

# Annual Report





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# Chair's statement

My first Chair's statement appeared three years ago, in relation to 2009. In each subsequent statement I have commented on how busy the preceding year has been and this year is no exception. During the fifteen month period covered in this report we have experienced considerable change. Some of it we anticipated, some of it we intended to create, some of it was unforeseen. Managing that change required considerable time and effort on the part of everyone within the Bar Standards Board and a good many others outside it, including of course the profession itself.



During the year we made progress on all of our major projects as is explained throughout this report. As Chair, my involvement in our work programme often has a public face to it. As always, the year involved a great deal of public interaction. I personally undertook meetings with Ministers, key government officials, members of the judiciary and other stakeholders. I met regularly with my counterparts in other organisations, such as the Legal Services Board and Solicitors Regulation Authority. I attended roadshows around the country and spoke at many venues for conferences, symposia and meetings. In short, I have not been sitting in an office in High Holborn but on many occasions have been far from it and meeting with people who are interested in and affected by our work.

As always I must acknowledge the hard work and dedication of our Director, Dr Vanessa Davies and the entire Bar Standards Board staff. The achievements outlined in this report are the end product of considerable application and aptitude on their part – not to mention the day to day business of regulating that must be carried out. Our Board is very grateful for their efforts.

I also wish to thank, on behalf of the entire Board, everyone outside the BSB who has been involved in or contributed to our work. This is both in terms of the changes we are making and the day to day work of a regulator that must be undertaken. In the latter context, we are enormously grateful to the members of our committees who help develop policy in some cases but in many cases, make sure that decisions are made properly and our overall system of regulation works. For instance, the Professional Conduct Committee plays a vital role in making sure our disciplinary system is operating effectively. Our barrister members still give their time pro bono and the time given is often significant.

We continue to have a constructive working relationship with the Bar Council. We have regular contact with the Inns of Court in relation to their educational activities and the part they play in the Bar's disciplinary system. The coming year may see those relationships tested as we, and they, look closely at how those roles have been carried out. As with all other aspects of our work, the relationship with the Inns is likely to change.

This year has also been testing in some of our joint projects with other regulators. I am thinking particularly of the QASA scheme but it is true that we must all invest considerable time and energy in building and maintaining our relationships so that we can deliver the regulation expected of and needed from us by our respective branches of the legal profession. It is a testament to our collective professionalism that we have made progress and continue to work together constructively.

The Board itself changed at the end of 2011. While we have a cycle of retirements and renewals of membership, the end of 2011 was particularly notable. Several members reached the end of their maximum six year period. These people had been on the Board since it was created in 2006 and they have overseen a great deal of change. I would say that things are almost entirely different now to the day that they first all sat around the Board table. We owe a great deal of thanks to Charles Hollander QC, Simon Monty QC, John Carrier and Sarah Brown. Their departure is significant for another reason as their replacements took the Board to a lay majority. This was a long stated ambition for the Board as well as being required by the Legal Services Board's Internal Governance Rules. Our new lay members are of the highest calibre, having been successful through a rigorous appointments process with over 150 applicants. With induction now complete, they are coming to grips with the depth and complexity of what we do and are already making a valuable contribution to our work.

I also came to the end of my first three year term as Chair of the Bar Standards Board at the end of 2011. The independent Appointments Panel approved my reappointment as Chair for a further three year period. As I stand at the mid-way point of the possible six year maximum term that any Board member, Vice Chair or Chair of the BSB may serve, I look back on a period of considerable change and look forward to even more. The pace of change is not slowing; indeed I think it is gathering pace. However, change is also necessary to ensure that the regulation of the Bar does indeed protect and promote the public interest and the interests of consumers while also encouraging an independent, strong, diverse and effective legal profession. These are regulatory principles in the Legal Services Act 2007 but have been central tenets of the BSB since its inception and we remain committed to them.

*Baroness Ruth Deech, DBE*

**Chair, Bar Standards Board**

# Director's report

I am very pleased to present this annual report, covering my first full year in post as Director of the Bar Standards Board. It has been a very busy year but also a productive one.

I have been hugely impressed by the ability and application shown by both our staff and the Board itself. This is an intellectually demanding environment and our people are more than capable of rising to the challenge of operating within it. But the changing market for the services provided by the Bar means that we must also change so that we continue to regulate in the public interest, as required of us by the Legal Services Act. This year has seen a lot of change and we have significantly more to come.

This report covers the fifteen month period from 1 January 2011 to 31 March 2012 (fifteen months on this single occasion in order to move our financial and reporting year from a calendar one to one that runs from 1 April to 31 March.) For year-on-year comparison purposes, some of our key information is still reported for the 12 month period. This applies to our disciplinary and applications for waivers statistical information, which is reported for the 12 months of 2011 rather than for 15 months.

As you will see the report covers all areas of our operation. The focus is often on the improvements that are being made to achieve our aims. This is not the whole picture of work at the Bar Standards Board though. During the year we have done some analysis of how much time we spend on those improvement activities and how much is spent on "core" activity – the day to day business of regulating. The vast majority of our time and resources – approximately 80-85% – are used to carry out that core activity.

As part of that core work we monitor all aspects of education and training for barristers – from input into the Joint Academic Stage Board, to the Bar Professional Training Course, to pupillage, to continuing professional development. That includes considering a variety of applications for waiver from the requirements we set. We set the standards of conduct for barristers, undertaking a wide variety of policy work to support changes to the Code of Conduct that are required – as distinct from the investment in our bigger projects such as the full revision of the Code. We monitor the services provided by barristers to assure quality and finally we handle complaints and take disciplinary action where that is necessary because of allegations of misconduct by barristers or possible breaches of the Code of Conduct. We respond to press queries, issue publications and ensure our cycle of Board meetings is properly administered. The focus of this report is not on those core activities but they are important nonetheless. We would not be a regulator without them. We are always seeking to strike the right balance between keeping these systems operating and reviewing them to ensure that we are carrying them out as efficiently as possible, or indeed also considering whether we need to continue with them at all. Over time, we expect our core activity to change and improve as well.

I am proud of the achievements we have made on our major programmes of work this year. The Authorisation to Practise project, started well before I joined the BSB, became a reality. Sitting behind that project was a significant internal project – a new core database.



Staff put in an extraordinary amount of time to ensure that we have put in place a system that will contribute to us becoming a more efficient and modern regulator. A proper central database is an essential component of regulation in this day and age. Having barristers apply for renewal of their practising certificates online is a major step forward for the profession. We are very pleased to have successfully launched an IT project of this nature. Some individuals of course did not find it so easy but the vast majority of the profession used the system to renew their practising certificate without incident. Our staff manned the helpline and responded courteously and helpfully to barristers using the system for the first time. Of course this was a genuinely cross-cutting project involving the Bar Standards Board as well as the Central Services and Representation and Policy arms of the Bar Council. I wish to thank everyone involved in it.

Our other significant successful IT project was the launch of our new website. The new site is an improvement on our previous site but as all sites should be, is a work in progress. The aim is to have the information that our users need readily available to them. If you can't find information or think we need more information of a particular kind on our website, please let us know. We are always willing to improve in that regard.

Completion of any task by the Bar Standards Board often means that a wide variety of other people have contributed – from the profession, to consumer groups, to other stakeholders. We need to have good working relationships with many others to get our work done successfully. I invest a good deal of time in those relationships and wish to thank the many people I have worked with over the last year, particularly the Bar Council, Legal Services Board, Inns of Court, Specialist Bar Associations, the senior judiciary and the other frontline regulators.

Next year presents a new set of challenges and another significant programme of work. Many large scale and long standing activities will be completed. We anticipate submitting the new Code of Conduct to the Legal Services Board for approval. We will receive the Legal Education and Training Review report and start to consider what that might mean for our existing systems. We will run the first centralised examinations in crime, civil and ethics for students of the Bar Professional Training Course. We will launch the Quality Assurance Scheme for Advocates (crime). We will also be doing a great deal of internal work to start to meet the requirements of the Regulatory Standards Framework issued by the Legal Services Board. We will ensure that we think carefully about how to utilise our information and our technology to best effect, developing an Information Strategy to do so. We will undertake research to better understand the needs of consumers of barristers' services. We will look for opportunities to engage with consumers and stakeholders in as many different ways as possible. Lastly, we will invest in our staff to make sure that we have the right skills and capabilities to support everything that we do.

I look forward to the coming year and all it will bring.

*Dr Vanessa Davies*

**Director, Bar Standards Board**

# Overview of the year including external factors that affected performance

During the year we completed a second pilot of an aptitude test intended for use before entry to the Bar Professional Training Course, then analysed the results. Those results fed into the application submitted to the Legal Services Board for approval in April 2012, just after the period this report covers. The bulk of the work required for that application was completed during the 2011/12 fifteen month period.

We also launched the Centralised Examinations project. This followed a recommendation in the review report authored by the working group chaired by Derek Wood QC that reviewed the then Bar Vocational Course. The project is intended to ensure that all students on the course achieve consistent standards in key areas regardless of which provider they are studying with. It will mean all students will sit the same examination in three course areas: crime, civil and ethics. We will report next year on the first round of examinations that will have been completed under this project.

A number of other initiatives related to the reviews of the bar course and pupillage were implemented. For example, the minimum payment for all pupils was raised to £12,000 per annum, ensuring that all pupils could expect to at least earn the minimum wage. The final education review, the Continuing Professional Development Review, was completed by the working group led by Derek Wood QC and presented to Board.

We submitted several applications for changes to the Code of Conduct to the Legal Services Board, a number of which related to equality and diversity. Key elements of those changes include the need for all chambers to make provision for flexible working, parental leave and reasonable adjustments policies as well as providing rent relief for those who take parental leave. The changes will also include new requirements for chambers to gather, and in some cases publish, diversity monitoring data. Those changes will come into effect during 2012.

We undertook significant development of the Quality Assurance Scheme for Advocates (crime) which was considered by the Board in June. This is a demanding programme, both for the regulators involved in developing it and for the profession, in particular in relation to the changes that are involved.

We have continued to work and consult on offering new opportunities in relation to the way in which barristers might practise in the future. The first entity regulation consultation closed and was analysed. Responses have been published on the BSB website. The second entity regulation consultation was issued.

We made improvements to our complaints handling by introducing new processes. We completed handover of relevant existing complaints to the Legal Ombudsman as required. We finalised more than originally projected and were ahead of the deadline, which resulted in the BSB paying less for the consideration of them by the Legal Ombudsman than would otherwise have been the case. We appointed a new Independent Observer, a lay person who comments on our overall complaints system, giving the Board a valuable external perspective and also assurance.

We worked jointly with the Bar Council to publish the first Biennial Survey of the Bar 2011. This piece of research, aimed specifically at learning more about the Bar's practices and perspectives is already proving to be a source of valuable information. As it is repeated it will become even more useful in that regard as we will be able to analyse trends over time.

Our new website was launched in December 2011. This is our primary means of providing information for the profession and the public. We complemented this with use of social media such as Twitter. We have found that a wide variety of people follow and interact with us in this way – from students, to barristers, to solicitors, to academics, to the media. The website includes all kind of information that is useful to people interested in or affected by our work. Recognising that sometimes we don't get it right, our website also includes our Feedback and Complaints policy, available on the Contact Us page, which shows we are accountable to all for our activities.

The Legal Services Board regulates our day-to-day work as well as any changes we make to our own "regulatory arrangements". The Legal Services Act 2007 provides that the Legal Services Board must approve any changes to those arrangements, which includes most of our rules and policies. We spend a lot of time interacting with the Legal Services Board at all levels – our Chair and Director meet regularly with their counterparts at the Legal Services Board and our staff have regular interaction with theirs on all sorts of topics.

We interact with other bodies in a variety of ways. For example, this year the Ministry of Justice undertook its triennial review of the Legal Services Board, Legal Services Consumer Panel and Office for Legal Complaints. The Board participated fully in that process, attending workshops and making submissions. The Bar Standards Board responded to many consultations issued by other organisations. Our consultation responses are published on our website.



## External or unanticipated factors

Despite planning robustly at the start of the year, events inevitably occur which affect our ability to deliver as originally scheduled. This year was no exception in that regard. While we have sight of the Legal Services Board's business plan during our own planning processes, we are often not aware of how much work will be required of us in response. This year, one key example of this was the introduction of the Legal Services Board's "Regulatory Standards Framework". The Legal Services Board issued a consultation on this framework in April 2011 with the final decision document being published in December 2011. However, as we were discussing our various workstreams and upcoming applications with the Legal Services Board, it became clear that the framework was being applied from as early as September and that any application would need to address its elements.

In relation to the Code, this meant a significant amount of reconsideration was required to address the need for the Code to be an example of "outcome focused regulation". The code was started when we were looking at a vastly different regulatory landscape. The Code needed much more work to address this aspect, with knock on effects for other workstreams that will depend on the new Code. While we knew that the Legal Services Board was considering regulatory frameworks from its plan, we did not know how that would be interpreted and applied. The extent of the framework means we have had to do additional work. Delays have resulted as a consequence. On the positive side, the Code is likely to be rationalised and we will be able to explain exactly why elements of it are there as a result. We think that it will improve the finished product overall but it will take us longer to issue it than we originally thought.

The Code is perhaps the biggest piece of work affected by the Framework but the Framework applies equally to all other applications that we must make to the LSB. Reworking has been required on all applications as a result, sometimes having an effect on completion times, depending on how advanced the particular application was.

Implementing the Regulatory Standards Framework itself will be a significant undertaking in its own right. It means we must look at all elements of what we do and ensure that they are genuinely doing the job we need them to do. The Board agrees with much of the content of the Regulatory Standards Framework, which is consistent with modern regulatory practice, however implementation of the Framework will require us to reconsider all aspects of our working practices and respond accordingly. While we will incorporate the substantive work into the 2013-14 onwards business plans, it has already had an effect at the end of this year in terms of senior management time having to be diverted to consider its implications.

Sometimes the external factors are more to do with the need to take a variety of views into account. The Continuing Professional Development Review was received by the Board from the working group chaired by Derek Wood QC. This will affect every member of the Bar as they practice. The Board decided to consult on the implications of the review. Over 60 responses were received with a wide variety of views expressed. Continuing Professional Development was the subject of our biennial "Clementi Debate" at which there was a wide-ranging discussion of CPD issues. It has been the subject of a good deal of comment and interaction on Twitter as well. Further, during the year the Bar Standards Board, together with other regulators, established the Legal Education and Training Review, with strong encouragement from the Legal Services Board. The review is co-chaired by Dame Janet Gaymer and Sir Mark Potter.

We did not expect to have to establish the review at the outset of the planning period. The extent of views expressed in a variety of fora has been considerable. As a result, the Board has decided to delay making any changes to the existing CPD scheme as further detailed consideration is required in order to develop the new system.

The Quality Assurance Scheme for Advocates (crime) has also had a number of external factors affecting its progress. The Legal Services Board made an early intervention to put on record its views of how the scheme should operate. The Legal Services Commission also made some comments, which it subsequently withdrew, about how the scheme might be tied to payment rates for barristers. These factors, as well as the concept of the scheme itself, had a significant impact on the profession and particularly some sectors of it. It has been challenging working with the other regulators on the development of the scheme and more complex than we expected. The scheme has therefore required a great deal more stakeholder management than we originally thought, even though a considerable amount was already built in. The benefit is that the final scheme will have been thoroughly examined from all angles before it is implemented. While some sectors of the Bar, noticeably the Criminal Bar Association, have been strong in stating their objections to the scheme, others, including the often quieter consumer voice have seen the necessity for the scheme and the opportunities within it for the Bar. It is inevitable that the scheme will proceed as it is in the public interest that all advocates meet appropriate standards and in order to maintain consumer confidence.

# Details of achievements in 2011-12

This section gives more detail of the activities completed or carried out during the year, using the four aspects outlined in the strategic plan: Regulation, Accountability, People and Values. As shown in our business plan, the majority of work relates to regulation, which reflects both the breadth of our work and the degree of change being undertaken in this area.

## Regulation

As covered earlier in this report, the implementation of the education reviews continued with the Bar Course Aptitude Test being prepared for submission to the Legal Services Board and the launch of the Centralised Examinations project.

We consulted upon and then carried out all the necessary policy work in order to submit an application to the Legal Services Board for changes to the Code in relation to equality and diversity. That included new Data Collection Rules and Guidance which the Legal Services Board has been particularly keen to see implemented. (The application was approved by the Legal Services Board and the new provisions come into effect at the beginning of September 2012.)

The Authorisation to Practise regime came into force, along with the Barrister Connect website, which requires barristers for the first time to apply online for their practising certificate and also provide assurances, eg that they have the requisite indemnity insurance cover. The Barristers' Register was revised so that it reflects Authorisation to Practise. This is a significant milestone, both in terms of the regime itself and that it marks the successful completion of an IT project. There were relatively few problems with the system itself although some people found it challenging to be undertaking the process electronically. As with all systems, improvements could always be made and we will review the process before the practising certificate renewals are called for next year.

We made considerable progress on QASA with the Board considering the scheme in June. While originally scheduled for submission to the Legal Services Board in July, the scheme was delayed by the emergence of various new issues such as the status of advocates whose practice does not include oral advocacy at trial. Nevertheless the scheme is still on track with a revised timeline agreed by all parties and will be implemented during the next reporting year, ie by March 2013.

Preparing for entity regulation continues with the closure and analysis this year of the first consultation. The responses have been published on our website. A second consultation was also published and work will continue next year.

In line with considering how practice needs to alter to address current needs, we have started to review the Public Access rules. This is a growing area of operation for members of the Bar which enables people to take instructions from clients directly in certain cases and upon certain conditions.

The first consultation on the new BSB Handbook, incorporating the Code of Conduct, closed, and the submissions were analysed. Considerable further work has been done during the year to address the Regulatory Standards Framework, as detailed above.

A variety of amendments were made to the existing Code to ensure it properly deals with current issues and decisions taken by the Board. They included:

- the new Practising Certificate Rules, which came into effect early in 2012 in advance of the new authorisation to practise regime going live;
- allowing barrister participation in Alternative Business Structures (ABS), which will enable barristers to practise as managers or employees of ABSs regulated by other Approved Regulators when Part 5 of the Legal Services Act 2007 came into force; and
- changing the definition of a professional client in Part X of the Code, which will clarify that barristers may only accept instructions from solicitors with current practising certificates.

New complaints processes have been introduced to improve how we manage complaints about barristers' conduct or breaches of the Code. The Professional Conduct Committee and the Professional Conduct Department issue comprehensive reports every year regarding their operation. Their Annual and Quarterly Performance Reports, User Satisfaction Survey Reports and Diversity Reports are available on our website <http://www.barstandardsboard.org.uk/complaints-and-professional-conduct/professional-conduct-resources/>. These reports are also presented to the Board, as shown in the public Board papers that we publish on our website. The Professional Conduct Committee has also made further steps to operate transparently, publishing the Information and Guidance Pack for Committee members on our website. The Committee also held an event for all prosecutors during the year. This was an opportunity for prosecutors to come together and learn about upcoming developments (eg new code and entity regulation) as well as share experiences. This was very successful. Professional conduct is a significant area of activity and accounts for a relatively large proportion of our budget. The detailed reports do this area of work justice in a way that this report cannot and are therefore not repeated here.

The Inns of Court play a part in the disciplinary system for the Bar. The Council of the Inns of Court (COIC) establishes independent disciplinary tribunals that hear cases when the Bar Standards Board decides that it should take action against a barrister. COIC established a review group, which the Bar Standards Board welcomed, to review the operation of its tribunals service, including the Sentencing Guidance. Just after it was established it became known that there had been a number of irregularities in the appointment of panel members. The effects of this will be felt for some time to come as the matter is still ongoing at the time of writing.

## CASESTUDY: complaint

A litigant in person in a family case complained to the BSB that opposing counsel in the case had lied to the Court. The complainant said that the barrister had deliberately given false information about the history of the case and had not given the Court important financial statements.

Our Assessment Team looked at the complaint first to see if there was evidence of a possible breach of the Code of Conduct. The Assessment Team then passed it to our Investigation and Hearings Team for a formal investigation to be carried out. Evidence was gathered as part of the investigation, including the comments of all relevant people involved and transcripts of hearings. That evidence showed that the barrister appeared to have breached the Code of Conduct and those breaches were serious. The investigation file was then sent to a barrister member of the Professional Conduct Committee for a report, with recommendations on future action, to be prepared for presentation to the full Committee. At the Committee meeting, the Committee discussed the case and agreed that:

- there was evidence that the barrister had misled the Court;
- there were reasonable prospects of securing a finding of professional misconduct in front of a Tribunal; and
- the regulatory objectives would best be served by taking disciplinary action.

The Committee also took the view that the charges were serious, and if proved, the barrister might be suspended from practice for more than three months. The Committee therefore referred the case to a 5 person Disciplinary Tribunal on two charges of misleading the court contrary to paragraph 302 of the Code.

Following the necessary preparation by the BSB and the service of formal charges on the barrister, an independent Disciplinary Tribunal was convened by the Council of the Inns of Court (COIC). The Tribunal considered all the documentary and oral evidence including all information that the barrister put forward. The Tribunal found the charges proved on the basis that it was sure beyond a reasonable doubt that the barrister had misled the court about the history of proceedings and that crucial financial statements had not been presented to the Court. This meant that the complainant's ability to present her case to the Court had been adversely affected.

The Tribunal suspended the barrister from practising for 18 months and ordered the barrister to pay the costs of the hearing.

During the year a new Independent Observer was appointed. The Independent Observer is a lay person appointed to provide independent assurance to the Governance, Risk & Audit Committee and ultimately the Board that the BSB's complaints and disciplinary system is operating in line with its aims and objectives. An annual report is provided and is available on our website [http://www.barstandardsboard.org.uk/media/1418891/independent\\_observer\\_-\\_annual\\_report\\_-\\_june\\_2012.pdf](http://www.barstandardsboard.org.uk/media/1418891/independent_observer_-_annual_report_-_june_2012.pdf)

The usual programme required to properly oversee and administer all aspects of education was undertaken. That included a schedule of visits to BPTC providers, annual revisions of the JASB, BPTC and Pupillage handbooks, administration of the BPTC application system, administration of the CPD accreditation and oversight of pupillage arrangements.

We recognise that sometimes people's circumstances mean that our rules cannot or should not apply in full to them. We receive individual applications from people wishing to qualify or practise as barristers who may need to be exempted from normal training requirements. For example, we look at the qualifications of solicitors from England and Wales as well as lawyers from other countries who want to become barristers in England and Wales. We also consider waiver applications from the standard requirements for qualification and practice as a barrister, approve training organisations as suitable to take pupils, grant licensed access for organisations to instruct a barrister directly where appropriate, review decisions of the Inns Conduct Committee and review decisions of the Bar Council on the issue of practising certificates. Statistics on the numbers of these applications we dealt with during 2011 are included at Annex 4.

## Accountability

This year the Board and Bar Council achieved substantial compliance with the Legal Services Board's Internal Governance Rules. That included having a lay majority, which became a reality on 1 January 2012. The five new lay members appointed have been inducted and now play a full part in the operation of the Board.

The Board agreed its first own comprehensive Standing Orders. They are an enabling set of rules, designed to govern the Board and its Committees' procedures. The Standing Orders are available on our website, together with our Constitution. Part of the development of the Standing Orders involved looking at the roles of our committees. One result of this is that the Performance and Best Value Committee has been split into two: the Planning, Resources & Performance Committee and the Governance, Risk & Audit Committee. This was done to facilitate better checks and balances on our operation.

The Board takes its role seriously and in addition to holding monthly Board meetings in public (except for August when there is no meeting), Board members attended away days to confirm strategic direction. This ultimately translates through into the business plan which was agreed by the Board at the beginning of the year and is available on our website.

During the year we refined our Feedback and Complaints policy and implemented the results. It is available on our website through the "ContactUs" page.

## CASESTUDY: applications

A solicitor who had been qualified for five years wanted to become a barrister. The solicitor went to the BSB website to find out what to do. On the website they found the Transferring Lawyers section which provided the necessary form and gave details of the supporting documents they would need. The solicitor filled out the form and sent it in, with all the necessary documents and the application fee. The Secretary to the Transferring Qualified Lawyers Panel of the Qualifications Committee checked the application and the documents to ensure that everything was in order and then prepared a cover sheet giving details of the solicitor's qualifications and experience together with a recommendation for the Committee to consider. The Secretary recommended that the solicitor should be required to:

- pass the Advocacy and Ethics parts of the Bar Transfer Test; and
- undertake a short period of pupillage – three months non-practising and three months practising.

The Transferring Qualified Lawyers Panel of the Qualifications Committee considered the application and agreed to the Secretary's recommendation. A decision letter was sent to the solicitor.

The solicitor then took the Advocacy and Ethics parts of the Bar Transfer Test and passed them. The solicitor then left the firm at which they were employed, joined a set of chambers and successfully completed the six months pupillage, under the tutelage of a pupil supervisor.

At the end of the pupillage the solicitor telephoned us. The solicitor explained to our Qualifications team that although initially intending to practise as a barrister in chambers after becoming a barrister, the newly fledged barrister had received an offer from their previous firm. The firm wanted them to come back and work for them again, this time as an employed barrister. The new barrister was interested in this offer but was aware that all new barristers with higher courts rights must work at the same organisation as an experienced advocate. This requirement is sometimes waived for very experienced people but very rarely waived for someone so newly qualified. During the conversation it emerged that there was no one in the solicitors' firm who would be able to provide the necessary supervision. It also emerged that the pupil supervisor was prepared to remain involved with the new barrister and assist their development.

Sometimes the BSB will approve supervision of a new barrister by someone in a different workplace, providing the arrangements are close enough and provide the necessary support. An application was made, supported by letters from the pupil supervisor and the solicitors' firm showing that everyone was happy with the arrangement.

The Secretary to the Practising Rules Panel of the Qualifications committee considered the application, checked the application fee had been paid and made a recommendation to the Committee that the arrangement be approved, providing that the new barrister and pupil supervisor met every two months with a report provided to the BSB every six months for three years. The Committee agreed but thought that the arrangement should only be in place for two years given the new barrister's previous experience.

We monitor our corporate risks internally and report regularly to the Governance, Risk & Audit Committee and to the Board on an exception basis, although we do not publish those reports. This is in line with our Risk Management policy which we reviewed during the year then implemented the revised policy accordingly.

We adhered to the finance policy which sets out the organisation's financial controls as agreed by the Bar Council's Finance Committee. Our financial performance was regularly reviewed by the Planning, Resources & Performance Committee during the year. The overall income and expenditure tables (as reported by the approved regulator in the Annual Report and Accounts 2011/12) are given at Annex 3. In those tables the overall cost of the BSB is shown as £7,806k but it must be remembered that this is for a fifteen month period and does not represent the "normal" annual budget. Further, a large part of that sum is made up of costs over which the BSB only has indirect control or for which provision must be made but control is not possible. For instance, the staff costs figures include sums for maternity costs, training, recruitment costs and pension adjustments which are held within the HR and Finance budgets. Likewise, the "direct other" column figures (page 21) contain adjustments for VAT that are not reflected in the budget that the BSB staff manage on a day to day basis. Premises costs are allocated at the end of the year and are shown in the statement of expenditure, being partly itemised and partly included within the management costs. On a day to day basis, the Office Services team within Central Services budget has sight of the costs relating to the premises rather than individual BSB budget holders.

In total, £3,222k of the costs attributable to regulation are held or managed in Central Services budgets and allocated to the BSB at year end. As outlined above £2,337k is shown as a reallocation of Central Services' costs, £696k accounts for the BSB's share of premises and the balance of £189k is incorporated or apportioned into each of the BSB regulation budget areas.

The BSB exercised direct control over a budget of £4,585k during the 2011-12 period. Against that budget we spent £4,498k, ie £86k (+2%) less than our budgeted figure. There is a much closer alignment between budget and actual spend this year compared to previous years. This reflects the high volume of work undertaken during the year but the variance is accounted largely by the external factors described above. Any delay to a programmes results in expenditure also being delayed but overall, the performance is positive.

We also collected revenue to offset the overall costs of the BSB. During 2011-12 the income directly attributable to the BSB was £1,514k which was higher than the £1,382k we predicted at the beginning of the year. While we do not budget to collect fines or recover costs through the disciplinary system, in practice some money does come into the organisation from these sources. In this reporting period £134k was collected from the payment of fines or the recovery of costs.

## People

Together with the Bar Council we published the first Biennial Survey of the Bar in 2011. This ongoing project will enable us to establish an evidence base upon which we can draw when developing policy. It is a rich source of information about the Bar, provided by the Bar.



## CASESTUDY: E&D webinar

This year the BSB's Communications team received a brief from the Equality and Diversity team to deliver an event which promoted the new Equality and Diversity Rules, which were to be included in the Code of Conduct. All self-employed barristers needed to be aware of the changes. We needed to reach all of them in a cost effective way. Several possible methods were considered. The webinar option was favoured rather than holding several roadshows. Not only was this option value for money; it also meant that participants could attend the information session from any location where they had access to a computer and the internet.

The Communications team researched a variety of webinar formats to determine which would suit the type of session the Equality and Diversity team intended to deliver. The format chosen was one that consisted of a variety of mediums, in order to keep the audience engaged. This included a video introduction, a powerpoint presentation supported by audio and an email component for the audience to post questions.

After the research was completed, the Communications team produced a detailed implementation plan, which included all the elements needed for promotion and delivery.

The webinar was promoted on our website, Counsel magazine, email to the profession and on Twitter. Posters were also distributed.

The live webinar was well attended and the feedback was positive. One participant said:

*"It was very easy to navigate the link contained in the confirmation email and the connection was simple to achieve. Both audio & video of the presentation were very clear and the PowerPoint slides were informative. It was effortless to follow the seminar and very easy to ask questions via the interactive session.*

*I considered it to be a very constructive hour. There was no time lost in travelling to or from the seminar, and, as I remained in chambers, had there been something that required my immediate attention, I would have been available to deal with it."*

The webinar remains posted on our website for barristers who were not able to attend the live session.

We launched our new website, which we continue to refine. It is increasingly our main method of publication, including of this report, which this year for the first time will be published electronically rather than in paper format. In order to maximise resources and minimize expenditure wherever possible, we will publish in electronic rather than paper format whenever possible. Wherever this creates difficulties for individuals we will furnish information in alternative formats or directly to them.

We do publish some documents in paper, for example our complaints booklets. We also publish a leaflet entitled "Who we are and what we do" which was an action set out in our Communications Strategy. We use these leaflets in particular at conferences and meetings. Each Barrister receives a copy on their call night, together with other relevant information about the Bar Standards Board and the Bar Council.

As outlined, we increased our Twitter use and saw a noticeable increase in interaction with us as a result.

We also invested further in good systems to support our organisation. We undertook a pay and grading review during the year, providing the Bar Council (as employer) with a single pay and grading system for all staff across all parts of the organisation. One of our new Board members was appointed HR Champion. This is a new function where someone with significant HR function provides support and assistance with strategic issues to our HR team and senior management team.

We continued to carry out a wide programme of interaction with stakeholders, particularly the Legal Services Board, where we have almost daily interaction from the respective Chairs down through both organisations.

## Values

We sought during the year to change the way in which we receive and respond to consumer feedback. We were advised by members of the former Consumer Panel that the process needed to be changed. We constituted a User Group instead. Again, we drew on "expert consumers", ie organisations that deal with large numbers of people affected by barristers' work, as we have difficulty reaching individuals. The User Group contributed to the Code of Conduct and Entity Regulation consultation year and this will continue.

During the year we also worked on our Equality Action Plan and Equality Objectives. The Equality Objectives were published just after this reporting period (April 2012) but all of the development work took place during the year.

# Annex 1

## Board members

As at January 2011

### Chair

Baroness Ruth Deech

### Vice-Chair

Sir Geoffrey Nice QC

### Barrister Members

Ms Sarah Clarke

Mr Charles Hollander QC

Mr Simon Lofthouse QC

Mr Simon Monty QC

Mr Matthew Nicklin

Ms Patricia Robertson QC

Mr Sam Stein QC

### Lay Members

Mrs Sarah Brown

Mr John Carrier

Dr Malcolm Cohen

Ms Paula Diggle

Ms Sharmila Nebrajani (resigned in year replaced by Mr Tim Robinson September 2011)

Mr Richard Thompson

As at January 2012

### Chair

Baroness Ruth Deech

### Vice-Chair

Sir Geoffrey Nice QC

### Barrister Members

Ms Sarah Clarke

Mr Simon Lofthouse QC

Mr Matthew Nicklin

Ms Patricia Robertson QC

Mr Sam Stein QC

### Lay Members

Ms Rolande Anderson

Mr Rob Behrens

Dr Malcolm Cohen

Ms Paula Diggle

Mr Tim Robinson

Professor Andrew Sanders

Mr Richard Thompson

Dr Anne Wright

# Annex 2

## Committees and their responsibilities

The committees

**Education and Training:** Responsible for setting the standards of education and training that people must pass before being able to practise as barristers, together with the further training requirements that barristers must comply with throughout their careers. Helps develop policy.

**Equality and Diversity:** Responsible for ensuring that the BSB's functions have given due consideration to eliminating discrimination and promoting equality. Has oversight of policy development.

**Governance, Risk & Audit:** Responsible for ensuring the maintenance of good governance standards and internal control processes. This is a policy development and oversight committee.

**Planning, Resources & Performance:** Responsible for work relating to development of strategic direction, resources setting and performance monitoring. This is a policy development and oversight committee.

**Professional Conduct:** Responsible for investigating complaints and taking action against barristers who have breached the Code of Conduct. This is a decision making committee.

**Qualifications:** Responsible for looking at individual applications from people wishing to become barristers but who may be exempted from the normal training requirements. This is a decision making committee.

**Quality Assurance:** Responsible for monitoring standards and encouraging professional excellence at the Bar. This is a policy development and oversight committee.

**Standards:** Responsible for the Code of Conduct which all barristers must comply with and issuing guidance on good practice. This is a policy development and oversight committee.

# Annex 3

## Financial statements

Analysis of Income	15 Mths to 31/03/12 £000	Year to 31/12/10 £000
Practising Certificate Fees: Core activities	9,265	6,720
: LSB/OLC Levy rec'd	2,028	862
: Pensions Levy rec'd	3,218	2,250
	<hr/> 14,511	9,832
LSB/OLC Levy deferred to 2012/13	(10)	(184)
Pension Fund Levy deferred to 2012/13	(3,218)	(2,250)
	<hr/> 11,283	7,398
Inns Contributions	1,612	1,370
<b>Total: General Activities</b>	<hr/> <b>12,895</b>	8,768
Members Services Fee	1,692	1,561
Affinity Portfolio	251	172
SBA Administration	164	129
<i>Counsel</i> magazine	112	74
Conferences/Courses/other	513	24
<b>Total: Representation</b>	<hr/> <b>2,732</b>	1,960
Education & Training: Validation	576	583
Accreditation	332	180
Bar Prof. Training Course	209	115
Joint Regulations	252	161
Academic Stage/Other	146	76
	<hr/> 1,515	1,115
Disciplinary: Fines & Cost Recoveries	134	128
<b>Total: Regulation</b>	<hr/> <b>1,649</b>	1,243
Investment Income	109	60
Expected Return on pension assets	742	570
Other	60	52
<b>Total: Financial &amp; Other</b>	<hr/> <b>911</b>	682
<b>Total: All Sources</b>	<hr/> <b>18,187</b>	12,653

## Financial statements

### Analysis of Expenditure

	Direct:	Direct:	Alloc.:	Alloc.:	Alloc.:	15 Mths	Year
	Staff	Other	Prem. Manage.	Manage.	C.Serv.	to	to
Core activities	£000	£000	£000	£000	£000	31/03/12	31/12/10
						£000	£000
Corporate (see note next page)	740	469	572	–	461	<b>2,242</b>	1,830

### Representation

Professional Affairs	480	78	81	97	425	<b>1,161</b>	912
Remuneration	446	124	71	85	372	<b>1,098</b>	800
International/Europe	239	358	40	61	213	<b>911</b>	580
Member Services	400	387	35	85	372	<b>1,279</b>	557
Communications	189	108	50	49	213	<b>609</b>	295
	<b>1,754</b>	<b>1,055</b>	<b>277</b>	<b>377</b>	<b>1,595</b>	<b>5,058</b>	<b>3,144</b>

### Regulation

Disciplinary	1,379	123	272	444	1,020	<b>3,238</b>	2,665
Education Standards	540	393	67	166	382	<b>1,548</b>	1,172
Qualifications	420	27	44	111	255	<b>857</b>	528
Professional Standards	270	18	81	204	468	<b>1,041</b>	1,056
Entity Regulation	125	219	–	–	–	<b>344</b>	–
Quality	234	6	77	74	170	<b>561</b>	–
QA Scheme for Advocates	30	52	74	19	42	<b>217</b>	–
	<b>2,998</b>	<b>838</b>	<b>615</b>	<b>1,018</b>	<b>2,337</b>	<b>7,806</b>	<b>5,421</b>
	<b>5,492</b>	<b>2,362</b>	<b>1,464</b>	<b>1,395</b>	<b>4,393</b>	<b>15,106</b>	<b>10,395</b>

### Financial

Interest on pension liabilities						<b>869</b>	612
<b>Total</b>						<b>15,975</b>	<b>11,007</b>

## Financial statements

### Core activities

	Direct: Staff £000	Direct: Other £000	Alloc.: Prem. £000	Alloc.: Manage. £000	Alloc.: C.Serv. £000	15 Mths to 31/03/12 £000	Year to 31/12/10 £000
<b>Central Services</b>							
Member Records	297	–	36	41	–	<b>374</b>	288
Finance	301	420	30	33	–	<b>784</b>	653
Human Resources	125	43	19	25	–	<b>212</b>	139
Office Services	213	34	501	33	–	<b>781</b>	598
Print & Distribution	173	207	40	33	–	<b>453</b>	479
IT	189	485	38	25	–	<b>737</b>	314
Diversity	334	37	27	49	–	<b>447</b>	366
Research	202	159	24	25	–	<b>410</b>	208
Project Support	162	–	17	16	–	<b>195</b>	74
	<b>1,996</b>	<b>1,385</b>	<b>732</b>	<b>280</b>	<b>–</b>	<b>4,393</b>	<b>3,119</b>
Allocated: Corporate						<b>(461)</b>	(468)
Representation						<b>(1,595)</b>	(978)
Regulation						<b>(2,337)</b>	(1,673)
						<b>(4,393)</b>	<b>(3,119)</b>

Corporate expenses relate to the Chairman, Vice-Chairman and Chief Executive of the Bar Council and include events, such as the Garden Party and AGM, and also charitable donations, such as to the Free Representation Unit and the Bar Pro Bono Unit.

Premises costs have been apportioned on the basis of floor area occupied. Department Management costs have been allocated on a headcount basis. Central Services costs have been allocated on a usage/headcount basis. Management costs allocated above comprise staff costs, other direct costs plus share of premises costs.

# Annex 4

## Qualifications Committee 2011 statistics

Number of Applications Considered by the Qualifications Committee 1 January to 31 December 2011

	Applications Considered (2010 figure in brackets)
<b>Academic Stage Applications*</b>	
Applications for Partial Exemption from the Academic Stage	35 (18)
Applications for Exercise of Discretion to Waive Requirement to obtain lower second class honours	23 (44)
Application for Certificate of Academic Standing on the basis of overseas or non-standard degrees	159 (166)
Applications for reactivation of stale qualifications	28 (27)
Application for approval of credit transfer	40 (30)
Application for approval to exceed permitted study-time	21 (14)
Application for permission to commence Vocational Stage before completing Academic Stage	3 (5)
Application for approval of deemed pass/condonation	2 (1)
Bar Examination Transcript/Certifying Letter	14 (19)
<i>Total Academic Stage applications</i>	<i>325 (309)</i>
<b>Transferring Qualified Lawyers Panel ("Panel 1")</b>	
Qualified Foreign Lawyers	35 (41)
European lawyers applying for Call to the Bar	13 (8)
European lawyers applying for Registration under the Establishment Directive	2 (5)
Registered European Lawyers applying for Call to the Bar	0 (0)
Legal Academics applying for dispensation from the standard requirements for Call to the Bar	3 (3)
Northern Irish Barristers	4 (4)
Scottish Advocates	0 (1)
Applications for Temporary Membership of the Bar	2 (0)
Solicitors applying for Call to the Bar	91 (118)
Reduction in Pupillage for a Barrister who has also qualified as a Solicitor	40 (0)
Mature students applying for admission to an Inn	9 (18)
Other Panel 1	0 (11)
<i>Total Panel 1</i>	<i>199 (209)</i>



	Applications Considered (2010 figure in brackets)
<b>Pupillage Panel ("Panel 2")</b>	
Applications for approval to undertake external training	9 (24)
Applications for reduction in pupillage	39 (41)
Applications from pupils for dispensation from the pupillage regulations	29 (30)
Applications for retrospective registration of pupillage	10 (16)
Other Panel 2	2 (0)
<i>Total Panel 2</i>	<i>89 (111)</i>
<b>CPD Panel ("Panel 3")</b>	
Applications for extension of time for completion of the New Practitioners Programme	33 (73)
Applications for waiver of the NPP Requirements	16 (26)
Applications for extension of time for completion of the Established Practitioners Programme	314 (335)
Applications for waiver of the EPP Requirements	78 (97)
<i>Total Panel 3</i>	<i>441 (531)</i>
<b>Practising Rules Panel ("Panel 4")</b>	
Applications for rights of audience/waivers of the practising rules	36 (30)
Applications for designation as a "qualified person"	0 (1)
Applications for rights to conduct litigation	4 (10)
Applications for waiver of the Public Access Rules	69 (23)
Applications for authorisation as a pupillage training organisation	19 (25)
Applications for licensed access	29 (30)
Other Panel 4	0 (14)
<i>Total Panel 4</i>	<i>157 (133)</i>
<b>Pupillage Funding &amp; Advertising Panel ("Panel 5")</b>	
Applications for waivers of the Pupillage Funding & Advertising Requirements	29 (41)
<i>Total Panel 5</i>	<i>29 (41)</i>
<b>Exemptions Panel ("Panel 6")*</b>	
Applications for Exemption	1 (3)
<i>Total Panel 6</i>	<i>1 (3)</i>
<b>Full Committee</b>	
Review of decisions on Academic Stage applications	16 (37)
Review of decisions on applications to Qualifications Committee	39 (33)
Review of decisions of the Inns Conduct Committee	3 (7)
Other Full Committee	2 (2)
<i>Total Full Committee</i>	<i>60 (79)</i>
<b>TOTAL APPLICATIONS</b>	<b>1,301 (1,416)</b>

\*from September 2011, the Exemptions Panel has become the Academic Stage Panel and has taken over responsibility for many Academic Stage Panels. However, for clarity, all Academic Stage applications have been counted together, both pre- and post-September 2011.





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