

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

Part 1 - Public

Minutes of the Bar Standards Board meeting

Thursday 26 June 2014, Room 1, First Floor
289 – 293 High Holborn, London, WC1V 7HZ

- Present:** Ruth Deech QC (Hon) (Chair)
Patricia Robertson QC (Vice Chair)
Rolande Anderson
Malcolm Cohen
Simon Lofthouse QC
Tim Robinson
Anne Wright
- BSB Executive in attendance:** Jessica Bradford (Senior Policy Officer, E&D)
Viki Calais (Business Manager)
Vanessa Davies (Director)
Joanne Dixon (Qualifications Manager)
Oliver Hanmer (Head of Supervision)
Tim Keeling (Change Manager, Education & Training)
Stéphane Laurent (Regulatory Knowledge and Information Manager)
Sarah Loutfi (E&D Adviser)
Ewen Macleod (Head of Regulatory Policy)
Chris Nichols (Supervision Policy Manager) (items 1-7)
John Picken (Board & Committees Officer)
Amanda Thompson (Head of Strategy & Communications)
- Bar Council Executive in attendance:** Stephen Crowne (Chief Executive, Bar Council)
- Observer:** Andrew Lamberti (incoming Communications Manager)
- Press:** Catherine Baksi (Law Society Gazette)

Item 1 – Welcome and introductions

ACTION

1. Ruth Deech QC (Hon) welcomed members and guests to the meeting, in particular two new staff members - Tim Keeling (Change Manager, Education & Training Department) and Andrew Lamberti (Communications Manager, commencing work at the BSB on 30 June 2014).

Item 2 – Apologies

- 2.
- Rob Behrens;
 - Sarah Clarke;
 - Justine Davidge;
 - Andrew Sanders;
 - Sam Stein QC;
 - Richard Thompson;
 - Sarah Brown (Special Adviser);

- Emily Windsor (Special Adviser);
- Stephen Collier (Treasurer, Bar Council);
- Nick Lavender QC (Chair, Bar Council);
- James Wakefield (COIC representative);
- Mark Hatcher (Special Adviser to the Chairman of the Bar);
- Andrew Cohen (Business Support Officer);
- Eugene Grant (Press Officer);
- Sara Jagger (Head of Professional Conduct);
- Simon Thornton-Wood (Head of Education & Training).

Note: Ben Denison (Chief Information Officer) and Amit Bhatt (Information Security Manager) attended for item 6 of Part 2 of the meeting.

Item 3 – Members’ interests and hospitality

3. Vanessa Davies made the following declarations of hospitality received:
 - reception given by Saxton Bampfylde, V&A Museum on 10 June 2014 - *also attended by Ruth Deech QC (Hon)*;
 - Chancery Bar Association Summer Party, Grange Hotel on 11 June 2014;
 - Institute of Barristers’ Clerks Annual Dinner, Royal College of Surgeons on 12 June 2014 - *also attended by Ruth Deech QC (Hon)*;
 - reception given by David Southern QC, St Barts Hospital on 17 June 2014 - *also attended by Ruth Deech QC (Hon)*;
 - “The Lawyer” Awards Dinner, Grosvenor House Hotel on 25 June 2014 as guests of Bevan Brittan LLP - *also attended by Patricia Robertson QC as part of the same guest invitation.*

Item 4 – Approval of Part 1 (public) minutes – 22 May 2014 (Annex A)

4. The Board approved Part 1 of the minutes of the meeting held on Thursday 22 May 2014.

Item 5 – Matters arising

5. Research work – Youth Courts (min 17c – 22/05/14)
Oliver Hanmer commented as follows:
 - the BSB is undertaking research on Youth Courts as planned. This follows the publication of the report by Lord Carlile on this issue. A meeting with the National Children’s Bureau has already been arranged;
 - the SRA and IPS were both contacted about this initiative but have declined any involvement at this stage, pending the outcome of the QASA Judicial Review appeal.

Item 6 – Action Points & Forward Agendas

Action points and progress (Annex B)

6. The Board noted the action list as set out in Annex B.

Forward agendas (Annex C)

7. The following comments were made:
 - the Board Away Day (11 December 2014) will take place at Middle Temple.
 - in order to balance the number of items appearing on the agenda, it is likely that some items originally planned for 18 September 2014 will move to the budget meeting taking place one week earlier.

**JP to
note**

Item 7 – Report on the 2013/14 Supervision Exercise on the Equality Rules of the BSB Handbook

BSB 041 (14)

8. The Board considered a report on the outcome of a monitoring exercise for compliance with the equality and diversity rules. The project was based on a small sample of chambers and involved visits to premises and collation of documentary evidence eg policies and action plans. It concluded in March 2014.
9. Rolande Anderson highlighted the following:
 - the project was a useful pilot to test the BSB's new supervisory approach;
 - half of the chambers involved were either fully or reasonably compliant. Those that were partially compliant generally had more to do in areas such as monitoring unassigned work, flexible working and parental leave;
 - a number of recommendations have arisen from the exercise which will help increase awareness and understanding of the new rules;
 - equality and diversity is an area where the BSB works very constructively with the Bar Council. The latter provides an online resource for the Equality Officers' Network to enable the dissemination of best practice.
10. Chris Nichols also made the following points:
 - this was the first thematic review undertaken by the Supervision Team and was a positive experience in terms of cross-team working;
 - it reflected the BSB's risk based approach as the outcome of previous briefing events with practice managers had given cause for concern about compliance with E&D rules;
 - there have been several lessons learned from the exercise, particularly the importance of sampling methodology.
11. Members raised questions about the following:
 - the best source of advice for chambers on e&d issues;
 - the future operation of the E&D Officers' Network;
 - the ability of the Supervision Team to scale up its work (given the sample size for this pilot was small);
 - the level of seniority of the individual appointed as E&D Officer in a chambers may indicate how seriously the role is taken and this factor could be considered as part of risk assessment.
12. In response, the following comments were made:
 - at present, the Bar Council has a dedicated E&D resource so this would be the best point of contact;
 - the Bar Council will continue to provide online support for the Equality Officers' network and an annual meeting will be held for its members;
 - the capacity of the Supervision Team is limited by its size but future projects will all be targeted according to risk so as to maximise effectiveness;
 - the pilot exercise did identify that some E&D Officers were junior members of chambers who felt unsupported, so the point concerning level of seniority is taken.

13. **AGREED**

to note the report and to endorse its recommendations ie:

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| a) to undertake communications activities that aim to increase awareness of the new rule (coming into force in July 2014) requiring all members of chambers' selection panels to be trained in fair recruitment. <i>Note – these communication activities should also be undertaken in order to improve overall levels of compliance with E&D rules.</i> | AT /SL |
| b) to ensure that the sample "Reasonable Adjustments" and "Parental Leave" policies are more clearly signposted on the BSB website, in supporting information documents and on the equality web page. | SL |
| c) to provide a copy of the report on the Supervision Exercise to the Bar Council equality team with a view to assisting the focus of the Equality Officers' Network in relation to flexible working policy requirements and the monitoring of unassigned work. | SL |
| d) to develop a sample equality action plan and more detailed guidance for insertion into the current Supporting Information document in order to assist chambers in meeting the requirements of the action plan rule. | SL |
| e) that the findings of the exercise be fed into the wider review of the BSB Handbook. | SL / EM |
| f) to develop an action plan to ensure improved levels of compliance and to monitor improvements to determine what future targeted supervision activity may be required. | CN / SL |
| g) that the BSB provides input into planned Bar Council events with the Equality Officer Network, focusing on support for officers implementing work allocation and flexible working requirements. | SL / RA |
| h) that the Supervision Team note the comments made about linking risk on E&D compliance with the level of seniority of the Equality Officer nominated by chambers. | CN to note |

Item 8 – BSB Draft Annual Report for 2013-14

BSB 042 (14)

14. The Board considered the draft Annual Report for publication in July 2014.

Amanda Thompson commented as follows:

- the initial draft was considered by the Planning, Resources & Performance Committee and the current version reflects input from its members;
- the Finance Team has yet to confirm final year accounting figures so those quoted may change slightly though any adjustment will be minor;
- there will be a limited number of printed copies but otherwise the BSB will rely on an electronic version for general distribution.

15. Members commented as follows:

- there should be some footnotes added to explain increased claims in expenses eg mobility problems for one Board Member meant she could only attend meetings via privately hired transport;
- the PRP Committee should be sent the current version for further comment;
- there should be a communications plan as regards its distribution;
- the Bar Council's Audit Committee did not meet as planned in June 2014 so publication will need to be delayed until it has formally approved the end of year accounts;
- the section on the Independent Observer should refer to how her role has extended to cover equality and diversity issues in the investigation of complaints;
- the text regarding strategic aim 4 on becoming more evidence and risk based could be updated to reflect current thinking.

16. **AGREED**

- a) to circulate the current draft of the Annual Report to the PRP Committee.
- b) that Board Members give any further detailed input about the content of the Annual Report to Amanda Thompson before 4 July 2014.
- c) to await formal sign off of the BSB accounts by the Audit Committee prior to publication of the Annual Report.
- d) to await receipt of a designed copy of the Annual Report at the July meeting.

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Item 9 – Regulatory Risks

Oral report

17. Ewen Macleod commented as follows:

- an offer has been made for the post of Regulatory Risk Manager. The individual concerned is currently considering this and we await feedback;
- the BSB has engaged InfluenceInc, a firm of risk consultants which has previously worked with the SRA. It has developed a “maturity model” against which the BSB’s systems for managing risk can be assessed. A report on the outcome of this analysis will be finalised in the near future and will be included as part of the sign off process for The Regulatory Improvement Programme (TRIP);
- the above report will serve as an independent assessment of the BSB’s capacity to manage risk and can be cited as evidence in meeting the requirements of the Regulatory Standards Framework.
- a training update on risk management will be made available to both staff and Board Members.

18. **AGREED**

to note the report.

Item 10 – Principles for public and private items

BSB 043 (14)

19. The Board discussed the principles to be applied when deciding if a paper should be considered in public or private session. At a statutory level, some parameters are provided by the Freedom of Information Act (FOIA). Whilst the BSB is not currently bound by the FOIA, it could be in future if the government decided to extend its remit.

20. Members commented as follows:

- the FOIA guidelines are a useful starting point but some of exemptions could be interpreted very widely. How these are applied, and by whom, could result in inconsistent decisions. They also make provision for a “public interest” test but it is not clear who will make this judgment;
- the reasons why some issues were originally discussed in private may be “time limited” ie circumstances may change as time moves on and it may then be reasonable to release the minutes and associated papers in the public domain;
- we should regard the FOIA guidance as providing *illustrative* reasons as to when not to disclose information. We should avoid rigidly interpreting them as rules to be followed in all cases;
- on a general matter of principle, we should state that all Board papers will be considered in public session unless there is good reason not to do this.

21. **AGREED**

- a) to endorse the presumption that all Board papers will be considered in public unless there are reasons that obviously justify discussion in private.
- b) that the FOIA guidance be only regarded as illustrative in determining whether papers are discussed in private session.
- c) that the minutes and papers for items originally discussed in private could be transferred to the public domain if the reasons that justified the original decision significantly change with the passage of time and it also becomes appropriate to release this information.

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Item 11 – Chair’s Report on Visits and Meetings: May 14 – June 14

BSB 044 (14)

22. **AGREED**

to note the report.

Item 12 – Director’s Report

BSB 045 (14)

23. The Director thanked those Board Members who attended the TRIP update session for BSB staff (19 June 2014). She also commented as follows:

- Roger Hammond (Change Manager) will be invited back for the next meeting to speak on the TRIP closure report;
- the Centre for Analysis of Risk and Regulation (CARR) at the London School of Economic held a Regulators’ Forum on 24 June 2014. This provided an opportunity to network with regulators outside of the legal sphere which proved useful;
- paragraph 12 of the report refers to action following conclusion of the Impact Audit Survey of chambers. Letters will be sent out by the end of the first week of July and an update report on supervision returns will be made to the Board in October.

**JP to
note**

24. Simon Lofthouse QC referred to the recent resignation of the Investigations and Hearings Team Manager. Whilst this was for understandable personal reasons, it nevertheless continues the trend of turnover within the Professional Conduct Department.

25. Vanessa Davies acknowledged this point and stated that a number of options would be considered to organise a replacement for this key post, including, if necessary, secondment from another organisation.

26. **AGREED**

to note the report.

Item 13 – Any Other Business

27. Sarah Clarke

Sarah Clarke has indicated that she may stand down from the Board at the end of 2014 due to increasing pressures of work. She will review this in due course.

Item 14 – Date of next meeting

28. Thursday 24 July 2014.

Item 15 – Private Session

29. 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) BSB Research Strategy;
- (2) Approval of Part 2 (private) minutes – 22 May 2014;
- (3) Matters arising;
- (4) Action points and progress – Part 2;
- (5) Bar Council changes – governance and structure;
- (6) Proposed changes to IT security policy – demonstration of new extranet;

30. The meeting finished at 5.10 pm.