

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



REGULATING BARRISTERS

**Meeting of the Bar Standards Board  
Thursday 19 March 2020, 5.00 pm**

**Rooms 1.4 - 1.7, First Floor, Bar Standards Board Offices,  
289-293 High Holborn, London, WC1V 7HZ**

**Agenda - Part 1 – Public**

				<b>Page</b>
1.	<b>Welcome / announcements (5.00 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>			
	• 30 January 2020	Annex A	Chair	<b>3-6</b>
5.	a) <b>Matters arising and action points</b>	Annex B	Chair	<b>7</b>
	b) <b>Forward agenda</b>	Annex C	Chair	<b>9</b>
6.	<b>The Bar Standards Board Equality and Diversity Strategy 2020 to 2022 (5.05 pm)</b>	BSB 007 (20)	Amit Popat	<b>11-18</b>
7.	<b>Chair's Report on Visits and External Meetings from February 2020 – March 2020 (*)</b>	BSB 008 (20)	Chair	<b>19</b>
8.	<b>Any other business (5.25 pm)</b>			
9.	<b>Date of next meeting</b>			
	• Thursday 21 May 2020, BSB offices			
10.	<b>Private Session</b>			

**John Picken**  
**Governance Officer**  
12 March 2020

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



<p>BAR STANDARDS BOARD</p>
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REGULATING BARRISTERS

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

Thursday 30 January 2020, Rooms 1.4 - 1.7, First Floor,  
Bar Standards Board Offices, 289-293 High Holborn, London, WC1V 7HZ

- Present:** Baroness Tessa Blackstone (Chair)  
Naomi Ellenbogen QC (Vice Chair)  
Alison Alden OBE  
Lara Fielden  
Steve Haines  
Andrew Mitchell QC  
Elizabeth Prochaska – *by telephone*  
Irena Sabic  
Nicola Sawford – *by telephone*  
Adam Solomon QC  
Kathryn Stone OBE  
Leslie Thomas QC – items 6-12  
Stephen Thornton CBE
- By invitation:** Amanda Pinto QC (Chair, Bar Council) – items 6-12  
Derek Sweeting QC (Vice Chair, Bar Council)  
Malcolm Cree CBE (Chief Executive, Bar Council)
- BSB Executive in attendance:** Ben Burns (Policy Manager, Equality and Access to Justice)  
Vanessa Davies (Director General)  
Rebecca Forbes (Head of Governance & Corporate Services)  
Sara Jagger (Director of Legal and Enforcement)  
Ewen Macleod (Director of Strategy and Policy)  
John Picken (Governance Officer)  
Amit Popat (Head of Equality and Access to Justice)  
Andrew Lamberti (Communications Manager)  
Wilf White (Director of Communications and Public Engagement)  
Julia Witting (Head of Supervision)
- By invitation:** Mark Neale CB (Director General Designate) - observer
- Press:** Jemma Slingo (Law Society Gazette)

**Item 1 – Welcome**

1. The Chair welcomed Members and guests. She congratulated Amanda Pinto QC and Derek Sweeting QC on their respective appointments as Chair and Vice Chair of the Bar Council. She also introduced the incoming BSB Director General, Mark Neale, who begins his role on 3 February 2020.
2. She noted with regret that this was the last meeting for Vanessa Davies who stands down from the role of Director General on 31 January 2020. She thanked Vanessa on behalf of the Board for her tremendous contribution and wished her a healthy and happy retirement.

3. **Item 2 – Apologies**
- Grant Warnsby, Treasurer, Bar Council
  - James Wakefield, Director, COIC
  - Piran Dhillon-Starkings (Special Advisor to the Chair of the Bar Council)
  - Oliver Hanmer (Director of Regulatory Operations)
4. **Item 3 – Members’ interests and hospitality**  
Vanessa Davies made a declaration of hospitality in respect of a lunch provided earlier in the day by the Bar Mutual Indemnity Fund (BMIF) for herself, Ewen Macleod and Mark Neale.
5. **Item 4 – Approval of Part 1 (public) minutes (Annex A)**  
The Board approved the Part 1 (public) minutes of the meeting held on Thursday 31 October 2019.
6. **Item 5a – Matters arising and action points (Annex B)**
- (i) The Board **noted** the updates to the action list.
- (ii) **Paper circulated out of cycle: Barristers supervising immigration advisers BSB 045 (19)**  
The Board formally ratified its decision taken out of cycle after the October meeting ie to **approve** a rule change to prevent barristers from supervising immigration advisers who are otherwise not entitled to practise due to a sanction by another regulatory body. **EM to note**
- (iii) In response to questions raised, Ewen Macleod confirmed that:
- guidance on the rule change will explain that barristers may need to make checks with other public bodies;
  - in the case of unregulated (rather than sanctioned) legal practitioners, a barrister’s obligation to keep their clients fully informed remains in force.
7. **Item 5b – Forward Agenda (Annex C)**  
Members **noted** the forward agenda list.
8. **Item 6 – Annual Diversity Data Report BSB 001 (20)**  
Amit Popat introduced the report and highlighted:
- the upward trend in disclosure rates, though for some protected characteristics, these remain below levels we would wish to see;
  - our recent discussions with other regulators and representative bodies within the Bar on how to improve disclosure rates;
  - that a draft of the new Equality Strategy will be presented to the Board in March 2020.
9. Members commented as follows:
- in future, we might revisit how gender related questions are phrased and focus on the intersection between protected characteristics eg ethnicity and gender;
  - the Bar Council has a key role in promoting diversity at the Bar and we should continue to work with it on this issue;
  - we need to have disclosure rates that are sufficiently high so that benchmarks with national data are valid. Otherwise we risk making incorrect assumptions.
10. The Board discussed the issue of disclosure rates in depth. Members agreed that reliable conclusions cannot be drawn where rates remain low. We therefore need to consider this when developing our long term strategy. Several opinions were expressed ie it is likely that:

## Part 1 - Public

- some individuals find diversity questions overly intrusive and will not respond on principle;
  - some might perceive the survey as an implied criticism, because their own set of chambers is not diverse;
  - we need to better understand the reasons for non-disclosure. It may be worth contacting the Specialist Bar Associations directly on this point;
  - we should adopt a positive message in explaining why better quality data helps us to fulfil our regulatory role. We need to incentivise and motivate if we are to improve disclosure rates and working with our partners, particularly the Bar Council, will help in this endeavour.
11. In respect of the above, the following points were made:
- some surveys include space for respondents to explain why they do not wish to disclose data;
  - the Bar Council is willing to share aggregate data with the BSB from the pupillage gateway. Its forthcoming Barristers' Working Lives survey will include some equality related questions from the BSB;
  - diversity is a central theme of Amanda Pinto QC's year as Bar Council Chair.
12. **AGREED**  
to note the report and publish it on the BSB website.
- Item 7 – Annual Enforcement Report 2018/19**
13. BSB 002 (20)  
Sara Jagger introduced the report and summarised its content. In overall terms, performance has improved in some areas but declined in others, largely due to pressure on staff resources.
14. In response to questions from Members, the following comments were made:
- the 2019/20 enforcement report will compare two groups of six-monthly statistics (one for the old enforcement system and another for its replacement);
  - delays at Tribunal level often relate to the ill health of one of the parties concerned. There is little that the BSB can do to expedite matters in these circumstances;
  - we shall work in partnership with Law for Life (a public legal education charity) to extend and improve the information available on our website to litigants-in-person (LiPs). By giving better advice on what does (and does not) constitute a breach of the Handbook, we hope to reverse the rise in the number of unsubstantiated complaints.
15. The following comments were made:
- we should take positive action to advance understanding of our role so the work to improve the website is welcome. That said, some LiPs react at an emotional level and may wish to take action regardless of the circumstances of the case;
  - we must use objective language in our correspondence – in one instance a letter to a LiP expressed regret at not being able to pursue a case, even though no breach had occurred. This is unfair to the barrister concerned;
  - we need to keep an overall sense of proportion about this issue. The number of complaints from LiPs in England and Wales for 2018/19 was just 95 in total.
16. **AGREED**  
to note the report.

AP to  
note

**Item 8 – Mandating the timetable for pupillage recruitment**

17. BSB 003 (20)  
Julia Witting explained the proposal for a common timetable for the recruitment of pupils. The aim is to make the process fairer for all concerned and follows extensive stakeholder engagement.
18. Andrew Mitchell QC referred to the statement that all offers of pupillage must be made on the same day. He welcomed this but suggested more needs to be done to prevent chambers making informal approaches to pupils prior to this date.
19. **AGREED**  
to approve the proposal to mandate a common timetable for recruiting pupils and to include an instruction in associated guidance material which deters chambers from making informal offers in advance of the prescribed date. **JW**

**Item 9 – Chair’s report on visits and external meetings from November 2019-January 2020**

20. BSB 004 (20)  
The Board **noted** the report.

**Item 10 – Any Other Business**

21. None.

**Item 11 – Date of next meeting**

22. • Thursday 19 March 2020.

**Item 12 – Private Session**

23. 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 – 31 October 2019;
  - (2) Matters arising and action points – Part 2;
  - (3) Corporate Risk Report;
  - (4) Strategic update from the Director General / DG Designate;
  - (5) Any other private business.
24. The meeting finished at 5.45 pm.

**BSB – List of Part 1 Actions  
19 March 2020**

*(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
19 (30/01/20) – common recruitment timetable for pupillage	introduce a common timetable for recruiting pupils and include an instruction in associated guidance material to deter chambers from making informal offers in advance of the prescribed date.	Julia Witting	by end March 2020	10/03/20	<p><b>Completed</b> - - The requirement to adhere to the common timetable was publicised to the profession following the Board meeting and is in the Bar Qualification Manual</p> <p><a href="https://www.barstandardsboard.org.uk/training-qualification/bar-qualification-manual/part-2-for-students-pupils--transferring-lawyers/c2-responsibilities-of-aetos/c2-2-fair-recruitment-and-equality-and-diversity.html">https://www.barstandardsboard.org.uk/training-qualification/bar-qualification-manual/part-2-for-students-pupils--transferring-lawyers/c2-responsibilities-of-aetos/c2-2-fair-recruitment-and-equality-and-diversity.html</a></p> <p>We have asked the Bar Council to include guidance in their Fair Recruitment Guide to deter chambers from making informal offers in advance of the prescribed date, which they have agreed to do, and will add a statement about this in the Bar Qualification Manual).</p>





**Forward Agendas****Thursday 21 May 20**

- PRP Year end performance report
- IGRs - Certificate of compliance / IGR waiver applications
- Corporate Risk Report (summary)
- Pupillage Assessment
- Proposed changes to Standing orders for Joint Committees and BSB Standing Committees
- Fees - Professional Ethics assessment

**Tuesday 7 July (Joint meeting with the OLC 11.30 am – 1.00 pm)****Thursday 16 July 20 (BOARD AWAY DAY)**

- Handbook Review – principles and approach

**Thursday 24 September 20 (*inc. Joint Meeting with the LSB 3.30 pm – 4.45 pm, pending confirmation with LSB*)**

- Regulatory Decision Making Performance Report 2019/20
- IDB Annual Report
- Budget 2021/22
- Consolidated Risk Report

**Thursday 26 November 20**

- PRP mid-year performance report
- GRA Annual Report
- Corporate Risk Report (summary)

**Thursday 28 January 21****Thursday 25 March 21**

- Consolidated Risk Report



<b>Meeting:</b>	Bar Standards Board	<b>Date:</b>	19 March 2020
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<b>Title:</b>	<b>The Bar Standards Board Equality and Diversity Strategy 2020 to 2022</b>
<b>Author:</b>	Amit Popat
<b>Post:</b>	Head of Equality and Access to Justice

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

1. The Board is asked to approve the attached objectives, which will form part of the BSB's Equality and Diversity Strategy for 2020-22.

### Executive Summary

2. Our equality and diversity strategy is an important component of our statutory and regulatory responsibilities. It drives our work to promote an independent, strong, diverse and effective legal profession and meet our legal obligations (both under the Legal Services Act 2007 and Equality Act 2010).
3. The strategy aligns with our Strategic Plan for 2019-22 and includes a number of objectives, which have been developed in consultation with stakeholders. Some work from our previous strategy will continue alongside new areas of focus.
4. The strategy and an update on our equality objectives for 2017-19 will be published by April 2020. The detailed actions are listed in Annex 1.

### Risk

5. Through the implementation of this strategy, we aim to influence good practice in managing regulatory risks relating to working cultures, access to justice and equality in the profession, and to tackle bullying, discrimination and harassment where it occurs at the Bar. There are two key compliance issues relevant to the creation of this strategy:
  - The Equality Act 2010 Specific Duties Regulations; and
  - Our regulatory objectives as set out in the Legal Services Act 2007, notably regulatory objective 6 which requires the encouragement of a diverse legal profession and regulatory objective 3, improving access to justice.

### Resources (Finance, IT, HR)

6. Appropriate resources have been allocated across departments to deliver the actions of this strategy for the next business year and the strategy will inform our budget bid for the second year.

### Equality & Diversity

7. This strategy fulfils legislative requirements and commits the BSB to good internal equality and diversity practice.



## Equality and Diversity Strategy 2020 to 2022

### Background

1. This strategy meets our legal obligations under the Equality Act 2010 and set outs how we will fulfil our regulatory objective to “encourage an independent, strong, diverse and effective legal profession”, as set out in the Legal Services Act 2007.
2. It also takes account of statutory guidance issued by the LSB under section 162 of the 2007 Act. It aims to promote good practice in addressing our risk themes *working cultures and professional environment inhibit an independent, strong, diverse and effective profession and affordability and lack of legal knowledge threaten access to justice*.
3. The final, published strategy document will provide wider context and more information about the work of the BSB, our organisation and governance structures. This paper focuses on the key objectives within the strategy.

### Approach

4. As with our previous equality and diversity strategies, this strategy has been produced in consultation with over 30 stakeholders, including:
  - Internal stakeholders, including: Board members; our Race Equality Taskforce; our Equality and Access to Justice (E&AJ) Officers; and our E&AJ Programme Board, which includes all members of senior management.
  - External stakeholders, including: the Bar Council, the Legal Practice Management Association, Institute of Barristers Clerks and others in the profession; Bar students; other regulators; the Inns of Court; and experts on gender, disability, race, LGBT+ issues, social mobility, wellbeing and mental health, and bullying and harassment.
5. From this engagement, we have built a good understanding of the current or planned work of key external stakeholders. This understanding will help us to promote collaboration on key equality and diversity issues at the Bar, and avoid duplicating work that is already being delivered by others.

### Update on previous objectives

6. A full update on our previous strategy will be published with the new strategy and is available on request. Our previous strategy had six equality objectives, which we have largely completed:
  - Address the causes of discrimination and harassment at the Bar because of a protected characteristic.
  - Reduce the barriers to progression and retention, and improve social mobility.
  - Improve our understanding of the diverse experiences of students training for the Bar.
  - Increase equality of access to the profession.
  - Improve access to justice for vulnerable clients, with focus on immigration and young people.
  - Embed E&D best practice across all BSB departments.

7. In a few areas, objectives that are not fully complete have been carried over into the new strategy, these include:
- Our Pilot Harassment Support Scheme, and a review of our mechanisms for reporting bullying, discrimination or harassment as serious misconduct. This was delayed because of a slower than expected uptake by the profession of the Pilot, on which we are relying for evidence to inform our policy decisions. We now expect this to be complete by April 2021.
  - We made a conscious decision not to go ahead with a planned survey of the profession to understand people’s experience of bullying, discrimination and harassment at the Bar because the Bar Council was planning to do something similar. The Bar Council’s next survey is due to begin soon and we have agreed with them to include some questions to inform our work. We have begun to supplement this by commissioning qualitative research to understand the experiences of a smaller number of barristers in more depth – this will be delivered in the new business year and is part of the new objectives.
  - Training our staff on anti-discriminatory practice is an ongoing task and will continue to further embed our commitment to good practice.
  - Qualitative research about the impact of vocational training providers’ equality policies was postponed in order to align with the launch of new courses following Future Bar Training. This work has now started with a literature review having been completed. Further analysis of providers’ policies will be undertaken in the new business year.

### **New Equality Objectives**

8. We have set the following five equality objectives for 2020 to 2022.
- Address the causes of discrimination and harassment at the Bar because of a protected characteristic.
  - Review the role of regulation in improving the wellbeing of members of the profession.
  - Review the role of regulation in improving access to justice.
  - Improve the implementation of equality and diversity policies with vocational training Authorised Education Training Organisations.
  - Embed equality and diversity good practice across all BSB departments.
- This strategy includes a new objective to review the role of regulation in improving the wellbeing of members of the profession. We are aware that stakeholders including Law Care and the Bar Council are leaders for the wellbeing agenda and we will work with these and other stakeholders to ensure that any regulatory activity on wellbeing adds value and avoids the duplication of existing work.
  - Our objective to address the causes of discrimination and harassment at the Bar because of a protected characteristic will include a new focus on disability. This focus has been developed in consultation with disabled people and/or experts on disability, including the founders of “Legally Disabled? Career experiences of disabled people in the legal profession”, the Association of Disabled Lawyers, “City Disabilities” and those who participated in our “All Bar None” workshop at the Legally Disabled Conference in January 2020, which we ran in partnership with the Bar Council.
9. The objectives include detailed actions and target completion dates (see Annex 1.)

**Publication and promotion of strategy**

10. Further to Board approval we will publish this strategy and the update on the previous strategy by April 2020. In line with our protocol arrangements we will continue to work with the stakeholders to implement this strategy (Bar Council and Inns of Court, Legal Practice Management Association, Institute of Barrister Clerks, Law Care and others).

**Annexes**

Annex 1 Equality Objectives 2020-2022





## Equality Objectives

<b>Equality Objective 1. Address the causes of discrimination and harassment at the Bar because of a protected characteristic.</b>		
<b>Focus</b>	<b>Actions</b>	<b>Completion</b>
Disability	Engage with disability experts and representatives of the BSB, to influence regulatory good practice.	February 2021
	Publish three good practice case studies about inclusion of different types of disability at the Bar.	April 2021
Race	Engage with race equality experts and representatives of the BSB, to influence regulatory good practice.	October 2020
	In conjunction with the Race Equality Taskforce, deliver the agreed action plan that includes publishing three good practice case studies, and piloting a reverse mentoring project with members of the Taskforce and Black and Minority Ethnic (BAME) people who are training for the Bar.	April 2021
Bullying, discrimination and harassment.	Undertake qualitative research about bullying, discrimination and harassment at the Bar with a focus on sex, ethnicity, sexual orientation and disability.	September 2020
	Produce a report including recommendations to achieve good regulatory practice in addressing bullying and harassment, with a focus on our systems for reporting.	March 2021
Protected characteristics.	Engage and consult stakeholders from across the profession and with a range of protected characteristics, to support the review of the Equality Rules of our Handbook. <sup>1</sup>	March 2022
	Develop and implement strategies to improve diversity data monitoring across all diversity characteristics.	October 2021

<sup>1</sup> This project and its timescales are aligned with the wider project to review our Handbook.

<b>Equality Objective 2. Review the role of regulation in improving the wellbeing of members of the profession.</b>		
<b>Focus</b>	<b>Actions</b>	<b>Completion</b>
Wellbeing	Engage wellbeing experts to identify the role of regulation in improving wellbeing and develop policy recommendations.	July 2021
<b>Equality Objective 3. Review the role of regulation in improving access to justice.</b>		
Access to justice	Engage with access to justice organisations and produce recommendations about the role of regulation in improving access to justice.	January 2022
<b>Equality Objective 4. Improve the implementation of equality and diversity policies with vocational training AETOs.</b>		
Differential attainment in training for the Bar.	Update our “Differential Attainment at BPTC and Pupillage” research to create a baseline on differential attainment, since changes were made to centralised assessments at the vocational stage of training for the Bar, under our Future Bar Training programme.	December 2020
Good E&D practice at the vocational stage of training for the Bar.	Work with vocational training AETOs to embed good equality and diversity practice for Bar students.	Feb 2022
<b>Equality Objective 5. Embed equality and diversity good practice across all BSB departments.</b>		
BSB internal practices.	Publish a summary of our workforce and Board diversity, to lead by example.	May 2020
	Update the BSB website to effectively present the case for good equality and diversity practice, at the Bar.	June 2020
	Deliver training for all BSB staff on anti-discriminatory practice and inclusive disability practice.	March 2022

**Chair’s Report on Visits and External Meetings from 29 January 2020 19 March 2020**

**Status:**

1. **For noting**

**Executive Summary:**

2. In the interests of good governance, openness and transparency, this paper sets out the Chair’s visits and meetings since the last Board meeting.

**List of Visits and Meetings:**

11 February	Attended Provisional Chairs’ Committee meeting
14 February	Attended the Annual Church, Law and State Reception and Luncheon with Mark Neale
29 February	Attended the Bar Council meeting with Mark Neale, Naomi Ellenbogen and Wilf White
4 March	Attended SLS Annual President’s Reception with Mark Neale
17 March	Met with Anna Bradley, Chair, SRA
18 March	Attended Board Briefing