final quarter of the year. Regulatory Assurance have just issued invoices for a total of £762k and expect to deliver close to the forecast £808k.
    - iii. Professional Conduct income is difficult to forecast reliably given its nature. We have exceeded the original YTD forecast of £12k, and expect to collect further funds in the final quarter.
  - b. **Staff Costs**
    - i. We continue to closely manage our staff costs, the negligible underspend of £6k is due to some vacancies in the organisation. However due to turnover recruitment costs are higher than was originally budgeted (£29k actual spend against an original budget of £10k).
    - ii. This financial year was the first year that performance related pay was introduced and the scale of the anticipated increase in staffing costs had been difficult to gauge, although our estimates look to be pretty accurate.



**c. Non-staff Expenditure**

- i. As has been previously mentioned to the Committee and Board, the review of BMIF PII undertaken by Strategy & Policy was an unbudgeted expenditure of approximately £100k.
- ii. The Corporate Support team will be reviewing the year end forecast in the coming weeks, it is expected that on non-staff expenditure the organisation is unlikely to spend all the money in the forecast.
- iii. We agreed with the Bar Council Finance Committee (BC FC) that we would try to manage financial pressures in-year and would only ask for additional resource if this proved too difficult. We are not at this stage recommending requesting additional resource from the BC FC. With continued careful and tight management we should be able to accommodate the additional cost mentioned above, but that is of course assuming that unforeseen external shocks do not knock us off track.

**Equality Impact Analyses**

28. The Strategic Plan and Business Plan have already been through an equality impact assessment. The Performance Indicators related to HR also monitor our performance against various E&D measures.

**Risk implications**

29. The Corporate Risk Register and the associated private information relating to this report can be found in paper BSB 017 (17) and annexes.

**Regulatory objectives**

30. Delivery of Strategy is aligned to the Regulatory Objectives and relates to them as explained in the Strategic Plan documents.

**Publicity**

31. This report will be presented to the Board, in the public part of the paper.

**Annexes**

32. Annex 1 – Q2 Dashboard  
Annex 2 – Management Accounts summary  
Annex 3 – PCD Performance Indicators  
Annex 4 – Authorisations Performance Indicators

**Lead responsibility**

Dr Anne Wright CBE, Chair, PRP Committee  
Dan Burraway, Corporate Support Manager  
Natasha Williams, Business Support Officer



**Q3 Dashboard**

Business Plan Activities (2016-17)										Service Standards (Core activity)					
<b>Strategic Programme 1</b>										<b>Professional Conduct Indicators</b>					
<b>Regulating in the public interest</b>										Q3 Target					
	TIME	BUDGET	STAFF	CTRL	IMPRT	SIZE	PRP paper reference								
Consumer Engagement* (Combined with as below)	X	X	X	c1	3	2				KPI - % of complaints concluded or referred to disciplinary action within service standards	78.7%	80%	🟡		
Research	🟡	🟢	🟢	c1	3	1	Paragraph 10a			OPI - % of complaints concluded or referred to investigation within 8 weeks	96.0%	80%	🟢		
Stakeholder Engagement (combined with *)	🟢	🟢	🟢	c1	3	2				OPI - % external complaints concluded or referred to disciplinary action within 8 months following investigation	30.8%	80%	🔴		
Independent regulatory decision making	🟢	🟢	🟢	c1	3	2				OPI - % of internal complaints concluded or referred to disciplinary action within 5 months following investigation	71.4%	80%	🟡		
International work	🟢	🟢	🟢	c1	1	1				<b>Authorisations (previously qualifications)</b>					
Disciplinary system	🟢	🟢	🟢	c1	4	1				Time taken to determine applications from receipt of the complete application:					
Regulatory Interventions	🟢	🟢	🟢	c1	3	3				Up to 6 weeks	57.0%	75%	🟡		
										0 to 12 weeks	97.4%	98%	🟡		
										Over 12 weeks	2.6%	2%	🟢		
<b>Strategic Programme 2</b>										<b>Entity Authorisation Decisions</b>					
<b>Supporting barristers and those the BSB regulates to face the future</b>										Q3 Target					
Entity Regulation and ABS	🟡	🟢	🟢	c1	2	1	Paragraph 10b			The % of authorisation decisions made within service standards					
Scope of Practice & Employed Barrister rules	🟢	🟢	🟢	c1	2	2				Within 6 Months	100%	90%	🟢		
Public Access	🟡	🟢	🟢	c1	3	2	Paragraph 10c			Within 9 Months	100%	100%	🟢		
Chambers' governance	🟡	🟢	🟢	c1	3	2	Paragraph 10d			<b>Number of Service Complaints closed</b>					
Professional Indemnity Insurance arrangements	🟢	🟡	🟢	c1	4	2				Q3 2					
Immigration thematic review	🟢	🟢	🟢	c1	3	2				<b>2016 - 17 Q3 YTD actuals against budget</b>					
Youth Courts	🟢	🟢	🟢	c1	4	2				<b>2016 - 17 YE fcst against budget</b>					
QASA	🟢	🟢	🟢	c1	1	1				Act	Bud	Var			
Future Bar Training	🟡	🟢	🟢	c1	4	4	Paragraph 10e			Income	£321k	£287k	£35K	🟢	
Continuing Professional Development	🟢	🟢	🟢	c1	3	3				Expenditure	£3,709k	£3,815k	£106k	🟢	
Diversity	🟡	🟢	🟢	c1	4	2	Paragraph 10f			<b>Staffing (Rolling figures) Q3 2015-16</b>					
										Sickness (days/FTE)	5.8	5.46	🟢	HR	
										Sickness (days/long term)	2.0	0.73	🟢	Recruitment times	
										Turnover (%)	43.0	31.7	🔴	(approval to start date (weeks))	
										Turnover (Voluntary)	19			14	
														10	
<b>Strategic Programme 3</b>										<b>IT Response times</b>					
<b>A strong and sustainable regulator</b>										<b>Corporate Risk Register</b>					
MoJ consultation in regulatory independence	🟡	🟢	🟢	c3	3	2	Paragraph 10g			2016 - 17	Q3				
Assurance Framework	🟡	🟢	🟢	c1	4	2	Paragraph 10h			Response to high priority calls	100%	🟢	24 Oct 16	20 Jan 17	
Board Governance	🟢	🟢	🟢	c1	2	2				Response to medium priority calls	100%	🟢	Likelihood	Likelihood	
ASPIRE	🟢	🟢	🟢	c1	3	2						Impact	Impact		
Advisory Pool of Experts	🟢	🟢	🟢	c1	4	3									
HR strategy	🟢	🟢	🟢	c2	4	3									
Risk-based Regulation	🟢	🟢	🟢	c1	4	4									
Information Management Programme	🟢	🟢	🟢	c2	3	4									
BSB future Premises	🟢	🟢	🟢	c2	1	1									
										<b>Service level agreement with BC (Resources Group)</b>					
										% of aims and objectives met					
										Project Management Office	96%	🟢	HR	95%	🟢
										Records Office	100%	🟢	Facilities Management	99%	🟢
										IT	95%	🟢	Finance	77%	🔴
<b>Key</b>															
<b>Control</b>															
C1 - BSB Control										Importance					
C2 - RG control										4 More important					
C3 - External control										1 Less important					
										Size					
										↑ 1 Small piece of work					
										↓ 4 Large piece of work					
										Weighting					
										Higher weighting					
										Lower weighting					
										Business Activities					
										Completed					



## Management Accounts - Commentary

1. The management accounts were delayed following the recent migration from Pegasus Opera to Sun Systems. The Corporate Support Team and department managers have had a limited amount of time to analyse the information.
2. Due to this delay the Corporate Services Team and Senior Management have only had a limited time to consider and review the management accounts. We have not yet reforecast for Q4 and thus the Year-End forecast has not changed since the end of Q2.
3. Below are the headline figures for Q3 and further detail can be found in the Management Accounts. For the period ending 31 December 2016:
  - a. The BSB has received a total £321k against a year to date forecast of £287k (12%).
  - b. The BSB has spent a total of
    - i. £3,115k on staff and related costs, against a forecast of £3,121k (0%), a £6k underspend.
    - ii. £594k on non-staff costs, against a forecast of £694k (14%) an underspend of £101k.
4. Detailed information on each department budget, which sets out the departmental forecasts and commentary on each line of the budget, can be provided upon request. The key pressures and challenges have been summarised from these documents.
  - a. Income
    - i. Alternative Business Structures aren't launching until April 2017, as such we are unlikely to deliver the income target for Entity Regulation and Alternative Business Structures. The team are currently working on reforecasting year-end income.
    - ii. Supervision income is weighted toward the final quarter of the year. Regulatory Assurance has just issued invoices for a total of £762k and expect to deliver close to the forecast £808k.
    - iii. Professional Conduct income is difficult to forecast reliably given its nature. We have exceeded the original YTD forecast of £12k, and expect to collect further funds in the final quarter.
  - b. Staff Costs
    - i. We continue to closely manage our staff costs, the negligible underspend of £6k is due to some vacancies in the organisation. However due to turnover recruitment costs are higher than was originally budgeted (£29k actual spend against an original budget of £10k).
    - ii. This financial year was the first year that performance related pay was introduced and the scale of the anticipated increase in staffing costs had been difficult to gauge, although our estimates look to be pretty accurate.

c. Non-staff Expenditure

- i. As has been previously mentioned to the committee, the review of BMIF PII undertaken by Strategy & Policy was an unbudgeted expenditure of approximately £100k.
- ii. The corporate services team will be reviewing the year end forecast in the coming weeks, it is expected that on non-staff expenditure the organisation is unlikely to spend all the money in the forecast.
- iii. We agreed with the BC FC that we would try to manage financial pressures in-year and would only ask for additional resource if this proved too difficult. We are not at this stage recommending requesting additional resource from the BC FC. With continued careful and tight management we should be able to accommodate the additional cost mentioned above, but that is of course assuming that unforeseen external shocks do not knock us off track. It would be useful to have the PRP Committee's view on this approach.

2016-17 BSB Management Accounts									
	Q3 YTD				Year End				Paper Reference
	Actual	Forecast	Variance	Variance	Forecast	Budget	Variance	Variance	
	£k	£k	£k	%	£k	£k	£k	%	
<b>Income</b>									
Entity Regulation and Alternative Business Structures	6	16	10	-65%	44	36	8	22%	4.a.i
Authorisations - Waivers & Accreditations	134	106	28	26%	229	254	25	-10%	
Examinations	134	106	28	26%	103		103		
Supervision - Education and Training	30	48	18	-37%	808	621	187	30%	4.a.ii
Professional Conduct Department	18	12	7	59%	18	0	18		4.a.iii
<b>Total directly controlled income</b>	<b>321</b>	<b>287</b>	<b>35</b>	<b>12%</b>	<b>1,201</b>	<b>911</b>	<b>290</b>	<b>32%</b>	
PCF and Inn's Subvention	5,121	5,117	3	0%	6,823	7,004	181	-1%	
<b>Total income</b>	<b>5,442</b>	<b>5,404</b>	<b>38</b>	<b>1%</b>	<b>8,024</b>	<b>7,915</b>	<b>109</b>	<b>1%</b>	
<b>Expenditure</b>								0%	
<b>Entity Regulation &amp; Alternative Business Structures</b>	<b>63</b>	<b>70</b>	<b>7</b>	<b>9%</b>	<b>95</b>	<b>83</b>	<b>12</b>	<b>-14%</b>	
Staff Costs	63	63	1	-1%	85	83	2	-2%	
Other costs	0	7	7	100%	10	0	10		
<b>Authorisations - Waivers &amp; Accreditations</b>	<b>175</b>	<b>168</b>	<b>6</b>	<b>-4%</b>	<b>228</b>	<b>271</b>	<b>43</b>	<b>16%</b>	
Staff Costs	158	152	6	-4%	199	197	2	-1%	
Other costs	16	16	0	1%	28	74	46	62%	
<b>Examinations</b>	<b>231</b>	<b>250</b>	<b>19</b>	<b>8%</b>	<b>359</b>	<b>330</b>	<b>29</b>	<b>-9%</b>	
Staff Costs	102	102	0	0%	135	129	6	-5%	
Other costs	129	148	19	13%	224	201	23	-12%	
<b>Supervision - Post Qualification</b>	<b>327</b>	<b>342</b>	<b>16</b>	<b>5%</b>	<b>457</b>	<b>484</b>	<b>27</b>	<b>6%</b>	
Staff Costs	324	333	10	3%	447	481	34	7%	
Other costs	3	9	6	66%	10	3	7	-232%	
<b>Supervision - Education and Training</b>	<b>273</b>	<b>247</b>	<b>26</b>	<b>-10%</b>	<b>310</b>	<b>363</b>	<b>54</b>	<b>15%</b>	
Staff Costs	202	196	5	-3%	240	271	30	11%	
Other costs	71	51	21	-40%	69	93	23	25%	
<b>Professional Conduct</b>	<b>894</b>	<b>943</b>	<b>49</b>	<b>5%</b>	<b>1,295</b>	<b>1,279</b>	<b>16</b>	<b>-1%</b>	
Staff Costs	814	839	25	3%	1,140	1,145	5	0%	
Other costs	80	104	24	23%	156	134	22	-16%	
<b>Strategy and Policy</b>	<b>753</b>	<b>785</b>	<b>31</b>	<b>4%</b>	<b>1,077</b>	<b>992</b>	<b>86</b>	<b>-9%</b>	
Staff Costs	598	595	2	0%	800	832	33	4%	
Other costs	156	189	34	18%	278	159	118	-74%	
<b>Communications and Public Engagement</b>	<b>210</b>	<b>232</b>	<b>22</b>	<b>0</b>	<b>335</b>	<b>356</b>	<b>20</b>	<b>0</b>	
Staff Costs	180	189	8	4%	256	281	25	9%	
Other costs	30	44	14	31%	79	74	5	-6%	
<b>Corporate Services</b>	<b>527</b>	<b>522</b>	<b>6</b>	<b>-1%</b>	<b>706</b>	<b>728</b>	<b>22</b>	<b>3%</b>	
Staff Costs	425	400	26	-6%	555	575	19	3%	
Other costs	102	122	20	16%	150	153	3	2%	
<b>Chair and Director General</b>	<b>255</b>	<b>255</b>	<b>0</b>	<b>0%</b>	<b>338</b>	<b>328</b>	<b>10</b>	<b>-3%</b>	
Staff Costs	249	252	3	1%	334	328	7	-2%	
Other costs	6	3	2	-71%	3	0	3		
Staff costs	3,115	3,121	6	0%	4,190	4,321	131	3%	4.b.i
Non-staff costs	594	694	101	14%	1,008	892	116	-13%	
<b>Total directly controlled expenditure</b>	<b>3,709</b>	<b>3,815</b>	<b>106</b>	<b>3%</b>	<b>5,198</b>	<b>5,213</b>	<b>15</b>	<b>0%</b>	
<b>Net</b>	<b>1,733</b>	<b>1,589</b>	<b>68</b>	<b>-2%</b>	<b>2,826</b>	<b>2702</b>	<b>124</b>	<b>5%</b>	





## PCD Key Performance Indicators

PCD Measure		2016-17				2015-16 YE	2015-16 Target
		Q1	Q2	Q3	Target		
Complaints	Number of complaints received	113	73	63	n/a	481	n/a
Overarching KPI	The percentage of complaints concluded or referred to disciplinary action within service standards	90.6%	77.8%	78.7%	80%	75.7%	80%
OPI (Assessment)	The percentage of complaints concluded or referred to investigation within 8 weeks	89.3%	79.2%	96%	80%	72.6%	80%
OPI (Investigation)	The percentage of external complaints concluded or referred to disciplinary action within 8 months following investigation	91.3%	68.8%	30.8%	80%	81.3%	80%
OPI (Investigation)	The percentage of internal complaints concluded or referred to disciplinary action within 5 months following investigation	76.5%	78.0%	71.4%	80%	79.2%	80%

## Over-Running Cases

Snapshot at the close of Q3 of 2016-17

Operational Indicator	Total Open Cases	Over-running Cases	Percentage Over-running
Assessment (8 weeks)	34	8	24%
External Investigation (8 months)	27	5	19%
Internal Investigation (5 months)	35	3	9%
<b>Total</b>	<b>96</b>	<b>16</b>	<b>17%</b>

**Note**

OPIs and the overall KPI measure closed cases – In consequences, cases that are delayed (however legitimate the reason) will impact these figures.

The overall KPI reflects the combined effect of the three individual OPIs



**Authorisations (previously qualifications)**

1. The KPIs for all other authorisation applications (i.e. the applications previously determined by the Qualifications Committee but currently in the process of being delegated to staff) are:
  - i) The percentage of applications determined within six weeks of receipt of the complete application, including all required documentation and the application fee.  
Target: 75%
  - ii) The percentage of applications determined within twelve weeks of receipt of the complete application, including all required documentation and the application fee.  
Target: 98%
2. The following table shows performance against these KPI targets for the third quarter of the financial year 2016/17 (i.e. 1 October to 31 December 2016):

	No	Percentage	Cumulative Total	No	Percentage
<b>Up to 6 weeks</b>	178	57%	<b>Within 6 weeks</b>	178	57%
<b>6-12 weeks</b>	126	40.4%	<b>Within 12 weeks</b>	304	97.4%
<b>Over 12 weeks</b>	8	2.6%			

3. The following table shows performance against the KPI targets for the first, second and third quarters of the financial year 2016/17:

	Target	First Quarter (April - June)		Second Quarter (July - Sept)		Third Quarter (Oct - Dec)		Total (April - Dec)	
<b>Within 6 weeks</b>	<b>75%</b>	289	79.4%	203	72%	178	57%	670	69.9%
<b>Within 12 weeks</b>	<b>98%</b>	356	97.8%	278	98.6%	304	97.4%	938	97.9%
<b>Total</b>		364		282		312		958	



## Youth Proceedings Advocacy Review Update: Youth Proceedings Competencies and Guidance

### Status

1. To seek the Board's approval to publish the appended Youth Proceedings competencies and guidance for advocates in Youth Courts.
2. To provide an update about the ongoing work following the Youth Proceedings Advocacy Review (YPAR)<sup>1</sup> and Charlie Taylor's *Review of the Youth Justice System in England and Wales*.<sup>2</sup>

### Executive Summary

3. Following the publication of the YPAR, the Board committed to raising the standards of advocacy within Youth Courts. This work was seen by the Board as crucial, given the risks associated with poor quality of advocacy in these proceedings and the vulnerability of the young people involved.
4. Our regulatory approach has been to identify necessary competencies for Youth Court advocates and to work with organisations in the Youth Justice Sector to develop this as a specialist area of practice. We are conscious that our regulatory approach must be proportionate so that our work does not adversely disrupt a fragile market.
5. The executive has worked to develop an approach to improve Youth Court advocacy standards. In 2016 work focussed on developing specific competencies required from advocates in Youth Courts. This paper presents the work done in this area so far: is a set of competencies and associated guidance for advocates. This paper also outlines the phased approach we will be taking as we develop our regulation of Youth Court advocacy.
6. Charlie Taylor's recent publication, the *Review of the Youth Justice System in England and Wales* made wide-ranging suggestions for improvements to the Youth Justice system. A number of the recommendations Taylor makes align to the work which the BSB has been doing so far in this area, and intends to do in the future. Specifically, there are clear similarities in terms of raising the value of the work in Youth Courts to align with the value of the work done in adult courts, and working towards Youth Court advocacy being seen as a specialism. Allied to this is our consideration of the introduction of complementary training for advocates working in this sector.
7. We have been working closely with a number of organisations to improve advocacy in Youth Proceedings. The BSB will maintain constructive relationships across the Youth Justice sector.

---

<sup>1</sup> The YPAR can be found on the BSB website here:  
<https://www.barstandardsboard.org.uk/media/1712097/yparfinalreportfinal.pdf>

<sup>2</sup> Charlie Taylor's report is available from the Ministry of Justice's website:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/577103/youth-justice-review-final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/577103/youth-justice-review-final-report.pdf)

## Recommendations

8. We recommend that the Board:
  - a. **Approves** the attached Youth Proceedings competencies and guidance.
  - b. **Notes** the work which will continue on the YPAR over the coming months.

## Background

9. The Board discussed the findings of the YPAR Report published by the BSB in November 2015. In its meeting on 19 May 2016, the Board agreed the direction of travel that the BSB should take in order to address advocacy standards.
10. The YPAR recognised that whilst there instances of good practice, standards of advocacy were not at the level the public should expect them to be. In particular, it highlighted the damaging effects that poor advocacy has on access to justice for young, and often very vulnerable people, and their perceptions of the criminal justice system in general. Advocates receive little or no specific training before they represent young people within the Youth Court or the Crown Court. This lack of training is both in terms of the law and practice within those proceedings and in how to engage or communicate with young and vulnerable people. As a result, young people are left with little or no confidence in their representation.

## The regulatory approach

11. We propose introducing a “phased” approach to implementing more regulatory assurance in Youth Court advocacy. The publication of the attached competencies and guidance is phase one. The publication of a specific set of competencies for Youth Court work aids this area of work being seen as a specialism and increases awareness about Youth Court advocacy more generally. We will continue to work with other organisations (such as Just for Kids Law and the College of Advocacy) to raise the status of Youth Court work.
12. More structured regulation in this area is likely to follow. Initially, this is likely to be the compulsory registration of all advocates working in Youth Courts. This will enable the BSB to take a risk-based approach by scrutinising those advocates more closely if needed. We would combine compulsory registration with existing regulatory arrangements. For example, we could decide to take a closer look at the CPD of those working in the Youth Courts. In addition to this, we will encourage third parties to bring instances of poor quality advocacy to our attention. In such instances, we will use that information to help advocates improve.
13. The BSB recognises the strength of the case for mandatory training to be introduced for Youth Court advocates once the value of Youth Court work has been raised. We recognise that there is clearly a need for specialist training for advocates in this area. However, we are mindful that the market for Youth Court work is fragile. We are keen that any additional regulation we introduce is not burdensome. At present, we feel that introducing compulsory (and likely costly) training into an area of work which already has low fees and low status is disproportionate and is likely to discourage advocates away from this kind of work.

<b>Phase One</b>	<b>Date</b>	<b>Action</b>
	April 2017	Publish the Youth Proceedings competencies and guidance
	April 2017	Engagement with Young Offender Teams and other stakeholders to discuss distribution
	April 2017	Continued engagement with training providers (including the College of Advocacy and Just for Kids law) to develop and refine training for advocates working in Youth Courts.
<b>Phase Two</b>	July 2017	Publish a guide for young people about Youth Courts. The document will focus on what young people have a right to expect from their advocates and explain their court appearance in a simple way. The BSB has been engaging with Just for Kids Law and the SRA on this document.
	October 2017	Compulsory registration of all Youth Court Advocates introduced. This will allow the BSB to scrutinise these advocates more closely if needed (e.g. through increased CPD focus) and ensure that we have an accurate picture of who is undertaking youth court work
<b>Phase Three</b>	Starting in 2018	Embed our approach to quality advocacy in Youth Courts within our general approach to quality assurance and the assessment of competence.

### Development of the regulatory approach

14. Following the findings of the YPAR report, an initial roundtable event brought together senior representatives from a wide range of organisations working in the Youth Justice sector to discuss next steps. There was cross-organisational support for:
  - The introduction of a training infrastructure to enable advocates to develop the competencies required to be an effective advocate in the Youth Court;
  - A collective commitment to trying to address the value and the status of the Youth Court.
15. Following this initial roundtable event, two further workshops were held. These workshops brought together experts from across the Youth Justice sector to discuss the competencies needed by a Youth Court advocate. In addition, discussion took place with the profession and the Chair of the Young Barrister's Committee.
16. In order to develop the outputs from these two workshops, a task-completion group (TCG) was established. The TCG comprised the following members:
  - A District Judge;
  - A member of the BSB Board;
  - A representative from the College of Advocacy;
  - A representative from a Youth Offending Service;
  - An Author and Honorary member of Intermediaries for Justice;
  - A Barrister.
17. The final version of the work of the TCG is the Youth Proceedings competencies and guidance outlined in annex one of this document for Board approval.

18. The Youth Proceedings competencies will provide the basis for the regulation of advocacy in the Youth Courts. The competencies build upon the Professional Statement for barristers, which describes the knowledge, skills and attributes that all barristers should have on day one of practice. Subject to Board approval, the competencies and associated guidance will be published in March 2017.
19. We will continue to work closely with the communications and public engagement team and stakeholders to publicise a final version of the competencies and guidance. We have developed strong relationships with organisations across the Youth Justice Sector, including Just for Kids Law, Ministry of Justice, the Youth Justice Board and managers of Young Offenders Teams. We will continue to engage with these groups in order to promote our work.
20. The competencies and guidance are designed so that advocates working in Youth Courts are clear about what competency entails. The competencies are designed so that other parties (such as training providers, other Youth justice professionals, the judiciary and young people) are able to gauge the competency of barristers. The guidance supports barristers in satisfying the competency statement.
21. Charlie Taylor's *Review of the Youth Justice System in England and Wales* (The Taylor Review) was published in December 2016. This review was commissioned by the Ministry of Justice. The Taylor Review gives additional momentum to the BSB's existing work around Youth Court advocacy, in that it supports a lot of the issues and remedies that the BSB has raised previously. In particular, the Taylor Review identified that:
  - There remains a "value" issue in Youth Courts. Lawyers in Youth Courts are paid lower fees than they would receive for equivalent cases in the Crown Court, which feeds into the work being seen as lower status. The Taylor Review recommends that the Ministry of Justice (MoJ) reviews the fee structure of cases as a means of raising both the status and quality of the work in Youth Courts;
  - Following a reshape of fee structures by the MoJ, the Taylor Review makes the strong case that the BSB and the SRA should introduce specific mandatory training for all lawyers working in the Youth Courts.
22. The approach the BSB is taking aligns with the recommendations set out in the Taylor Review. Namely, the need for work in Youth Courts to be seen as a specialism, to be given value accordingly and the need for advocates to have defined competencies supported by guidance and training.
23. As highlighted above, the BSB supports the position taken in the Taylor Review that mandatory training should be introduced for Youth Court advocates once the value of Youth Court work has been raised. However, since at present Youth court work is not particularly well remunerated, the impact of introducing training with an associated cost would be overly burdensome. The impact of introducing compulsory training could be a reduction in the number of advocates prepared to undertake this type of work.
24. The BSB met with the MoJ in January 2017 to discuss our work around Youth Court advocacy so far and to understand how they are responding to the Taylor Review. At the moment, the MoJ's primary focus will be looking at young people in custody, reporting restrictions, and improving support for young people in court more generally. It is not yet clear whether the MoJ will look at raising the fees for Youth Court work.



25. The MoJ have indicated that the introduction of the competencies and guidance will be useful. They support the development of a regulatory approach that provides means for poor quality advocacy to be identified and reported to the regulator. We have offered to work with the MoJ to develop thinking around the recommendations from the Taylor Review which are most relevant for our areas of work. We will continue to keep in close contact with them as we assess the impact of our regulatory intervention.

### Resource Implications

26. There are no direct resource implications for this project over and above that which is budgeted. The resources will largely continue to be managed within the Regulatory Assurance Department.
27. There will be ad-hoc engagement with:
- The communications and public engagement team in order to publish any documentation;
  - Strategy and policy in the event that rule changes are necessary in the future.

### Risk implications

28. We believe that the most significant risk posed by our regulatory approach could be the potential impact on an already fragile market. Given this, our regulatory approach seeks to minimise the risk of unintended consequences on access to justice within youth proceedings.
29. We are mitigating this risk in several ways. Firstly, we are taking an outcomes focussed, non-prescriptive approach to the way in which barristers can demonstrate they are meeting the competencies. This is likely to limit financial pressure placed on individual practitioners more than, for example, introducing compulsory training and provides flexibility for the profession in how they demonstrate competence. We will also continue to engage with a broad range of stakeholders working in the Youth Justice sector. These individuals and organisations have already given public support for our approach to regulation in this area, and will work with us on developing training to ensure advocates have met the required competencies and in raising awareness of the competency statement
30. This project intersects with the theme of *failure to meet consumer needs* in the BSB's Risk Outlook.

### Impacts on other teams/ departments/ projects

31. There is a clear crossover between elements of this work and the wider piece of work looking at the quality assurance of advocacy. Any quality assurance approach will incorporate this work.

### Equality and diversity

32. This project ties in with the already agreed equality objectives work plan for 2017-2019.
33. An equality impact assessment (EIA) has been completed for this project. The EIA for this project identified that we should continue with this policy. We identified that the EIA should be kept under regular review. The action plan from the EIA is as follows:

*We anticipate undertaking a review in 18-24 months of this policy being implemented – this review will look at whether standards of advocacy have improved since the competencies were put in place.*

*The review will also look at whether there has been any impact (positive or negative) on any particular groups identified above.*

*We will continue to engage with consumer organisations to see where improvements can be made in our approach and documents to ensure they are accessible.*

### **Regulatory Objectives**

34. The primary regulatory objectives that come into play are:
- Protecting and promoting the public interest
  - Improving access to justice

### **Annexes**

35. Youth Proceedings competencies and guidance

### **Lead Responsibility**

Oliver Hanmer, Director of Regulatory Assurance  
Ruby Newton, Senior Supervision and Authorisation Officer

## Youth Proceedings competencies

### Introduction

This document outlines the key competencies that barristers who undertake youth proceedings work must meet. Barristers need to be aware of these competencies before accepting instructions and during proceedings. The competencies build upon the Professional Statement produced by the Bar Standards Board which sets out the core competencies expected of a barrister at the point of entry to the profession.

The competencies in this document apply to all barristers undertaking work involving young people; whether they are defending or prosecuting.

For the purposes of this documents and all others related to it, the term “youth proceedings” refers to cases that are heard in the Youth Court and cases involving young defendants (those under the age of 18) that are heard in the adult magistrates’ court, Crown Court or above. The competencies are applicable at all stages of a case, including any engagement the barrister has with young people outside of the courtroom.

### Who is this for?

**Practising barristers:** The BSB’s Professional Statement describes the knowledge, skills and attributes that all barristers will have on ‘day one’ of practice. This document builds upon our Professional Statement and emphasises the most crucial competencies needed for youth proceedings. The two documents should be used together by barristers to ensure competence.

Barristers undertaking or wishing to undertake Youth Court work must ensure they have taken steps to meet these competencies. There are a variety of ways in which the competencies can be met (see annexed guidance). It is the responsibility of the individual barrister to decide the most appropriate way for them to meet the competencies.

**Those involved in the delivery of education and training for the Bar:** These competencies can be used by providers of training to help inform their programmes. Barristers will be encouraged to take advantage of training in order to demonstrate that they satisfy the competencies.

**Professionals working in the youth justice sector:** This document can be used to form an understanding of what the BSB expects a barrister’s level of competence to be when undertaking Youth Court work. Professionals such as court staff, community workers, youth offending teams and other agencies, may use this document as a reference point.

**The judiciary:** This statement will provide a useful reference point for the judiciary to ensure that advocates appearing before them are competent to do so.

**Young people and their parents or carers:** This document may be used by young people and those who support them through the criminal justice process. The document makes clear the standard of competence they can expect from a barrister before and during the course of proceedings.

### Regulatory status

This document will not replace the requirements of the BSB Handbook. All barristers must continue to comply with the regulations set out in the BSB Handbook, which remain the sole reference for all disciplinary matters.

**Competencies****1. Law and procedure**

Barristers should:

- 1.1 Have knowledge and understanding of the key concepts of criminal and youth justice law and procedure.
- 1.2 Be able to apply their knowledge and understanding effectively.

**2. Dealing with vulnerability**

Barristers should:

- 2.1 Have knowledge and understanding of the additional vulnerabilities faced by children in the criminal justice system.
- 2.2 Be able to recognise and identify where a young person might be vulnerable and ensure effective safeguarding measures are in place.
- 2.3 Be able to adapt the delivery of their service to meet the needs of vulnerable young people.
- 2.4 Ensure that the young person understands the circumstances of what is happening before, during and after the proceedings, including the consequences of a criminal conviction and any sentence and/or order imposed.

**3. Awareness of background and needs**

Barristers should:

- 3.1 Take all reasonable steps to be alert to any developmental, communication and/or mental health needs of a young person.
- 3.2 Take all reasonable steps to be alert to any cultural, educational and/or social issues which may affect a young person.
- 3.3 Take all reasonable steps to be aware of the background (personal circumstances) of a young person, including the involvement of other agencies in the case.
- 3.4 Be ready to amend their approach based on those issues.

**4. Communication and engagement**

Barristers should:

- 4.1 Speak in a clear and concise manner, using plain English when communicating with young people or in proceedings where young people are present.
- 4.2 Recognise that young people might find it difficult to engage with them and/or other professionals within the youth justice system.
- 4.3 Be able to empathise, understand and communicate effectively with those who may not share their own style of spoken language or background – such as racial, gender, religious or any other background. In particular:
  - 4.3.1 Exercise good communication skills. Have the ability to understand, empathise and build trust with young people and facilitate their understanding of procedure.
  - 4.3.2 Be able to recognise and communicate effectively with young people with additional vulnerabilities. Where direct communication proves difficult for young people, to be able to recognise and employ other available services that may be able to make communication easier.

**5. Awareness of key organisations**

Barristers should:

- 5.1 Have knowledge of key organisations and agencies relevant to the youth justice sector locally and nationally.
- 5.2 Be prepared to engage with any organisations and agencies where it will benefit young people and assist them in the course of the proceedings.

## Guidance to the Youth Proceedings competencies

### How to use this document

This document is produced as an annex to the Youth Proceedings competencies. It provides information on what is meant by the competencies and how barristers might achieve them.

At the end of this guidance, we have also provided a list of useful resources and training providers.

### How to meet the competencies

The competencies have been drafted using information gathered from research and consultations with professionals working across the youth justice sector, including barristers. The baseline for the competencies is the Youth Proceedings Advocacy Review: Final Report (YPAR report)<sup>1</sup>, which highlighted concerns about advocacy standards. The YPAR report can be used as a further point of reference when engaging with the competencies.

Where possible, we have suggested the different types of training and resources available which might be of use. It will be up to individual barristers to decide the most appropriate way for them to meet the competencies.

#### 1. Law and Procedure

The YPAR highlights that one of the fundamental components of effective advocacy within youth proceedings is having specialist knowledge relating to youth justice matters. This includes knowledge of youth justice law (the procedures and provisions in criminal law that relate specifically to young people).

Youth justice is a complex and fast paced area, with distinct bail and remand, allocation and sentencing frameworks in place for young people. In addition to this, youth courts are also now retaining jurisdiction of an increasing number of serious cases where young people are involved.

Taking into account these factors and the vulnerable young people involved, barristers undertaking this type of work should ensure they have the relevant skills and experience as well as the necessary up-to-date knowledge in order to undertake youth proceedings. For example, barristers should be familiar with the operation of ground rules hearings and the range of adjustments available to the court to ensure that young people can effectively participate.

#### 2. Vulnerability

The YPAR report shows and those involved in the youth justice system widely accept that many young people may have extensive needs and vulnerabilities. The competencies expect barristers not only to be aware of vulnerabilities but also be able to recognise them in young people and be able to adapt their advocacy and conduct of the proceedings accordingly. This applies to barristers undertaking defence and prosecution work.

As a public interest regulator, the BSB has a role in looking at the interests of vulnerable clients. We are of the view that all young people in the youth justice system are vulnerable to some extent due to their age alone. However, some young people may have additional vulnerabilities, due to their particular characteristics or circumstances, which require specific consideration.

The competencies require barristers to be aware that young people have some level of vulnerability already. Barristers must also be alert to any specific and direct risks that young people may face.

---

<sup>1</sup> Bar Standards Board (2015) *The Youth Proceedings Advocacy Review: Final Report* (<https://www.barstandardsboard.org.uk/media/1712097/yparfinalreportfinal.pdf>)

## Part 1 – Public

Barristers should be able to recognise other characteristics and circumstances which could make a young person more vulnerable. These characteristics and circumstances could be long term or short term and can be cumulative. This could include, for example, the behaviour of the young person, or the behaviour of others around them.

The Legal Services Consumer Panel has identified a list of individual risk factors<sup>2</sup> for consumer vulnerability. Risk factors are “circumstances that could contribute towards making a consumer more vulnerable.” The individual risk factors they highlight are:

<b>Age</b>	<b>Low income</b>
<b>Inexperience</b>	<b>Low literacy</b>
<b>Learning disabilities</b>	<b>Cultural barriers</b>
<b>Physical disabilities</b>	<b>Mental health issues</b>
<b>English as a second language</b>	<b>Health problems</b>
<b>Location</b>	<b>Being a carer</b>
<b>Lack of internet access</b>	<b>Leaving care</b>
<b>Lone parent</b>	<b>Bereavement</b>
<b>Loss of income</b>	<b>Relationship breakdown</b>
<b>Living alone</b>	<b>Release from prison</b>

This list provides a good starting point for barristers looking to consider how vulnerable a young person is. In addition, barristers should be aware of special protections for looked after children and specifically looked after children who offend in children’s homes, child victims of sexual exploitation and child victims of trafficking.

The YPAR report cites the following research findings around the level of vulnerability of young people in the youth justice system:

- Six in ten children in the youth justice system have a communication disability (Bryan et al, 2007, cited in RCSLT, 2009);
- More than half of children in custody come from deprived households; (Jacobson et al, 2010: 52);
- 76% of children in custody have an absent father and 33% have an absent mother (ibid);
- A third of young men and just over 60% of young women in custody (aged 15 - 18) have spent time in local authority care (Kennedy, 2013: 10);
- One-third of children in custody have identified special educational needs (Gyateng et al, 2013: 39)
- Approximately 30% children who have ‘persistent offending histories’ in custody have IQs of less than 70, signifying a learning disability (Rayner et al, 2008, cited in Hughes et al, 2012: 26);

<sup>2</sup> Legal Services Consumer Panel (2014) *Recognising and Responding to Consumer Vulnerability*

- Between 65% and 75% of children in custody have suffered a traumatic brain injury (various authors, cited in Hughes et al, 2012: 35-37); and
- 31% of a sample of 13 to 18-year-old offenders in custody and the community were found to have mental health problems, compared to 10% of the wider population (Jacobson et al, 2010: 68).

There is training available about how to identify and deal with vulnerability. In addition to this, we would also recommend looking at the resources provided by charities and consumer organisations who work with young people and people with disabilities. At the end of this document, there is a list of some of these organisations.

The competencies require barristers to be aware of the vulnerabilities young people can have. This knowledge ensures that barristers can then take appropriate action to support them. This could be, for example, raising a matter with the Youth Offending Team or, ensuring any special circumstances are accounted for. The focus should be on safeguarding the young person.

In addition to assessing vulnerability, barristers will be expected to ensure that young people are aware of the circumstances they face. This may include making their legal position clear, outlining the potential for sentence or disposal, and/or the strength and weight of the evidence.

### 3. Awareness of background and needs

It is important to have knowledge of the needs and backgrounds of young people appearing in court. This not only includes developmental and communication needs but also the young person's cultural, educational or social background. These factors added to the young person's vulnerability can have a detrimental impact on their experience of the youth justice system. Conversely, good communication and understanding can aid in effective participation and have a positive impact on a young person.

The competencies require barristers to take all reasonable steps to be alert to any developmental, communication, cultural, educational and / or social issues. The requirement is to be aware of the young person's circumstances such as their social or cultural heritage and their values.

Within youth proceedings, there needs to be an understanding that young people should not be treated in the same way as adult clients. A barrister should have an awareness of the range of adjustments available to the court to facilitate the young person's participation.

The competencies do not require barristers to know everything about their client but to have a basic awareness of the client's personal circumstances. For example, an understanding of the ways in which a history of engagement with social care may have impacted on the young person's ability to engage with professionals or that the young person's maturation rate may not match their chronological age.

### 4. Communication and Engagement

A key skill for barristers undertaking work in youth courts is the ability to engage with young people going through the youth justice system. Barristers should be familiar with services available to aid communication. This stems directly from the requirement in Section 1 of the competencies to "apply" knowledge and understanding effectively. A large part of being able to apply knowledge effectively within the context of a particular case comes from being able to understand, speak and engage appropriately with young people.

The competencies highlight that an understanding that youth proceedings are different to adult courts is imperative to anyone wishing to undertake this type of work. It is important to understand the impact of common barriers to communication and be able to adapt language and approach accordingly.

The YPAR found that young defendants had good relationships with advocates who were “friendly, supportive, non-judgemental, respectful, good at listening and cared about their case”. It identified good communication is essential. It highlighted the following as good practice tips:

- The use of ‘basic language’ and ‘simple and clear questions’;
- Explaining the implications of answers to questions;
- Avoiding using leading questions;

A barrister would also be expected to use plain English at all times when speaking to young people. This applies to barristers in all situations where young people are present during the course of youth proceedings, regardless of whether the young person is their client or not.

Where communication is difficult for a young person, barristers will need to be aware of the availability of specialist services to aid communication and to employ those services where appropriate. This could include, for example, the use of intermediaries.

There is a large amount of training available on effective communication and identifying and dealing with vulnerability. Barristers should actively consider how to build their competence in this area.

#### 5. Awareness of key organisations

There are many agencies working within and alongside the youth justice sector. The competencies require barristers to be aware of these organisations, their roles within youth proceedings and the role they can play in a young person’s case. This knowledge ensures that the barrister can effectively engage with young people.

The following is a list of some of the agencies working within this sector. Please note this is not an exhaustive list.

- Youth Offending Teams
- Intermediaries
- The responsible local authority’s education department, housing department and children’s services
- Children and Adolescent Mental Health Services (CAMHS)
- Connexions
- Drug and Alcohol action teams
- Local youth groups
- Charities and support groups
- Special Educational Needs (SEN) and Disability Information, Advice and Support Service

#### **Training providers and other resources**

There are several organisations providing useful resource and training materials on the areas covered by the competencies. The following is not a list of recommended providers, simply suggestions.

Please be advised this is not an exhaustive list and will be updated from time to time.

- Training Providers

Central Law Training - <http://www.clt.co.uk/training/bsb-listing/crime.aspx>

Just for Kids Law / Youth Justice Legal Centre - <http://www.yjlc.uk/training-courses>

MBL Seminars - <http://www.mblseminars.com/>



- Useful Resources

The Advocates Gateway (Mental Health, Autism & Learning in the Criminal Courts) -

<http://www.theadvocatesgateway.org/toolkits>

The Communication Trust's Sentence Trouble guide and Resources -

<https://www.thecommunicationtrust.org.uk/resources/resources/resources-for-practitioners/sentence-trouble/>

CPS Legal Guidance on Young Offenders - [http://www.cps.gov.uk/legal/v\\_to\\_z/youth\\_offenders/](http://www.cps.gov.uk/legal/v_to_z/youth_offenders/)

The Inns of Court College of Advocacy's The Advocates Gateway toolkits -

<http://www.theadvocatesgateway.org>

The Law Society's Practice Note on Criminal Prosecutions of Victims of Trafficking -

<http://www.lawsociety.org.uk/support-services/advice/practice-notes/criminal-prosecutions-of-victims-of-trafficking/>

The National Autistic Society – resources for criminal justice professionals

<http://www.autism.org.uk/cjp>

Prison Reform Trust - <http://www.mhldcc.org.uk/>

Review of the Youth Justice System in England and Wales -

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/577103/youth-justice-review-final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/577103/youth-justice-review-final-report.pdf)

Youth Justice Legal Centre - <http://www.yjlc.uk/>

Youth Justice Resource Hub (provided by the Youth Justice Board) - <https://yjresourcehub.uk/>



## Future Bar Training: Consultation update

### Status

1. For noting.

### Executive Summary

2. This is an interim summary of responses received to the recent Future Bar Training (FBT) consultation. It summarises the number of responses received and outlines next steps. A substantive discussion of the issues raised is scheduled for the Board's March meeting.

### Recommendations

3. That the Board notes the summary and next steps.

### Background

4. The FBT consultation 'Future Routes to Authorisation' was launched on 3 October 2016. Following the launch, there was extensive engagement activity across England and Wales. On 1 December, we published an addendum to the consultation – a further proposal submitted by the Bar Council and the Council of the Inns of Court – and extended the deadline by a month. On 31 January 2017 the consultation period closed.
5. We received 374 substantive responses, 250 of which were from individual members of the Bar. This figure includes responses which answered all the questions in the consultation and those which partially answered and/or offered their own analysis of the consultation. Some responses endorsed one or more other responses and provided further reasoning for their support of another's response.
6. In addition to the 374 unique responses, the Commercial Bar Association (COMBAR) and the Chancery Bar Association asked their members to send a set email to the BSB; 113 barristers sent in the COMBAR email and 93 sent in the Chancery Bar email. Although not each counted as individual substantive responses, we will treat them collectively as a single response and give appropriate weight to the views expressed, which add to and provide support for the response offered by others. A further 529 barristers signed an open letter, of which 479 had not sent any previous response. That letter will be treated the same way.
7. Other responses included 11 other Specialist Bar Associations and 16 special interest groups. We also received 21 responses from students and 9 from current pupils. Nine academic institutions sent a response as did 4 providers offering both academic legal education and the BPTC. A further 4 BPTC providers wrote a response. The rest of the responses came from Chambers (11), Judges (10) and 17 "other" respondents.

### Next steps

8. All responses have been made available to Board members, who are encouraged to read them. On 28 February, the Education and Training Committee will be meeting to discuss the consultation responses and any emerging findings. The Board is scheduled to make a decision on next steps at its 23 March meeting.

### Lead responsibility

Christopher Young, Policy Manager



## Chair's Report on Visits and External Meetings, February 2017

### 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:

#### Sir Andrew Burns

2 February	Met with the new Chair of the Legal Services Consumer Panel, Dr Jane Martin
6 – 21 February	On annual leave
28 February	To chair the Chairmen's Committee meeting
28 February	To give a farewell lunch to the former Independent Observer, Isobel Leaviss

### 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 KCMG



**Director General's report - BSB meeting 23 February 2017**

For consideration and noting.

**Director General**

1. The last month has seen detailed consideration of the business plan for 2017/18, taking into account the work required to follow through on CMA recommendations and the LSB's own business plan proposals. We formally responded to the latter on 17 February.
2. I have worked with the Independent Appointments Panel to agree their work schedule for the coming year, and an ITT has been launched for recruitment consultancy services in support of the Board and Committee / APEX recruitment required over the next three years.
3. I continue to be closely involved in Future Bar Training, notably in the handling of responses to the consultation and ensuring work is resourced to stay within our plan. I have been participating in annual monitoring visits to providers at which specific discussions on FBT have proved very fruitful. I led a further CPD roadshow in London on 15 February with over 60 attendees and hosted by BACFI; I also led a follow-up workshop at a specific chambers to review with participants how they are handling the new scheme to date.

**Strategy and Policy*****Research***

4. Since the Board meeting in January, work has progressed in a number of areas.
5. We have been working with IRN on the Family Law research project. IRN have already carried out a survey of 1200 family law clients and provided initial analysis of survey responses, held discussions with a range of key stakeholders in family law, and conducted a literature review of relevant research. Work has already started on recruiting and interviewing clients who have used barrister's services for a family law issue.
6. We have appointed NatCen Research to conduct qualitative research into barriers to access to the profession to inform further aspects of the Future Bar Training programme. Work has already been done to determine the sampling frame, interview topics and communications strategy, with data collection starting in February. We are also working on scoping research and data requirements for further final policy development and future evaluation required for FBT.
7. We have been working with the Regulatory Assurance Department and the Solicitors Regulation Authority on a research project on judicial perceptions of criminal advocacy of both barristers and solicitor advocates. The Invitation to Tender was released at the end of January, tender responses will be evaluated in February, and the supplier will be appointed - and work on the research will start - at the beginning of March.
8. The team has been working with the QC Appointments Panel to support their research project looking into lower application rates by women to become QCs. Initial findings have been shared with the BSB, and – with BSB support - a stakeholder workshop was held in mid-February to discuss the findings of the research.

9. Pixl8 have been appointed to conduct research into users of the BSB website to inform future improvements. We have been working with the communications department in supporting the research and held meetings with the suppliers to shape and quality assure the research.
10. Work is underway to collate the available data, information and evidence on which we have drawn in the Future Bar Training programme. This is being reviewed and compiled into a report that will ultimately inform the rule change application to the Legal Services Board and wider evaluation plans. An initial draft will be prepared by mid-February.
11. We have received the second draft of the Market study of the models of provision of legal services by barristers from Pye Tait. The Project Team led by Oliver Hanmer will sign off the final version of the study by the end of February and will arrange a Knowledge Sharing session by the end of March within the BSB to present the report. Pye Tait will present the findings of the research at this session and a discussion regarding the use of this report and the next steps will follow.
12. We are also working on an evaluation framework for the implementation of the Immigration Thematic Review.
13. The Research Quarterly digest for Q3 will be soon finalised and will be circulated by the end of the month.

### ***Regulatory Risk***

14. The risk team continues to work closely with the Centralised Assessment project team on testing and applying the risk assessment policy to all incoming information. The risk team are also in discussion with the Information Services team over the development of a practical solution for capturing risk assessments, using the questions template currently under development with the CAT Project team. The CAT Project Board will receive a paper setting out proposals for taking forward consistent Risk Assessment later this month.
15. Work on risk reporting continues to progress, and we await development of the mapping tool that will capture data from the data warehouse mapped to our regulatory risks. Once available, the risk team will run initial reports and discuss them with colleagues across BSB to refine the underpinning mapping. The risk team are developing a paper for the SMT, which will set out our proposals for risk reporting.
16. Work continues on risk prioritisation, with input from the APEX Regulatory Risk Expert. We are now working to incorporate both assessment and prioritisation together as an integrated part of the regulatory decision making process. The Board will receive a fuller update in March 2017.
17. We have been reviewing the insights arising from the draft research report on delivery models for barristers' services and this is helping to inform our focus for risk topics in the coming year.
18. We have now sent a survey to representatives from each legal regulator in preparation for the joint meeting we are hosting in March, enabling us to share details of our respective approaches to risk based regulation and identify opportunities for further knowledge sharing or collaboration.



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

### ***Consultation***

19. The FBT consultation *Futures Routes to Authorisation* was launched on 3 October 2016. Following the launch, there was an extensive programme of engagement activity across England and Wales. On 1 December, we published an addendum to the consultation – a further proposal submitted by the Bar Council and the Council of the Inns of Court – and extended the deadline by a further month. On 31 January 2017 the consultation period closed.
20. We received 374 substantive responses, 250 from members of the Bar. This figure includes responses which answered all the questions in the consultation and those who partially responded and/or offered their own analysis of the consultation. Some responses endorsed one or more other responses and provide further reasoning for their support of another's response.
21. In addition to the 374 unique responses, the Commercial Bar Association (COMBAR) and the Chancery Bar Association asked their members to send a set email to the BSB; 113 barristers sent in the COMBAR email 93 sent in the Chancery Bar email. Although not each individually classified as substantive responses, we will be giving appropriate weighting to the views expressed, as they add to the response offered by others. A further 529 barristers signed an open letter, of which 479 had not sent any previous response.
22. Other respondents to the consultation paper include other Specialist Bar Associations, special interest groups, students, pupils, academic institutions and BPTC providers. Copies of all responses have been made available to board members.

### ***Authorisation Framework***

23. A project plan has been put to the FBT Programme Board scoping out how potential applications will be assessed under any new regulatory approach. An Authorisation Framework will ensure the BSB has a consistent and coherent approach to assessing whether new training proposals meet the requirements set out in the Professional Statement. This will include all points of assessment and quality assurance undertaken in each part of the proposed training pathway.

### ***Regulatory review of the role of the Inns of Court in Barrister training***

24. There are two main aspects to this review. The first is a review of the governance arrangements that exist between the BSB and the Inns where the Inns are operating within the BSB's regulatory arrangements. The second is a review of the functions currently undertaken by the Inns to establish which remain appropriate in the light of new approaches to Bar training and the extent to which the BSB must have oversight of those processes that remain.

### ***Reform to pupillage***

25. Pupillage provides the practising stage of training and is integral to ensuring that at entry to the profession, barristers meet the expectations of the Professional Statement. No review of the route to qualification to becoming a practising barrister would therefore be complete without consideration of the role that pupillage plays within that process. The review will cover the policy principles behind the regulation of pupillage as well as

the governance and regulatory framework that is put in place both by the BSB and within pupillage training organisations to ensure the effective delivery of pupillage.

### **Professional Standards**

#### ***Handbook***

26. We have undertaken an Equality Impact Assessment on the BSB Handbook. As a result, we plan to make a number of changes including making the language of the Handbook “gender neutral”. We hope to make the changes in time for the new edition of the Handbook (the Third Edition) which will be issued when we start to license ABS.
27. We also continue to receive a number of calls and enquiries about the Handbook and our regulations through the professional standards helpline. In January, we received around 40 calls, the majority from consumers/members of the public.

#### ***International***

28. Following the board discussion and decision in November, we have now met the Bar Council to discuss international working. We will start to draft a protocol to clarify respective roles and responsibilities which we hope to have approved in time for the new business year.

#### ***Immigration Thematic Review***

29. We have developed a plan to start delivering the recommendations of the 2016 Immigration Thematic Review. This takes account of the recent CMA report. Work to develop a first draft of consumer guidance for immigration clients is underway (the first deliverable of the plan), with direction and input from the internal project group. The guidance is on target to be published in Q1 of the 2017/18 business year.

#### ***Public and Licensed Access Review***

30. The final Public and Licensed Access review report and recommendations are due to be published in March. A number of proposed changes to regulatory arrangements will then be put to consultation in Q1 of the 2017/18 business year. Other recommendations will be taken forward as part of the BSB’s wider response to the CMA report.

### **Equality and access to justice**

31. The Equality and Access to Justice Team have primarily focused on the preparation and approval of the annual Diversity Data Report 2016 and new Equality and Diversity (E&D) Strategy 2017-2019. The Board approved both the Data report and Strategy in February. The Equality and Access to Justice Team have prepared a detailed implementation plan to deliver the Equality Objectives and have met with the Equality Champions to further progress departmental Equality and Diversity action plans.
32. In February the Head of Equality and Access to Justice delivered an Equality and Diversity session for Lincolns Inn Practice Management Course, the evaluation of the session has resulted in a request to design a longer pilot session to enable further engagement with pupils on the equality and diversity agenda.
33. The E&D Senior Policy Officer has met with the Association of Women Barristers to discuss progress on the Shared Parental Leave Consultation.

34. The E&AJ Team have been working with the Research Team to progress the E&D BPTC students' research project.
35. The Head of E&AJ has attended a meeting to support Queen's Counsel Appointments with their research into increasing female QC applicants and to plan an associated meeting with stakeholders taking place at the BSB in mid-February.

## **Professional Conduct**

### ***Staffing***

36. This month the PCD welcomes Melissa Nicol, who has been appointed to the vacant Assessment Officer post within the Professional Conduct Department's Assessment Team. Melissa joined us on Monday 6 February 2017. Melissa is a qualified solicitor/lawyer in Australia and has a background in criminal Court work in the lower, higher, federal and Supreme courts. She is joining us from a temporary post at the Royal College of Veterinary Surgeons, where she worked in their professional conduct department.
37. The recruitment exercises in relation to the four remaining vacant posts: Senior Case Officer, Head of Conduct Assessment, Professional Conduct Assistant and Reports and Data Analysis Officer, are ongoing.

### ***PCC Lay Recruitment***

38. The five new lay members of the Professional Conduct Committee are now in post, having completed their induction training. This returns the Professional Conduct Committee to a lay majority, with 18 barrister members and 20 lay members sitting on the Committee.

### ***PCD Away Day***

39. The PCD recently held its annual Away Day. During this event the Investigations Manager of the Chartered Institute for Legal Executives (CILEx) Regulation provided a very helpful session. CILEx operate small decision making panels and the session provided extremely useful information and lessons to learn. The Away Day also included refresher training for staff on our responsibilities in relation to Subject Access Requests under the Data Protection Act.

### ***Litigation***

40. Since the last update, there is still no indication of the date when the limitation point in the discrimination case is to be heard before the Supreme Court. The Employment Tribunal matter is listed for hearing from 14 to 16 March, where it is hoped that the grounds advanced by the claimant will be clarified.
41. The claim for damages arising from a case that was referred to Tribunal but subsequently dismissed by the PCC has been issued and the BSB has put in its defence. There are no dates for any hearings at present. Currently, there are no judicial review claims outstanding.

**Regulatory Assurance Department*****Pupillage***

42. The Professional Statement, Threshold Standard and Competences were published in September 2016. As part of the FBT programme, we have commenced a project to ensure that pupillage training is designed to meet the competences required as set out in the Statement. Our proposed approach will be taken to the Education and Training Committee for approval on 28 February.

***Centralised Assessment of Incoming Information (“CAT”)***

43. Following the prioritisation review by the Board, the CAT project timeline has been extended to March 2019. The project plan is therefore being rescheduled. Work continues, but over a less condensed timeframe, so that staff resources are freed up to work on other BSB projects. The Project Team has continued to test the risk assessment methodology, to align it with the new BSB Risk Assessment Policy.

***Anti-Money Laundering***

44. In March 2018, the UK will be subject to a peer review by the Financial Action Task Force (FATF) of compliance with, and effectiveness of the UK’s approach to preventing money laundering and terrorist financing. The FATF is an inter-governmental body that set standards and promotes effective implementation measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. The FATF has developed recommendations that are recognised as the international standard. It monitors the progress of its members in implementing necessary measures.
45. We are working with HM Treasury and other UK regulators to prepare for the visit. As part of the preparation, the Supervision Manager attended training by the Senior Policy Analyst from the FATF who will lead the UK review. At that training, the Analyst said that, in the legal sector, the focus will be on transactional lawyers, not advocacy services.

***Equality and Diversity***

46. The Supervision team equality champion attended a Lincoln’s Inn Pupillage Practice Management training event to provide the perspective of the regulator for the session on equality and diversity. These events provide an excellent opportunity to spread our key messages in this area at an early stage in barristers’ careers.

***Licensed Body (“ABS”) Implementation***

47. Our designation order technically came into force on 17 February. Subject to final parliamentary approval, we propose to launch the scheme as soon as practicable.

***Statutory Interventions***

48. As set out above, the acquisition of statutory powers depends on final parliamentary approval of the licensing authority designation order. Training was delivered on 1 February to key BSB staff by its intervention agency partners with learning to be reflected in strategy and operational policy.

**Authorisations**

49. Since start January, all first instance decisions are being taken by staff with guidance provided by a pool of advisory experts from the Qualifications Committee.
50. The next meeting of the Committee is scheduled for 21 February with a further meeting to be held in March. Nine cases are to be reviewed and the final amendments to the revised criteria and guidelines are to be approved. After 1 April, the review function will be carried out by those members of the Committee assigned to the new pool of reviewers.

**Communications and Stakeholder Engagement**

51. Since this report was prepared for the November Board meeting, the following press releases and announcements have been issued:
  - 17 January: A press release about a St Vincent and the Grenadines-based unregistered barrister who was disbarred following a conviction for theft
  - 20 January: A reminder to the Bar that all pupillages must be advertised on the Pupillage Gateway
  - 27 January: A press release confirming that the Board approved new governance principles and agreed to simplify decision-making
  - 27 January: A press release to accompany the publication of the annual diversity data showing that diversity at the Bar is heading slowly in the right direction but that further progress is needed.
52. The Board will have seen the fortnightly media coverage that the above announcements generated.

**Work in Progress**

53. In addition to business-as-usual activities, at the time of writing, the following pro-active communications are scheduled over the next few weeks and months:
  - the launch of a new Equality and Diversity Strategy;
  - the launch of the annual Authorisation to Practise process;
  - the publication of a new youth proceedings competency framework; and
  - the publication of a report into recent public and licensed access scheme research.
54. The team is also working on the following projects:
  - helping to draft the 2017/18 BSB Business Plan;
  - researching the User Experience (UX) on the BSB website to better understand the site's users and their needs from it; and
  - helping with communication issues associated with the Future Bar Training programme.

**Online and social media**

55. During January, 32,324 users visited the BSB website. At the time of writing, we have 16,434 followers on Twitter, 2,681 followers on LinkedIn and 316 organisation likes on Facebook.

## **Corporate Services**

### ***Corporate Support***

56. The Corporate Support team have agreed a price and scope of work with consultants BDO LLP to provide assurance mapping work in the high-risk areas of the BSBs business, including: Professional Conduct, Examinations, Waivers, Communications, public engagement. Mapping work is due to commence at the end of February.
57. The business plan milestone - setting work has been completed and the Communications and Public Engagement team are now working on the narrative for the document. As is expected the main priorities for the year ahead are Future Bar Training and responding to the CMA Report. The narrative will also clearly articulate the BSBs business-as-usual work.
58. A year end forecast is being worked on with directors and the Resources Group finance team. We are not currently forecasting any significant over or underspend in our controlled expenditure. The PRP will be reviewing the forecast if any major variance is forecast.
59. The team have supported the drafting of the board recruitment tender and will be assisting the governance manager through the appointment process over the next month.

### ***Governance***

60. The Advisory Pool of Experts (APEX) has been accessed seven times since its commencement on 1 January, with two of those requests for engagement of multiple experts. Requests have been made of nine of the eleven appointed experts to date, with all requests accepted.
61. An invitation to tender for an external partner to support recruitment of Board members in 2017 has been published. Selection of external consultants will be finalised by the end of March. A schedule for recruitment in 2017 has been agreed by the Independent Appointments Panel, with the intention of announcing appointments at the November Board meeting.
62. A format for Board member appraisals will be finalised by March. Appraisals will be scheduled in March or April for members whose first terms conclude at the end of 2017 (to inform reappointment decisions should reappointment be sought), and for other members as they complete 18 months of their first terms.

## **Resources Group**

63. The PRP committee received a detailed report of progress against plans and on service levels from RG. Useful work on personnel turnover was discussed and delays in implementation of the new finance system were noted. The Information management Programme is running largely according to plan and has been adjusted to cope with changes in BSB project deadlines.

**Vanessa Davies**  
**Director General BSB**  
**16 February 2017**