



REGULATING BARRISTERS

Meeting of the Bar Standards Board

Thursday 17 March 2016, 4.30 pm
Room 1, First Floor, Bar Standards Board Offices,
289-293 High Holborn, London, WC1V 7HZ

Agenda - Part 1 – Public

				Page
1.	Welcome and introductions (4.30 pm)		Chair	
2.	Apologies		Chair	
3.	Members' interests and hospitality		Chair	
4.	Approval of Part 1 (public) minutes			
	• 25 February 2016 (*)	Annex A	Chair	3-7
5.	Matters Arising (*)			
6.	a) Action points and progress	Annex B	Chair	9
	b) Forward agenda	Annex C	Chair	11-12
7.	BSB Strategic Plan 2016-19 and Business Plan for 2016-17 (4.35 pm)	BSB 024 (16)	Vanessa Davies	13-61
8.	Future Bar Training – Continuing Professional Development Consultation Report (4.55 pm)	BSB 025 (16)	Bernard MacGregor	63-87
9.	Chair's Report on Visits and Meetings: Feb-Mar 2016 (*)	BSB 026 (16)	Chair	89-90
10.	Director General's Report (5.15 pm)	BSB 027 (16)	Vanessa Davies	91-98
11.	Any other business			
12.	Date of next meetings			
	• Thursday 21 April 2016 – Away Day			
	• Thursday 19 May 2016 – full Board meeting			
13.	Private Session			

John Picken, Governance Officer
JPicken@barstandardsboard.org.uk
10 March 2016

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

BSB 170316

<p>BAR STANDARDS BOARD</p>

REGULATING BARRISTERS

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

Thursday 25 February 2016, Room 1.1, First Floor
289 – 293 High Holborn, London, WC1V 7HZ

- Present:** Sir Andrew Burns KCMG (Chair)
Rob Behrens
Malcolm Cohen
Judith Farbey QC – items 7-14
Andrew Mitchell QC
Tim Robinson
Andrew Sanders
Nicola Sawford
Anne Wright – by telephone
- By invitation:** Keith Baldwin (Special Adviser)
- Bar Council in attendance:** Stephen Crowne (Chief Executive, Bar Council)
Mark Hatcher (Special Adviser to the Chairman of the Bar Council)
Lynne Gibbs (Council of the Inns of Court)
- BSB Executive in attendance:** Vanessa Davies (Director General)
Joseph Bailey (Senior Policy Officer)
Sam Benton (Professional Support Lawyer)
Viki Calais (Head of Corporate Services)
Joanne Dixon (Manager, Qualification Regulations)
Oliver Hanmer (Director of Supervision)
Oliver Jackling (Research & Evaluation Officer)
Sara Jagger (Director of Professional Conduct)
Clíodhna Judge (Head of Supervision and Authorisation)
Tim Keeling (Change Programme Manager)
Andrew Lamberti (Communications Manager)
Ewen Macleod (Director of Regulatory Policy)
John Picken (Governance Officer)
Pippa Prangle (Head of Regulatory Risk)
Amanda Thompson (Director for Governance Reform)
Simon Thornton-Wood (Director of Education & Training)
- Press:** Nick Hilborne (Legal Futures)
Chloe Smith (Law Society Gazette)

Note: Naomi Ellenbogen QC and Emily Windsor (Special Adviser) were not present for Part 1 of the agenda but did attend for some of Part 2.

Note: Anne Wright's attendance by phone was primarily to listen to the debate. She was recovering from illness at the time and wished to rest her voice, though had previously emailed her comments on the papers to Vanessa Davies.

Item 1 – Welcome

1. The Chair welcomed Members to the meeting.

Item 2 – Apologies

2.
 - Rolande Anderson
 - Aidan Christie QC
 - Justine Davidge
 - Adam Solomon
 - Chantal-Aimée Doerries (Chairman, Bar Council)
 - Lorinda Long (Treasurer, Bar Council)
 - Andrew Langdon QC (Vice Chairman, Bar Council)

Item 3 – Members’ interests and hospitality

3. The Chair made a declaration on behalf of Aidan Christie QC. This was in respect of a thank you gift (a glass decanter) received from the organisers of the Disciplinary Conference (12 February 2016) at which he had been a speaker.

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

4. The Board approved the Part 1 (public) minutes of the meeting held on Thursday 28 January 2016.

Item 5 – Matters Arising

5. None.

Item 6a – Action points and progress

6. The Board noted progress on the action list.

Item 6b – Forward Agenda (Annex C)

7. The Board noted the forward agenda list. The Chair advised members that the meeting planned for 15 September 2016 will now be cancelled. This is to avoid a clash of dates with the International Regulatory Conference which he and the Director General will attend. The main item of business (the budget) will now be incorporated into the agenda for the meeting on 29 September 2016. It will not affect financial planning timescales.

**BSB
Members
to note**

Item 7 – PRP Committee Report for Q3 (October 2015-December 2015)

BSB 014 (16)

8. Vanessa Davies reported on behalf of Anne Wright. The salient points were:
 - the overall performance for Q3 as set out in the dashboard is similar to that achieved in Q2;
 - the financial forecast for year-end is:
 - ❖ income: £1,449k (23% less than budgeted);
 - ❖ expenditure: £5,327k (2% less than budgeted)
 - the Committee is looking to review the KPIs for the Professional Conduct Department during the next business year;
 - progress on the HR operating plan is encouraging, though staff turnover remains high;
 - the Committee has asked the Executive to critically analyse its project planning for next year so that the timelines agreed are realistic and achievable;
 - the Committee noted that the overall delivery date for the Future Bar Training programme remains on target but that various elements had been re-scheduled. This is a complex and challenging project and the Committee will continue to monitor progress.

9. Members commented as follows:
- the number of BSB service complaints received are recorded on the dashboard but there are no further details given in the report. It would be helpful to understand what member oversight there is in this regard;
 - there is a large variance on income for Education & Training in Q3 and an income forecast 8% above the budgeted figure. It would be useful to understand this more fully;
 - in terms of the PCD KPIs, there is a marked drop in the operational performance indicator (OPI) for the percentage of internal complaints concluded or referred to disciplinary action within 5 months following investigation (a fall of 94% to 77%). It would help to know the reasons for this.
10. In response, the following comments were made:
- details of BSB service complaints are reported to the GRA Committee;
 - the variance is a phasing issue as all BPTC invoices were accounted for in Q3, rather than some in Q2 as originally planned. The 8% surplus is due, in part, to income from CPD courses holding up more than we had anticipated;
 - the fall in the PCD OPI is due to the closure of overrunning cases. These will always impact on the OPI figure and there are always likely to be cases that take longer to conclude than others. The 80% target is for the whole year, rather than for each quarter.
11. **AGREED**
to note the report.

Item 8 – Amending the definition of in-house employed practice
BSB 015 (16)

12. Ewen Macleod highlighted the following:
- last year, the LSB issued a discussion document on s15 of the Legal Services Act and whether existing regulatory restrictions on in-house lawyers were justified. S15 sets out the circumstances in which an employer of an authorised person must also be authorised (essentially when the employer is providing reserved legal services to the public or a section of the public);
 - the BSB currently imposes additional restrictions on employed barristers who are not working in a regulated law firm and has committed to review its arrangements in this area, but the issues are complex and need to be viewed in the context of our wider Handbook review. As a first step, we consulted on amending the definition of “employed barrister (non-authorised body)”;
 - the driver for the consultation relates to the changing way employers may wish to interact with barristers providing ‘in-house’ services eg either through employment agencies or through companies incorporated by barristers. As it stands the existing rules are a barrier to accessing barrister services through these means;
 - as an interim measure, the BSB has granted waivers on a case by case basis. Decisions have been made with regard to risk so approvals have been given for barristers supplying services to organisations rather than the general public;
 - since the consultation was issued, the LSB has issued a policy statement on the relevant section (s15(4)) of the Legal Services Act (Annex A of the report). This policy statement will inform the LSB’s approach to any rule change application;

Part 1 - Public

- the responses to the BSB's consultation are set out in Annex B of the report. They come from the Bar Council and the Bar Association for Commerce, Finance and Industry - BACFI;
 - the response from the Bar Council has warned of a lack of clarity in the proposals and potential "unintended consequences" should the consultation proposals be implemented as suggested. It has also suggested some alternative drafting and offered its assistance on re-drafting. If the BSB decides to ask for the Bar Council's assistance it will do so through the usual protocols;
 - the Executive will need more time than originally envisaged to address the points identified from the consultation. In the meantime, the present waiver system should be retained pending approval of a rule change application.
13. Members commented as follows:
- the BSB should remove any unnecessary regulatory barriers and BACFI has, understandably, attached great importance to this work;
 - we obviously need to address the "unintended consequences" issue but should not to lose momentum on this work;
14. In response, the Executive confirmed that a further review is included in the 2016/17 business plan for Quarter 2.
15. **AGREED**
- a) to note the responses to the consultation summarised at Annex B of the report.
 - b) that no formal rule change be made at this stage and to continue to grant waivers on a case by case basis.
 - c) to request that the work on a re-draft of the rules be completed by Q2 of the 2016/17 business plan.

EM to
note
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note

Item 9 – Consultation on the Threshold Standard and Competences that underpin the Professional Statement

BSB 016 (16)

16. Simon Thornton-Wood commented as follows:
- the Board has previously approved the Professional Statement. This consultation concerns the threshold standards that apply to it and these are set out in the boxed text of Annex 2 of the report;
 - the draft incorporates feedback derived from the last consultation including that from the Inns of Court which was particularly helpful;
 - the consultation is proposed to last 12 weeks from the first full week of March 2016. A report on the outcome will be prepared for the Board in due course.
17. Vanessa Davies reported on comments from Anne Wright and Justine Davidge. The salient points were:
- the paper is well thought out with clearer definitions than previously and should be supported;
 - the text necessarily includes qualitative language eg "reasonable", "acceptable", "satisfactory" which implies some element of judgment but it is not always clear who has responsibility for this.
18. **AGREED**
- to publish the consultation as set out in Annex 2 during week commencing 7 March 2016.

STW

Item 10 – Chair’s Report on Visits and Meetings (Jan 16- Feb 16)

BSB 017 (16)

19. **AGREED**

to note the report.

Item 11 – Director General’s Report

BSB 018 (16)

20. Vanessa Davies highlighted the appointment of Wilf White who will be joining the BSB as the new Director of Communications on 14 March 2016. He is currently the Interim Associate Director of External Relations at Ofgem.

21. In response to questions raised by Members, the following comments were also made:

- the work on the assurance framework will be led by Amanda Thompson as Director for Governance Reform;
- the Work Smart initiative is being piloted in the Supervision Team. This is bringing benefits for staff such as reduction in commuting time. Initial concerns about the suitability of accommodation for home based working have proved unfounded. There have been some teething problems with technology but remote access is now more reliable.

22. **AGREED**

to note the report.

Item 12 – Any Other Business

23. None.

Item 13 – Date of next meeting24.

- Thursday 17 March 2016.

Item 14 – Private Session

25. The following motion, proposed by the Chair and duly seconded, was agreed: That the BSB will go into private session to consider the next items of business:

- (1) Approval of Part 2 (private) minutes;
- (2) Matters Arising;
- (3) Action points and progress – Part 2;
- (4) Future of the Bar Course Aptitude Test;
- (5) Qualifications Committee governance review;
- (6) Independent Regulatory Decision Making (Enforcement Decision Making);
- (7) BSB Strategic Plan 2016-19 and Business Plan for 2016-17;
- (8) Corporate Risk Register;
- (9) Any other private business.

The meeting finished at 5.15 pm.

**BSB – List of Part 1 Actions
17 March 2016**

(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
18 (25 Feb 16) Consultation – FBT Programme	publish the consultation on the Threshold Standard and Competences that underpin the Professional Statement	Simon Thornton-Wood	during w/c 7 March 2016	09/03/16	Completed – published on 11 March
20d (26 Nov 15) (Gov review & revised SOs)	establish two new roles to support the changes in education and training ie <ul style="list-style-type: none"> • a “Visitor” to hear challenges against Centralised Examination policy and procedures • an increased role for the Independent Observer to the Centralised Examination Board. 	Simon Thornton-Wood	before 31 March 16	09/03/16	On schedule – role descriptions agreed and recruitment about to start
				16/02/16	In hand – agreed at GRA and recruitment being built into schedule; assurance framework in development.
				19/01/16	In hand – proposal before GRA on 19 Jan 2016
21b (23 July 15) – insurance for single person entities	seek a rule change to require single person entities to obtain their primary layer of professional indemnity insurance from the BMIF	Kuljeet Chung	by 31 Jul 15	09/03/16	On track – initial neutral response from LSB on our submission
				16/02/16	In hand – legal advice being used for submission to LSB on competition law aspects being prepared.
				19/01/16	Ongoing – issues being considered by GRA on 19 January 2016 and update to be provided as necessary to Board.
				16/11/15	Ongoing – update in private session
				04/09/15	Ongoing. A first draft of the application has been produced and preliminary discussions have been had with the LSB (the application will be updated in the light of these discussions). We also need to get some further advice on competition law before progressing the application. Assuming that can be done in time, the application will be submitted in September.

Forward Agendas**Thursday 21 Apr 2016 (Board Away Day)**

- Discussion on MoJ consultation
- Future Bar Training - Options for training routes for the profession
- Immigration Thematic Review: workshop
- Board meetings (agenda content and time management)

Thursday 19 May 2016

- Immigration Thematic Review - Part 1
- BSB Year-End Performance Report (includes Business Plan update, KPIs, Management Accounts, SLAs)
- Corporate Risk Register
- BSB Equality Objectives – progress review and setting of new objectives
- Independent Regulatory Decision Making (Enforcement Decision Making)
- Outcome of Fees and Charges Consultation
- Consultation on CPD rules
- Women's experience at the Bar – Part 1
- Regulatory responses to recommendations in the Youth Proceedings Advocacy Review Report

Thursday 23 Jun 2016

- Draft BSB Annual Report 2015-16
- Public and licensed access review (Part 1)
- Amending the definition of in-house employed practice (Part 2)

Thursday 28 Jul 2016

- Approval of CPD regime changes (Part 2)
- Enforcement Annual Report
- FBT: Threshold standards – final confirmation post consultation

Thursday 29 Sept 2016

- GRA Annual Report – includes the Report from the Independent Observer
- Approval of consultation on future model for training regulation, for publication
- PRP Report: includes the BSB Q1 Performance Report (includes Business Plan update, KPIs, Management Accounts, SLAs)
- Corporate Risk Register
- Budget bid for 2017/18

Thursday 27 Oct 2016**Thursday 24 Nov 2016**

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

Thursday 15 Dec 2016 (Board Away Day)**Thursday 26 Jan 2017**

Thursday 23 Feb 2017

- PRP Report: includes the BSB Q3 Performance Report (includes Business Plan update, KPIs, Management Accounts, SLAs)
- Draft BSB Business Plan for 2017-18
- Corporate Risk Register

Thursday 23 Mar 2017

BSB Strategic Plan 2016-19 and Business Plan for 2016-17**Status:**

1. For discussion and decision.

Executive Summary:

2. This paper covers the final drafts of our Strategic Plan for 2016-19 (annex 1) and our Business Plan (annex 2) for 2016-17. It explains the process by which we have arrived at the plans and next steps for publication.
3. The Strategic Plan (SP) sets out the context in which we will be operating over the next three years and the opportunities and challenges that context presents for the BSB in fulfilling our statutory regulatory objectives (ROs) and wider aims. It describes the three strategic programmes of work within which we will organise our activity and in respect of which we will evaluate our impact and success:
 - Regulating in the public interest
 - Supporting barristers and others we regulate to face the future
 - Being a strong and sustainable regulator.

The plan also explains the three priority themes to address risks to the ROs over the strategic period which we have identified.

4. The Business Plan (BP) for 2016-17 provides a greater level of detail on both our “business as usual” as a regulator and our proposed activity in 2016-17. It shows how we are completing or consolidating activity started under the plans which are now drawing to a close, and signals a year considerably focused on scoping of initiatives which we would expect to see developed and delivered over subsequent years of the Strategic Plan, depending on decisions taken in accordance with the policy development framework and / or Programme management “gateway” principles.
5. a) The Business Plan sets out planned expenditure as follows:

- Directly controlled BSB costs:	£5,213k
- Resources Group (RG) costs attributable to BSB:	£2,960k
- Total cost of regulation for the year:	£8,173k

b) Income forecasts for the year are as follows:

- Raised through PCF and attributed to BSB: (percentage of total PCF funds raised by Bar council: 65%)	£6,754k
- Income generated through other regulatory fees and charges:	£947k
- Inns’ Subvention	£250k

c) Headcount of 79.
6. The expenditure forecast for BSB represents a 3% reduction on 2015-16 BSB directly controlled expenditure but an increase of 13% in RG expenditure. The regulatory income forecast shows a reduction of 49% on 2015-16, driven largely by a changed approach to

regulation of education and training and qualifications rules and the concomitant reduction in non-PCF fees generated; and also more conservative estimates of income from authorisation fees for entities and ABSs.

7. The expenditure and income profile over the life of the Strategic Plan to 2019 sees in principle a commitment not to increase the cost of regulation as far as our own direct costs are concerned. However, the period also sees continuing decreases in revenue realisable from non-PCF charges; and whilst reductions in overheads (RG costs) are planned over the next three years as a result of benefits from the Information Management Programme and reduced premises costs, BSB control over those is constrained to some extent. See also Risk Implications below.

Recommendations

8. The Board is asked to:
 - **Review** the final drafts of both plans;
 - **Agree** to publish the Plans subject to final copy proofing and lay-out, in the week of 21 March 2016;
 - **Note** the launch event on 12 April 2016 to which all Board members are of course invited.

Background: developing the plans

9. The Board agreed at its September 2015 meeting an outline of the proposed SP following earlier discussions and strategic planning sessions in the executive team. A three-year rolling budget was agreed in principle in September as well. Further discussion of the strategy and the financial outlook took place at the December 2015 Awayday.
10. A draft Strategy document was noted by the Board and made public with an invitation for feedback in January 2016. The PRP Committee considered the 2016-17 financial forecast and budget in early February 2016. The Finance Committee agreed the final budget in late February, following LSB approval.
11. We have provided opportunities for feedback through open house meetings, the Regulatory Update and (specialist) press briefing. The extent of feedback received has been negligible, but we received formal feedback from the Bar Council by way of a letter from the BC Chairman to the BSB Chairman. Where it has been provided, feedback was discussed at the February Board meeting and the 3 March 2016 PRP meeting and is reflected in the revised drafts – see also Issues from Feedback section below.
12. The SMT has undertaken a detailed planning exercise, aiming to ensure:
 - clear consensus on scope of proposed work, including scrutiny of whether an activity is necessary at all and rejection of some earlier possibilities as insufficiently high priority for inclusion;
 - sufficient attention to “bow wave” effect and prioritisation of completion and consolidation of existing initiatives in 2016-17;
 - appropriate balance between business as usual and new initiatives;
 - (more) realistic phasing of programme and project milestones given resourcing levels: this has resulted in the 2016-17 business year featuring a good deal of

scoping work, following the policy development framework disciplines. This in turn will determine timelines in outer years, where it is agreed that an initiative should be pursued after scoping;

- proper consideration of impact of phasing of work on supporting resources eg research and communications.

13. Issues from feedback arise in four areas.

- a) We received minimal feedback on the Plans as such. The Bar Council found much to welcome but challenged our approach to separate and independent legal regulation and queried whether the BSB would be inappropriately extending its scope in some areas. The discussion of these issues by the Board on 25 February and PRP on 3 March 2016 is reflected in the final draft. We have responded separately to the BC letter.
- b) **The risk themes.** Some respondents expressed the view that the drafting of the risk sections was negative and alarmist, emphasising failure and threats, sometimes without substantiation being provided. The drafting of these sections in the SP has been rebalanced to point more at reassurance and improvement for the public and opportunities for the profession. See also the section below on the relationship between these plans and the three interlinked risk publications.
- c) The **uncertainty** of the operating context. This feedback is not very specific but goes to a general recognition of how challenging it is to frame – let alone draft – a SP in the circumstances. Our response has been to acknowledge readily the uncertainties but present the BSB on the front-foot, leading the thinking and contributing to regulatory policy development to the full extent possible within our resources.

Relationship between SP, BP and Risk publications

14. It may be helpful to clarify the way these key public documents fit together.

- a) Our **Strategic Plan** sets out the longer-term direction of travel for the organisation, in light of the external environment and priority areas of regulatory risk.

This is underpinned by:

- annual **Business Plans** which set out our programme of work for each year and the resources we require to support our activities;
 - specific **strategies, policies** and **regulations** which set out in detail our approach to particular aspects of regulatory and corporate activity – only some of these are of course made public.
- b) Our **Regulatory Risk Framework** describes how we approach the delivery of our regulatory objectives as a risk-based regulator. In this we start by looking to understand the external environment which impacts our work, those we regulate and the consumers of legal services. We categorise those things which can go wrong in the delivery of legal services in our Regulatory **Risk Index**. This is a living document which helps BSB staff to systematically and consistently identify and respond to potential issues in the market for barristers' services. We publish a **Risk Outlook** report which sets out our priority risk themes.

- c) In planning out our response to dealing with our priority themes and other regulatory risks and issues we will take into account the challenges, constraints and opportunities we face as an organisation. We use dedicated **corporate and project risk management** to manage these risks to the BSB's efficient and effective delivery of our regulatory role and other corporate responsibilities.

Publication and launch

15. Following the 17 March 2016 Board meeting, any final copy amendments will be made to the SP and BP documents and the design finalised prior to publication week of 21 March 2016. A launch event will be held on 12 April 2016 at the Royal College of Surgeons. The Plans and Risk Outlook will be presented, and there will be a panel Q and A with the Board as well as an opportunity to discuss with a range of interested parties the strategic aims and themes – followed by a reception.

Resource implications

16. These are set out in the Executive Summary above and in the SP and BP in particular.

Equality Impact Assessment

17. Individual programmes of work and projects are subjected to Equality Impact Assessments (EIAs). Diversity is a core risk theme in the SP and BP and the latter signals work on a revised set of equality objectives during 2016-17. The BP has a statement of our equality and diversity principles in accordance with the Equality Act 2010 and our regulatory objectives.

Risk implications

18. The period 2016-19 is characterised by considerable uncertainty in the external environment which brings a range of risks to the Plans. These are described in greater detail in the drafts. The main mitigation strategy for the political and legislative uncertainty is a) active engagement at a senior level with the policy process, including new investment in executive capacity in public affairs and b) negotiation of a new internal governance settlement with the Bar Council regardless of where the “independence” debate externally may be heading.
19. The other key area of risk is financial / resourcing. We continue to aim to be a “full service” modern regulator but cannot achieve economies of scale on the fees from a regulated community of 15,500. The three-year budget is extremely finely balanced. The mitigation strategies involve a) constant prioritisation of resources and lean, efficient operating processes b) rigorous cost control whilst focusing on value for money and c) robustly making the case for adequate funding of *appropriate* approaches to regulation – saying no to some demands but insisting on others.

Consultation

20. See the above section on the development of the plans. This was the first time we have submitted a proposed SP to external scrutiny before finalising it. Our headline budget proposals were consulted on as part of the PCF / LSB approval process in late 2015, via the Bar Council.

Regulatory objectives

21. The Plans make the support of the ROs clear and are driven by them.

Publicity

22. See above. The Plans will be published and press-released prior to Easter; the Risk documents immediately after Easter. A public launch event for both is scheduled for 12 April 2016. The suite of documents will of course feature as part of revised and new public, consumer and profession engagement strategies throughout the coming year.

Annexes

Annex 1 –Strategic Plan 2016-19

Annex 2 –Business Plan 2016-17

Lead responsibility:

Vanessa Davies (SP)

Viki Calais (BP)

THE BAR STANDARDS BOARD

DRAFT STRATEGIC PLAN 2016- 2019

Foreword by Chairman of Bar Standards Board – (to follow)

About this document

1. This document sets out the strategy and plans of the Bar Standards Board (BSB) for the period 2016–19. It describes the context in which the organisation operates and explains our role. It gives information about the work which the BSB will be doing during the period in question. We are committed to transparency and accountability and helping people understand what we do. This document is one of several, such as our annual Business Plan and our Risk Outlook and Risk Framework, which give a comprehensive picture of our context, role, aims and activities over the next three years.

About the BSB and barristers

2. The BSB regulates barristers and their professional practice and specialised legal services businesses in England and Wales, in the public interest. We do this in accordance with various statutes as well as our own rules and procedures. We work with a wide range of other organisations and individuals. These include organisations which represent or reflect the needs of those who use barristers' services, such as Citizens' Advice; and the Legal Ombudsman, which deals with consumer complaints about services from regulated legal professionals. We also work with the institutions of the justice system as a whole, such as the judiciary and Her Majesty's Courts and Tribunals Service; and with other legal services regulators who share our public-interest purpose. Finally, we ensure we maintain a close understanding of the profession we regulate through work within appropriate public-interest boundaries with bodies which represent the interests of barristers, such as the Bar Council, the Specialist Bar Associations and the Inns of Court.
3. The BSB is independent of government, and works independently of the legal professionals it regulates. We are funded by levies raised by the General Council of the Bar, mainly consisting of practising certificate or licence fees, paid solely by those subject to our regulation ("authorised persons"). We also recover the costs of some specific regulatory services from those that use them, through fees such as those we charge for examinations and the quality assurance of training to qualify as a barrister. The law requires that the BSB is funded in this way and not by tax-payers. We currently authorise around 15,500 practising barristers working in over 700 chambers and a number of other organisations such as the Crown Prosecution Service or Government Legal Service. We also authorise around 50 businesses providing specialist legal services known as "entities". By late 2016 we expect to be licensing Alternative Business Structures as well: legal service providers which do not have to be owned by lawyers alone.

4. The Board has 15 members who oversee the work of a staff team of around 80 people. In accordance with the Legal Services Act 2007 (LSA07), the work of the BSB and other regulators of the legal profession such as the Solicitors Regulation Authority is overseen by the Legal Services Board (LSB). The LSB is also funded by regulated members of the legal professions, but it must report to Parliament.
5. There are now many different people who work to provide legal services, in a market that is worth about £30 billion to the UK. Barristers specialise in providing advice and advocacy in the courts and tribunals in England and Wales. They are an integral and important part of the justice system and its administration. When people use the justice system – whether as a private individual or as a small or medium-sized enterprise (SME) or as a global multinational company – a great deal can be at stake: liberty, family or other human rights; property or sums of money. So it is important for all of society that barristers act with integrity and honesty, are competent to do the job and put the interests of the justice system and the rule of law above everything else. We are there to help barristers do that, and to reassure the public, independently of the barristers, that public interests are being well served. We also ensure that those barristers who are not currently practising do not act to undermine the trust and confidence that the public places in barristers.

A summary of this plan

Section One of this plan describes the context and regulatory landscape within which we are working. We describe what we seek to achieve within that context in Section Two. We summarise this in three Strategic Aims:

- Regulating in the public interest
- Supporting barristers and those we regulate to face the future
- Ensuring a strong and sustainable regulator.

In working towards our aims we intend to address three regulatory themes that we have identified as priorities through the work we have conducted to understand the market and the risks to the regulatory objectives which may arise. These three themes are:

- Improving how those the BSB regulates meet consumer needs
- Improving diversity and enhancing equality in practice and culture at the Bar
- Responding to commercial pressures on legal services providers.

In Section Three we set out the activity in which we will be engaged over the life of the Plan, the resources we will draw on, and how we will evaluate our success.

Section One: The context in which the BSB works and its role

The law relating to the BSB as a regulator

6. We regulate barristers and other authorised persons engaged in advocacy, litigation and specialised legal advisory work in England and Wales. Our role is laid down largely by the Legal Services Act 2007 (LSA07), which sets out objectives to:
- protect and promote the public interest;
 - support the constitutional principle of the rule of law;
 - improve access to justice;
 - protect and promote the interests of consumers;
 - promote competition in the provision of services;
 - encourage an independent, strong, diverse and effective legal profession;
 - increase public understanding of a citizen's legal rights and duties; and
 - promote and maintain adherence by those it regulates to the professional principles: acting with independence and integrity; maintaining proper standards of work; acting in the best interests of clients; complying with the duty to the court to act with independence in the interest of justice; and keeping the affairs of clients confidential.

These objectives are shared with other front-line regulators of the legal profession as well as with the statutory oversight regulator, the Legal Services Board (LSB).

7. How we approach our role is also determined by other statutory requirements such as the Regulators' Code. This requires all regulators, for example, to adopt a "risk-based" approach to regulation and be targeted and proportionate in what they do. We also have a statutory duty to promote economic growth. We have specific duties as a public body under the Equality Act 2010.

The changing context of our work in the 2016 -19 period and beyond

8. Over the next ten years, barristers in England and Wales will face major challenges. These will arise, for example, from changing consumer demands and expectations, technological advances and global competition. There will also be statutory and other approaches to regulation in general that are likely to place both the public interest and the free rein of the market above the preservation of traditional practices and vested interests. Existing government pressure to deregulate is likely to continue, but at the same time we do not envisage any reduction in the trend for ever greater transparency and public accountability, especially in the regulation of professionals.
9. The relentless pressure on barristers' costs is set to continue. Commercial and some areas of private law are likely to be sheltered to a great extent from the changes forced on the publicly funded Bar through reductions to legal aid. The present model for the administration of justice in criminal, family and immigration courts is becoming

increasingly unsustainable. Government cannot afford the cost of legal aid and court administration, and individuals cannot afford the cost of litigation. Barristers may find themselves squeezed out of the market by a declining case load, a surfeit of barristers and increasing competition from both other regulated legal professionals as well as unregulated service providers. Barristers will also have to adjust to accelerating technological change as court systems go online and “paperless” and digital entrepreneurs find new ways to deliver legal services to consumers.

10. The impact on the Bar of this environment may be far-reaching, with direct consequences for the future of the judiciary who are largely recruited from the Bar. This environment may also threaten the status of the Bar of England and Wales as an attractive international model and a revenue generator for the UK: the legal services sector has a turnover of some £30 billion and the Bar’s “share” of that amounts to over £2 billion.
11. How the Bar fares will depend on the robustness and creativity of its response, the changes which government and the judiciary will bring into the administration of justice, and the speed with which consumers seek out alternative ways to address legal problems. We at the BSB, as the Bar’s regulator, must act in this context to ensure that the public can continue to rely on the high standards of work and ethical behaviour historically associated with the Bar.
12. As the financial pressures bite on government, and political interest in deregulation grows, the chances increase that new legislation may be introduced, which could radically affect the existing regulatory objectives of the BSB and the way we undertake our work. In the summer of 2015, we contributed to work setting out some of the issues which arise in considering how regulation has developed since the introduction of the LSA07. The Government announced in late 2015 a forthcoming consultation that will contemplate regulatory reform and in particular how to develop further the independence of regulatory bodies from the historic representative bodies of the legal profession. The Competition and Markets Authority (CMA) launched in January 2016 a Market Study into legal services and their regulation, the outcome of which could be substantial further change. We will publish a separate document in April 2016 which sets out a great deal more information about how we see the legal services market and the wider political context: this document is the BSB’s “*Risk Outlook*”.
13. We will participate actively in – and aim to lead – policy thinking about the future “regulatory landscape” as we are uniquely placed to do so: we have a deep knowledge of the profession and of the justice system but we operate largely independently of the Bar.

Section Two: what the BSB aims to achieve

14. Against a background of intense financial pressures, we are committed to protecting the public and consumer interest and access to justice. We will do this while balancing those regulatory objectives against the sometimes competing objective of encouraging the independence, strength, diversity and effectiveness of the legal profession.
15. It is in the interests of the public, the rule of law and access to justice, that the specialist skills of independent advocates are maintained and made available to all who need them. That independence may be promoted through particular business models but is driven first and foremost by professional ethics and high standards of work. It is in the interests of the Bar to have a strong regulator with deep knowledge of the profession, yet maintaining complete public and political credibility.
16. In the decade ahead, we are faced with two main tasks. Firstly, we will need to reconcile the public interest and an understanding of how best to maintain the rule of law and improve access to justice, with an understanding of changing consumer needs and expectations. At the same time, the BSB will need to monitor and support the ability of the Bar to adapt and prosper in an exacting and demanding environment.
17. Secondly, we will need to reconcile high professional standards for entry to and practice in the profession, with a probable strong drive from Government to reduce the costs of legal services and make them more accessible to more people, especially SMEs. It is highly likely that Government will also want to reduce regulation and red tape, promote competition and innovation and encourage the emergence of disruptive new business models – and might intervene to bring those things about.
18. These are difficult things to hold in balance and reconcile. The outcome will turn on our ability to regulate advocacy to high professional and ethical standards in the public interest. It will also depend on the ability of the Bar to promote the continuing relevance of those high standards to the core principles and processes of justice in England and Wales - but without seeming to protect a closed shop for barristers or to deny consumers alternative options to pursue their legal arguments in a court of law.
19. We have identified three core aims for the BSB in the period 2016-19. All our work, including the work we do to address our priority themes, will support one or more of these aims (see also Section 3 below).

Aim 1: Regulating in the public interest

20. We want to help the public better understand the fast-changing and complex market for legal services, so that consumers of those services can make informed choices and have better understanding of their legal rights and duties as citizens.

Part 1- Public

21. We will nurture a deeper dialogue with consumers *and* the profession so that what we propose and what we do can be demonstrably evidence-based and proportionate to the situation in hand.
22. We will continue to strengthen our real and perceived independence from the profession, so that we can articulate and defend our judgements on the basis of independent and unbiased assessments of the evidence of where the profession is doing a good job for the public, as well as where any risks to the public interest may lie.

Aim 2: Supporting barristers and those the BSB regulates to face the future

23. We will assist the Bar in preserving its professional identity for the benefit of the public, in a legal world where regulatory constraints apply primarily to the reserved activities, such as advocacy in the higher courts and litigation. This is particularly necessary where the forces of unregulated competition will be increasingly felt in other areas of a barrister's work and competence. For example, the public needs to understand the difference between a fully qualified, regulated and insured barrister and a "McKenzie Friend" – whether paid or unpaid.
24. We will help the profession to embrace closer cooperation with solicitors and other legal professionals, where that may offer advantages for the public. This could be for example in relation to better mutual recognition of education and training pathways; or in developing regulatory frameworks for business models which combine the strengths of different legal professionals in an efficient way so that benefits can be passed on to consumers.
25. We will ensure our regulatory frameworks do not pose unnecessary barriers to entering the market and we will reform legal education and training to support the advocates of the future. We will address the regulatory issues arising from the presence in the market of unregistered and part-qualified barristers.

Aim 3: Ensuring a strong and sustainable regulator

26. The BSB will continue to position itself as the regulator of legal services which have advocacy, specialist legal advice and litigation at their core. There is a distinct public interest in us doing this because of the close relationship of these services to the upholding of the rule of law and access to justice.
27. We will actively promote regulatory governance arrangements which are constitutionally and financially independent of government, as well as of the profession we regulate. We need to balance this with ensuring we maintain credibility with government, politicians, the profession and its institutions. We will maintain and extend our accountability to the public.
28. The BSB will continue to promote its core values in all that it does: fairness, integrity, respect, excellence and value for money. We will maintain our strong track record of

transparency, accountability and good stewardship of resources by setting out clear and meaningful measures of success and reporting on them openly.

29. We will continue to foster an environment of continuous improvement within the BSB; and to invest in the skills of our staff to work as an effective community of practice in legal services regulation.

Prioritising our work: opportunities and risks

30. We have given careful consideration to how we prioritise work to advance our strategic aims, and to what could most enhance the achievement of the regulatory objectives. We have also thought about what could impede their achievement over the next few years. There are many possibilities, but our resources are finite and we must be proportionate, targeted and risk-based as a regulator, so we will focus on three themes in our Strategy.

Improving how those the BSB regulates meet consumer needs

31. The right of consumers to be treated fairly by the law, wherever they sit in society, and their ability to obtain appropriate redress if they have not been treated fairly, is fundamental to maintaining a fair and democratic society. This is a right that applies to all consumers, whether individuals, SMEs, large international corporations or government bodies. There is evidence, including from research by the Legal Services Consumer Panel and others, that some consumers do not understand they are in a position to seek legal redress; some decide against trying to obtain it, because they think doing so is too complex or too costly – or both. They may believe they will not get a fair outcome. Those who do decide to use a legal professional to help them may get poor advice, or other forms of poor service. Where consumers are already vulnerable, the fear, stress and harm they may experience may be exacerbated.
32. Our role is to:
- Regulate barristers to ensure that the consumers they engage with are given an adequate and appropriate service;
 - Adopt a regulatory approach that enables legal service providers and especially barristers to adjust their service to consumers of any kind;
 - Provide information that aids consumers in navigating the legal services market and the legal system more widely, whether or not they decide to use a barrister.
33. We will better develop our understanding of how consumers interact with the legal market and the legal system, by engaging directly with consumers. We will encourage the profession to develop its understanding of the consumers it serves and ensure its service meets the standards expected and in ways that are accessible and affordable for a wider range of clients. This includes accommodating consumers who are particularly vulnerable, and communicating well with consumers from different cultures and backgrounds.

Improving diversity, and enhancing equality in practice and culture at the Bar

34. Three hallmarks of a fair and democratic society are valuing individual and group differences, promoting equality of opportunity, and eliminating discrimination. Those who provide legal services are instrumental in maintaining a fair and democratic society and using the legal system to hold people to account under the rule of law. For our legal system to be respected by all who depend on it, it needs to reflect the changing makeup of society. Most judges in England and Wales were once barristers and so it is especially important that the Bar is diverse and its practices are non-discriminatory and culturally aware and sensitive. The public will not have confidence in the profession otherwise.
35. Our role is to:
- Uphold our obligations under the LSA07 and the Equality Act 2010, promoting diversity in the profession and eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations between different groups;
 - Collect and make available high-quality data on diversity in and around the profession, to ensure good evidence of any problems and support the social and business case for improvement where necessary, publicising good practice;
 - Adopt a regulatory approach that strikes the right balance between enabling and enforcing compliance in this area by members of the profession.
36. We will publish our evidence on these issues, and will engage with the profession and diversity groups to encourage shared action. We will consistently identify and address the equality impacts of our work and target our resources where we can be most effective. We will encourage the profession to recognise where there are problems, not to tolerate poor practice, and to work with us to take practical steps to improve skills in relating well to people from all cultures, walks of life and backgrounds. We will promote good practice where we find it as a model for others.

Responding to commercial pressures on legal services providers

37. A significant proportion of those we regulate have historically depended on publicly funded work. Cuts in government spending in this area have been deep. In contrast, the economic recovery from the 2008 recession has largely continued and many practitioners, especially in commercial or private work, are thriving financially. Commercial pressures do not of themselves constitute a regulatory issue unless they compromise the regulatory objectives. It is not the role of the regulator to safeguard the commercial or private financial interests of those we regulate. We want to see a strong and healthy market for legal services that meets the needs of those who rely upon it. We want to safeguard consumers against the potential consequences of commercial pressures in individual practices, or the system as a whole, where those consequences are not in the interests of consumers or of justice more broadly.
38. Pressures in the market do have the potential to stimulate competition and innovation as providers find more efficient and attractive ways to stay competitive and do

business. An example of this is the growth in the number of public access barristers who can meet the needs of consumers without using intermediaries such as solicitors.

39. So we believe that competition can help to bring positive benefits to consumers. However, commercial pressures may also adversely affect access to legal services and can sometimes threaten professional independence and integrity if not carefully managed. Quality may suffer where financial margins are low, and clients may suffer detriment if legal providers go out of business.
40. Providers (whether barristers or others) may consider diversification into new areas of work, and this is generally to be encouraged – especially if it means extending the reach of services to those previously unable to access them. But diversification needs to be undertaken with sufficient diligence to ensure that the levels of competence of those involved in delivery of new services, who may be relying on their good reputation in other specialist areas, are appropriately high and are maintained.
41. Commercial pressures may not be evenly distributed across the market, either geographically or across areas of law, and they may manifest themselves differently too. Those areas which have historically been publicly funded may be especially vulnerable in a pressurised commercial environment because operating margins are relatively low. There can be significant challenges to the continued provision of high-quality services, which may impact on consumers in those areas, threatening access to justice. Where consumer interests need safeguarding, we may need to step in, to support both the consumers affected and the barristers who may be seeking to meet consumer need. In those areas of the market where financial returns may be greater, there can be different sorts of commercial pressure and maintaining the independence and integrity on which the justice system and the public relies can be challenging for some.
42. Our role is to:
 - Collect and disseminate evidence about the market and how it is changing, taking account of the varied experiences of different sectors within the Bar;
 - Regulate where necessary, balancing carefully the need for quality with freedom to innovate and allowing the market flexibility to adapt;
 - Understand what constitutes effective but fair intervention at market level;
 - Safeguard consumer interests in specific cases where they may need protection from poor quality or disrupted provision of services in acute situations.
43. We will ensure we continue to be knowledgeable about the operating context for members of the profession and stay abreast of market developments. We will focus on the risk to the regulatory objectives, as distinct from commercial concerns for any particular provider.
44. In support of our economic growth duty, we will work with the profession to support and strengthen barristers' abilities to face commercial pressures – whilst being sure to

resist becoming more closely identified with the interests of those we regulate rather than those of the public the regulator has a duty to protect. We will aim to encourage the profession to approach the changing business climate with good knowledge of the options available for responding - planning for what lies ahead rather than relying on maintaining the status quo. This could mean, for example, enabling barristers to see the business value in seeking customer feedback; or helping them evaluate new and different business models. We will help the profession retain core values through good times and bad, because this is in the public interest. We will put in place future education and training requirements for barristers which assist them to adapt and thrive in response to new commercial opportunities and threats.

45. We explain these three themes in more detail, and how they will be managed in the public interest, in our *Risk Outlook*, *Risk Framework* and *Risk Index*.

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Section Three: how the BSB will deliver its plans

What has been achieved in the decade since the BSB was set up

46. The BSB was established in 2006 and we have been working since then to transform how we operate, in order to become a modern and efficient regulator, achieving externally agreed high standards and best regulatory practice wherever possible. Under our last Strategic Plan, we made substantial progress against five related aims:
- To implement new specialist regulatory frameworks for advocacy services;
 - To promote greater public and professional understanding of what we do and why;
 - To set and maintain high standards of entry to and practice within the profession;
 - To take a more risk- and evidence-based approach to regulation; and,
 - To strive for “best practice” as an organisation for those we serve and those who work for it.
47. Underpinning the achievement of those aims was the adoption of the Regulatory Standards Framework laid down by the LSB. In short, this meant adopting a risk- and evidence-based regulatory approach, focussing on outcomes for the public interest. We moved to using supervision of practice by barristers as a primary means of encouraging compliance with rules, and to using enforcement measures as a last resort. We invested heavily in our skills and capacity to regulate in this way, including ensuring our independence from the profession and adopting governance structures and practices which support this way of regulating.
48. You can read about our achievements in our Annual reports [\(add link\)](#) and find the latest assessment of our performance against the LSB’s regulatory standards framework on their website [\(add LSB link if available\)](#). Notable features of the transformation of the BSB have been:
- The introduction in January 2014 of a new Code of Conduct and Handbook for barristers, which adopted a more outcomes-focussed approach. The new Handbook abolished many outdated, heavily prescribed rules, which had been constraining unhelpfully and needlessly how barristers worked – such as with whom they could work closely, and what work they could do;
 - Introduction of rules to help consumers make “first-tier” complaints about poor service;
 - Extension of the scope of equality and diversity rules and the regulatory work to underpin them;
 - The introduction in 2015 of a regulatory framework for entities: as well as regulating individual professionals, we now authorise companies or partnerships owned and run by barristers and other legal professionals, offering advocacy and specialist advice services to consumers;

- Establishment of a risk-based supervision regime for barristers' work;
 - Modernisation of our disciplinary processes and the oversight of the creation of the arms' length Bar Tribunals and Adjudication Service (BTAS);
 - Improvements to the education and training system, including introduction of centralised examinations to ensure consistent exit standards, and modernisation of regulation of CPD for barristers;
 - A research programme to provide necessary evidence: for example, the Legal Education and Training Review in 2013 which has resulted in a substantial reform programme; the Youth Courts Advocacy Review in 2015 which will lead to setting of new standards and potentially accreditation for advocates working with young people in the justice system;
 - Establishment of effective working relationships with regulators of legal services across England and Wales and internationally;
 - Investment in training and development for our staff to ensure they have the skills needed by a modern regulator, and investing in infrastructure eg IT systems to support our work;
 - Transformation of internal governance to enhance independence; moving to a lay-majority Board, with a lay Chair;
 - Focus on value for money and transparency by careful budgeting and cost control, firm stewardship of funds and clear reporting to the profession and public.
49. Of course "business as usual" for a regulator of professionals continued – setting standards for entry to the profession, supervising education and training, authorising barristers to practise annually and dealing with breaches of the Code of Conduct and Handbook through administrative sanctions or disciplinary action.

The BSB's work between 2016 and 2019

50. We will organise our work to respond to the context we set out in Section One in a way that is aligned to the strategic aims we set out in Section Two of this Plan. We have developed three Programmes of work which bear the names of the strategic aims.. Each Programme comprises reform and change as well as continuing routine regulatory work, building on the foundations laid in our earlier strategic plan.
51. What we need to do in relation to the three priority themes we have identified is interwoven in the three work programmes, often with more than one Programme or activity contributing to addressing the three themes identified. The work we do is complex and so is the environment in which we do it, so there is rarely a one-to-one relationship between a theme and the activity we will undertake to address it. We have given examples of how work we specify under a particular programme contributes to dealing with our priorities.
52. Annual Business Plans, published on our website, set out further details of activity and the resources that will be used to deliver the work. There is work initiated before 2016, which must be completed or consolidated, and the 2016-17 business year in particular

will see us researching and scoping new initiatives before developing and rolling them out in later years.

Programme One: Regulating in the public interest

53. Our work within this programme will include:

- Continuing to enforce our rules in order to maintain the trust and confidence of the public in the profession, and doing that justly, swiftly and proportionately;
- Increasing the extent and depth of our communications and engagement work with the wider public, civil society and the profession through new investment in our skills in this area;
- Increasing the extent of consumer-facing work we do, ensuring that the perspective of the consumer (and especially the most vulnerable) is more central in regulatory policy making and actions: this includes revising our consumer engagement strategy and building more constructive relationships with consumer organisations;
- Undertaking “demand side” market research into what consumers need and want from barristers;
- Informing consumers about the complex legal services market, what they can expect from barristers and others we regulate;
- Participating more actively in regulatory policy work at a national and international level on the rule of law and access to justice (the protection and promotion of which are two of our regulatory objectives) and in relevant national strategic debates on the justice system from the regulator’s perspective;
- Ensuring the BSB and the Bar Council adopt relevant complementary roles in relation to understanding and responding to globalisation of the legal services market;
- Ensuring risk-based regulation is proportionate and founded on public interest and other regulatory objectives;
- Aligning regulatory decision-making to the regulatory objectives more consistently and clearly through improvements to the governance of independent decision making;
- Centralising work to assess incoming information and reports about activity in the profession and market as a whole;
- Reviewing the 2016 Risk Outlook once further before March 2019 (the end of this Plan);
- Considering, with other regulators, what common approaches might usefully be adopted to disciplinary processes, in the public interest; and,
- Policy and operational planning in order to make appropriate use of new statutory powers to prevent harm to the public and damage to the reputation of the profession if things go wrong; considering the financial protections available to consumers of barristers’ services.

Programme Two: Supporting barristers and those the BSB regulates to face the future

54. Our work within this programme will include:

- Fully establishing ourselves as a licensing authority for ABS and supporting barristers to choose this, or other new business models, if they wish to do so;
- Fostering innovation in the delivery of legal services for the benefit of consumers and wider society;
- Responding to the CMA study of the legal services market;
- Dealing with regulatory issues relating to the presence in the market of unregistered and part-qualified barristers;
- Adapting regulatory requirements to respond to increasing use of technology by consumers and practitioners, including technology-driven reforms to the courts and tribunals system and the increasing need for adequate cyber-security; using the CPD and supervision regimes to monitor these;
- Making sure the way we regulate keeps up with globalisation, for barristers working overseas, and for foreign lawyers working in England and Wales; carrying out “supply side” research into barristers’ international practice to identify any regulatory issues;
- Reducing regulatory burdens on practitioners wherever possible so that they can remain competitive and pass the benefits on to users of legal services, including reviewing the LSA07 s15 “scope of practice” rules;
- Seeking where possible to regulate in a collaborative and constructive way, reserving enforcement action for persistent, or the most serious, instances of misconduct; fostering good relationships through the general supervision regime;
- Ensuring the new CPD regime complies with these principles;
- Reviewing the way barristers make use of professional indemnity insurance, to protect consumers and support barristers’ practices;
- Reviewing the regulatory provisions for particular types of practice, prioritising those likely to have a high impact on vulnerable consumers (for example crime, immigration and youth courts work);
- Assuring the public of high standards in those areas, including through the use of specific compulsory accreditation schemes where necessary and proportionate; and supporting barristers and those the BSB regulates to maintain high standards of work in those areas in particular;
- Designing a new system of education and training for barristers and managing a transition to it; ensuring our role in that system is consistent with our regulatory focus on authorisation and risk-based, proportionate supervision;
- Improving the supervision of work-based training for barristers, both prior to full qualification and throughout a barrister’s working life;
- Improving diversity in access to the profession and progression within it, through targeted initiatives such as those already initiated in relation to women at the Bar, and through action to increase disclosure rates in relation to protected characteristics.

Programme Three: a strong and sustainable regulator

55. Our work within this programme will include:

- Undertaking externally facing activity to foster public and political confidence and credibility in the BSB's independence as a regulator, particularly with regard to possible changes to the LSA07 such as full legal and financial separation of the regulatory and representative bodies, which are to be consulted on in 2016;
- Working on further legislative reform to protect and promote in the public interest the independence of legal services regulatory bodies from both Government and the representative bodies for the profession;
- If no statutory change results from that consultation, negotiating a revised internal governance settlement with the Approved Regulator under the current LSA07 (the Bar Council);
- Working to ensure that our relationship with the Inns of Court reflects good regulatory practice and is clear and transparent, whilst respecting the Inns' legal status;
- Demonstrating accountability to the public and profession by transparency in our assurance processes, performance monitoring and reporting, through the development and adoption of a new assurance framework consistent with our revised governance arrangements;
- Continuing to work to the LSB's regulatory standards framework if required, and to what we consider to be best regulatory practice – including working on a second phase of internal governance reform focusing on the clear separation of regulatory policy-making from decisions on individual cases;
- Establishing an advisory pool of external experts to ensure that the BSB always has access to the best possible expertise and advice in support of its work;
- Restructuring the organisation internally to bring greater coherence to the delivery of our strategy and future regulatory approaches;
- Developing staff well-being, performance management, recruitment, retention, career progression and succession;
- Developing capacity and capability including further refinement of regulatory tools such as the policy development framework, research, evidence base and knowledge management;
- Investing in better Information Management and technology to promote more agile and smarter working;
- Enhancing efficiency and financial sustainability, including for example moving out of our current premises when our lease expires;
- Embedding closer cooperation with other regulators where this is appropriate and in the interests of the public, including through shared research, structured regular contact and agreement of common strategic approaches where there is public benefit in those.

How are aims and our priorities are linked

56. As we conduct the work described above in support of our aims we will be concentrating on our three priority areas. This is illustrated below (not exhaustively):

	Regulating in the public interest	Supporting the profession to face the future	Being a strong and sustainable regulator
Meeting unmet consumer need	eg Informing consumers about the complex legal services market and what they can expect from barristers	eg Fostering innovation in the delivery of legal services and responding to increasing use of technology	eg Demonstrating accountability to the public and profession through transparency in our assurance processes
Improving diversity and enhancing equality	eg Ensuring the perspective of consumers, especially the vulnerable, is more central in our regulatory policy and decision making	eg Improving diversity in access to the profession and progression in it; increasing disclosure rates in relation to protected characteristics	eg Developing staff well-being, performance management, recruitment and retention and career progression
Responding to commercial pressures	eg Policy and operational planning to make appropriate use of new powers to prevent harm to the public if things go wrong	eg Reducing regulatory burdens on practitioners so they can remain competitive and so that benefits can be passed to consumers	eg Investing in better information management systems to promote more agile working and bring costs efficiencies.

Financial forecasts for the 3-5 year period

57. We have worked hard over the past few years to “flat-line” or reduce operating expenditure and have always lived within our agreed budgets. Changes to regulatory approaches will put more pressure on our cost base in the 2016-19 period and we will have decreasing reliance on regulatory income outside the practising certificate fee. We are a “full service” regulator by statutory necessity, but have a relatively small regulatory population on whom we can call for funds. We will therefore seek economies of scale through, for example, working more with other organisations where we can.
58. The public purse makes no contribution to our funds, and we think that is important so that our regulation can be independent of Government. Currently 65% of the funds raised from the profession in practising certificate fees are used by the BSB to regulate the profession. The remaining 35% are used by the Bar Council in accordance with specific “permitted purposes” under s51 of the LSA07. A further statutory levy on the profession is made by the LSB. Our capacity to reduce the burden of regulatory costs on the profession is thus constrained and to an extent driven by strategies and work

not actually owned by the BSB; the LSB can drive our work programme in a way that can increase our costs, and the BSB rightly has no say in the policy priorities of the Bar Council which are funded by the PCF.

59. The BSB was set up in anticipation of and in accordance with the LSA07 by the General Council of the Bar so that regulatory responsibilities could be discharged independently. The BSB does not have a separate legal identity and depends on the Bar Council to raise funds for its needs. The Bar Council is the employer of all BSB staff. We think our legal and financial relationship with the Bar Council, which is also the representative body for the Bar, could be better communicated to and understood by both the public and the profession. There exist sound arguments for full separation of the two bodies, so that the regulator can become more accountable for its regulatory work, and operationally independent of the profession, and so that barristers can control better how they are represented and at what cost. Both the Bar Council and the BSB will be better able to carry out their respective roles more transparently and powerfully, and it is in the public interest that both bodies do so. We recognise that the cost of change, especially for a small organisation like the Bar Council and BSB, may be considerable and a thorough cost-benefit analysis of change needs to be undertaken. There are many ways for example in which the regulatory body could, in a different future landscape, share costs with other organisations.
60. Our direct operating costs for 2016-17 will be £5,213k and we will employ 79 people. This represents a 3% reduction in costs over the previous year. The total cost of regulation is £8,173k, which includes the BSB's share of the overheads and corporate provisions of the Bar Council (£2,960k). Our three-year plan sees the maintenance of this baseline and whilst we will always strive for value for money, efficiency and cost reduction where we can, we think it would be irresponsible to promise at the outset of our Plan further operating cost reductions in subsequent years given the context and uncertainty we have outlined earlier in this strategy.

Success measures

61. We will develop and publish an assurance framework which will allow us to evaluate how well we are managing the three thematic risks of failure to meet consumer demand, lack of diversity at the Bar, and commercial pressures on the profession. We will use the framework to evaluate the extent to which we are regulating in the public interest, supporting those we regulate to face the future and are a strong and sustainable regulator. Our guiding lights in measuring our success will be transparency and accountability.
62. We will continue to set realistic but challenging targets and performance indicators for the delivery on time and to budget of our projects and for our service standards associated with, for example, regulatory case management or decision-making. We will continue to report on these in a transparent and accessible way. Over the life of the Plan, we will aim to develop measures of success in relation to the quality of our regulatory decision-making in a way that we have not previously done.

63. As long as the LSB requires our periodic assessment against their standards framework, we will aim to perform at least satisfactorily in relation to those standards, and this will also be a direct measure of our success.

Governance information

64. Our Board is chaired by Sir Andrew Burns KCMG. Our Vice Chair is Naomi Ellenbogen QC.
65. The Board is responsible for ensuring that sound and effective arrangements are in place so that the organisation can operate in accordance with its organisational values and good governance principles.
66. The names of all our Board members and any advisers, their professional backgrounds and details of their terms of office and declarations of interest are all available on our website (insert link).
67. Information about the executive team, led by the BSB's Director General Dr Vanessa Davies, can also be found on the website.

Contacting us

68. We are committed to providing a high standard of service and dealing with everyone in a way that is fair, transparent, and proportionate. We welcome your feedback on our Strategic Plan and on our services.
69. Your comments and suggestions are important to us as they will help us to meet our obligations to you, whether you are a member of the public or of the profession, and to improve our performance.

Write to us:

Bar Standards Board
289-293 High Holborn
London WC1V 7HZ
DX: 240 LDE

Phone us: 020 7611 1444

Fax us: 020 7831 9217

Email us:

contactus@barstandardsboard.org.uk

See our website:

www.barstandardsboard.org.uk

follow us on Twitter: @barstandards

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Logo

Business Plan

2016-17

The BSB regulates barristers and specialised legal services businesses in England and Wales, in the public interest

Page 2

Our Values

INTEGRITY

We operate to the highest ethical standards

We are honest, open, and inspire trust

We consider the social and environmental impact of our actions

EXCELLENCE

We are committed to quality

We are creative, innovative, and lead change

We are responsive, accessible, and accountable for our actions

FAIRNESS

We act responsibly, proportionately, and in the public interest

We promote equality of opportunity and equal access to justice for all

We value inclusion and diversity

RESPECT

We respect and support others

We value expertise, learning, and knowledge-sharing

We foster a collaborative and developmental working environment

VALUE FOR MONEY

We are cost-effective and accountable for our use of resources

We work efficiently with an entrepreneurial and commercial mind-set

We strive for clarity, simplicity, and straightforwardness

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Foreword by the Chair and Director General

The BSB regulates barristers and specialised legal services businesses in England and Wales, in the public interest.

Welcome to the first annual Business Plan of our new three-year strategy. We have set out in this document what we will be doing in Year 1 to achieve our strategic goals. Our Business Plan should be read in conjunction with our 2016-19 Strategic Plan and our Risk Outlook [insert link].

This plan builds on the work of our last strategic plan. In the period to 2015-16 we transformed the way we operate, and became a more modern and efficient regulator. We are proud of our track record, which includes the introduction of a more outcomes-focused Code of Conduct, starting to regulate lawyer-owned entities, and moving to risk-based supervision. We made great headway on the Future Bar Training programme, which will

progress further in the next three years. We expect to be regulating Alternative Business Structures later in 2016. We hope you will read our 2015-16 Annual Report in due course which will detail more of our achievements and will show how successfully we performed against our last strategic plan.

In this new phase of our development, we continue to operate in challenging times. We anticipate that changing consumer demands and expectations, technological advances and global competition will test the legal services market and the BSB must be ready for that. The BSB must also respond to the political pressure to remove “red tape” and to reduce the burden of regulation, including costs.

We will work continuously to uphold our statutory objectives in the public interest and especially to promote the rule of law and access to justice. We have three strategic aims for the period 2016-19: regulating in the public interest; supporting those we regulate to face the future; ensuring we are a strong and sustainable regulator. Following careful consideration, we have determined that there are three areas in particular where we see a need to maintain and promote the high standards, for which the barrister profession is renowned. These are ensuring consumer need is met; ensuring diversity and non-discrimination in the profession, and helping barristers maintain the quality of their work and their integrity in the face of commercial pressure. These are the priority themes in our risk-based approach to regulation during the 2016-19 period.

Our Business Plan describes what we will be doing to deliver our strategy and carry out our core regulatory activities and how we will address these three challenges. We will be organising our work into three strategic programmes (see page xx) and we have provided more detail here about what these mean and our approach to delivery. These programmes are the foundation of our new Strategy, and we expect to be carrying out a considerable amount of scoping and researching of proposed new initiatives in the first year, leading to well-founded plans for execution in subsequent years. And we will take time this year to complete and consolidate work that is already underway. As with all of our policy initiatives, we will continue to consult with you on any proposals and we hope that you take the opportunities to engage with us to help us achieve our common objectives.

We invite you to follow our progress via our website (www.barstandardsboard.org.uk), and engage with us in defining the years to come (contactus@barstandardsboard.org.uk).

Sir Andrew Burns KCMG

Dr Vanessa Davies

Chair

Director General

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About this document

We have published in 2016 a suite of important documents to assist in understanding what we do. They can all be found on our website [insert link].

Our **Strategic Plan** sets out the long-term direction of travel for the organisation, in light of the external environment and priority areas for the BSB.

This is underpinned by:

- annual **Business Plans** which set out our programme of work for each year and the resources we require to support our activities.
- specific **strategies, policies and regulations** which set out in detail our approach to particular aspects of regulatory and corporate activity.

Our **Regulatory Risk Framework** describes how we approach risk based regulation.

We start by looking to understand the external environment which impacts our work, those we regulate and the consumers of legal services.

We categorise those things which can go wrong in the delivery of legal services in our **Regulatory Risk Index**. This is a living document which helps BSB staff to systematically and consistently identify and respond to potential issues in the market for barristers' services.

We publish a **Risk Outlook** report which sets out our priority risk themes.

In planning our response to dealing with our priority themes and other regulatory risks and issues we will take into account the challenges, constraints and opportunities we face as an organisation. We use dedicated **corporate and project risk management** to assure the BSB's efficient and effective delivery of our regulatory role and other corporate responsibilities.

Our Strategy for 2016-19

Our strategy sets out the way in which we will regulate barristers and entities for the next three years. It also sets out how we will respond to potential proposals for change in the regulatory landscape and its underpinning legislation. Our work over this time period is intended to be organised into three programmes reflecting our strategic aims:

- Regulating in the public interest
- Supporting those we regulate to face the future
- Ensuring a strong and sustainable regulator.

You can read more about our strategy here. [[Link to "Our Strategic and Business Plans"](#)]

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What the BSB does: our core work

The BSB regulates barristers and their professional practice and specialised legal services businesses in England and Wales, in the public interest.

We are responsible for:

- Setting the education and training requirements for becoming a barrister;
- Setting continuing training requirements to ensure that barristers' skills are maintained throughout their careers;
- Setting standards of conduct for barristers;
- Authorising barristers to practise, as well as organisations that focus on advocacy, litigation, and specialist legal advice;

- Monitoring the service provided by barristers and entities to assure quality;
- Handling complaints against barristers and legal services businesses that we regulate and taking disciplinary or other action where appropriate.

The work that we do is governed in particular by The Legal Services Act 2007 (the Act) as well as a number of other statutes.

Along with the other legal service regulators identified in the Act, our objectives are the same as the Regulatory Objectives laid down in the Act. These are:

- Protecting and promoting the public interest;
- Supporting the constitutional principle of the rule of law;
- Improving access to justice;
- Protecting and promoting the interests of consumers;
- Promoting competition in the provision of services;
- Encouraging an independent, strong, diverse and effective legal profession;
- Increasing public understanding of citizens' legal rights and duties; and
- Promoting and maintaining adherence to the professional principles.

Find out more about how we undertake our work to regulate legal services in relation to the Regulatory Objectives here. [[Link to "How we do it"](#)]

Strategy and Policy

We are a risk- and evidence-based regulator. Risk-based regulation means that we are constantly monitoring the market for barristers' services. We identify all of the potential risks that could prevent the Regulatory Objectives from being met. When we have done this, we focus our attention as the regulator on the risks that we think pose the biggest threats to the public interest. We then take action to try and prevent those risks from occurring, or to reduce their impact.

You can read more about our risk-based approach to regulation and find out about the risk areas that we are going to be focusing most of our attention on during the early years of our strategy, here. [[Link to "Our risk-based approach"](#)]

Where necessary, we use this knowledge to set standards and introduce rules and guidance for barristers and entities. This is collated in the BSB Handbook and Code of Conduct. We develop policy on the educational pathways into the profession. In addition we develop policy on conduct of practice in areas such as chambers' complaints handling and direct public access to barristers.

Education, Authorisation and Supervision

We oversee the Academic, Vocational, and Pupillage stages of training that must be completed in order to qualify as a barrister.

We also decide on individual applications from people wishing to qualify and/or practise as barristers but who would like to be exempted from some or all of the normal training requirements.

Our aim is to assure, maintain and enhance standards across the profession through the development of measures for assessing the quality of both individual barristers and the chambers and entities in which they practise. This includes a risk-based approach to supervision of chambers and the authorisation of new entities and the regulation of Continuing Professional Development.

Enforcement

We investigate complaints about professional conduct of barristers and others we regulate and take action against those who have breached the provisions of our Handbook.

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Key facts

15,700+	number of barristers we regulate
700+	number of chambers we regulate
40	number of entities we regulate
473	opened or received complaint cases during the course of Jan-Dec 2015
12	sites provide the Bar Professional Training Course for over 1,400 students
150+	candidates took the Bar Transfer Test (for transferring solicitors and overseas lawyers)
400+	pupils registered per year
79	members of staff
£5,213k	our budget for 2016-17

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Our Strategic Work Programmes

We have organised our work into three Programmes. Each Programme comprises both reform and continuing regulatory “business as usual”.

Embedded into these programmes are our three priority themes. These also reflect our approach to how we will address the main risks we perceive to the Regulatory Objectives:

- The risk that those the BSB regulates do not meet consumer needs
- The risk of lack of diversity, and of discriminatory practice and culture at the Bar
- The risk of commercial pressures on legal services providers

More information about these risks can be found in our Risk Outlook [insert link].

Diagram - headlines [to be designed]:

Programme One Regulating in the public interest	Programme Two Supporting barristers and those the BSB regulates to face the future	Programme Three A strong and sustainable regulator
Better public understanding of legal services	Preserving the Bar's professional identity and high standards for the benefit of consumers and society as a whole	Continued separate regulation of advocacy, specialist legal advice and litigation in the public interest
Deeper dialogue with the consumers and the profession to improve services in specific areas	Encouraging closer cooperation with other legal professionals where that makes sense in the public interest	Working towards constitutional and financial independence from government and the profession
Strengthen our independence from the profession	Removing unnecessary barriers in the legal services market	Promote our values: fairness, integrity, respect, excellence, and value for money

In the following pages we give a short explanation of what each of our strategic programmes means and what we will do to achieve our aims.

We have broken down the activities into quarterly milestones which are based upon a financial year – so quarter one (Q1) starts in April 2016 and quarter four (Q4) ends in March 2017. These checkpoints help us to monitor performance and ensure we stay on track with our work.

Strategic Programme One - Regulating in the public interest**What this means:**

We want to help the public better understand the fast-changing and complex market for legal services, so that consumers of those services can make informed choices and have better understanding of their legal rights and duties as citizens.

We will nurture a deeper dialogue with consumers and the profession so that what we propose and what we do can be demonstrably evidence-based and risk-focused and is well understood by users and providers.

We will continue to strengthen our real and perceived independence from the profession, so that we can articulate and defend our judgements on the basis of independent and unbiased assessments of the evidence of where risks to the public interest lie. This includes

continuing to ensure our regulatory decision making processes are independent, consistent and transparent.

Our work programme:

During the last strategic plan, we sought better to understand the consumer experience in obtaining legal services. We now want to increase the extent of consumer facing work, ensuring that the perspective of the consumer (and especially the most vulnerable) is more central in regulatory policy making and actions. In the first year of the new strategy, with a strengthened communications and public engagement team, we will be revisiting this work and refreshing our strategy to ensure that it aligns with the context we describe in our Risk Outlook.

We will also be conducting what is termed “demand side” research, ie research into what exactly is the demand for barristers’ services: the types of service needed, how people go about sourcing them, what level of quality is needed and how much people are willing to pay.

In line with this, we want to increase the extent and depth of our engagement with the public and the profession, and we will align our Public Affairs strategy to ensure that we can achieve this. We also aim to participate more actively in regulatory policy work at a national and international level on the rule of law and access to justice. In 2016-17 we will be scoping the international work we do better and ensuring that the relationship between the Bar Council – which does excellent work in this area - and the Bar Standards Board assists the public and the profession appropriately within our respective roles, without duplicating resources.

We are now a more risk-based and proportionate regulator. We want to continue to show that our regulatory decision making is aligned with this approach. Following our Governance Review in 2015, we will be consulting on how we make our core regulatory decisions. For example, when we hear about poor quality services we want to be able to make a more risk-based decision on what type of action to take: if the occurrence is deemed serious, then we would look at taking enforcement action; or if the matter was thought to have a lesser risk to the public but still needs addressing, then we would consider feeding this into our supervision work.

Our routine work supervising barristers’ practices will continue during 2016-17. This helps us identify good practice and let others know about it, as well as spot when things may be going wrong so that we can help avoid or solve problems for the benefit of clients.

During the course of this new Strategic Plan we will consider, with other regulators, what common approaches might usefully be adopted to disciplinary processes, in the public interest. In 2016-17 we will be scoping how we could work more collaboratively with peer regulators on our disciplinary systems, specifically on Disciplinary Tribunals – the bodies established to make decisions on professional misconduct eg disbarment.

By the end of the business year, we expect to have new statutory powers to prevent harm to the public and damage to the reputation of the profession when things go wrong. The new statutory powers relate to “intervention”, which is the process we should follow as a regulator if for example a chambers or entity was in so much difficulty, that it could no longer continue to provide legal services and we had to step in. We want to make sure there are clear and transparent transitional arrangements to “shut down” the troubled chambers, and that clients are able to access other legal service providers. But we must be fair and proportionate in how we do this. So we need to set out our policy and operational approach to using those powers. We don’t want to have to use them, but we must be ready to do so.

During the year we will continue to enforce rules in order to maintain the trust and confidence of the public in the profession, and doing that justly, swiftly and proportionately. Typically we deal with around 380 conduct complaint cases a year and have a department and a committee investigating and making decisions on instances where professionals have apparently not met the requirements in the BSB's Handbook. We will during the course of our strategy be reviewing how we report on these activities, ensuring that we can capture not only how quickly we deal with complaints but the quality of our decisions as well.

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Timeline of activities

Strategic Programme One – Regulating in the public interest				
Activity	Q1	Q2	Q3	Q4
Consumer Engagement	Review existing strategy		Refresh the Consumer Engagement Strategy	
Research	Initial scope "demand side research"		Conduct "demand side" research	
Stakeholder Engagement	Conduct a new stakeholder mapping exercise	Develop a new strategy for stakeholders and Public Affairs		
Independent regulatory decision-making		Board decision on governance proposals for assessments and decisions		Consult on decision-making rule changes Consult on Qualifications Committee rule changes Implement new Qualifications Committee decision-making governance
International work	Commence review of current arrangements		Scope international work governance between BC/BSB	
Disciplinary system		Scope collaborative work on Disciplinary Tribunals		
Regulatory Interventions		Develop policy and processes for interventions		

We will spend £2,508k on strategic programme one, which is 48% of the BSB's direct costs.

Strategic Programme Two - Supporting barristers and those the BSB regulates to face the future**What this means:**

The legal services market is changing rapidly and will continue to do so over the next three years. We will assist the Bar in preserving its professional identity for the benefit of the public in a legal world where regulatory constraints apply primarily to the reserved activities, such as advocacy in the higher courts and litigation. This is particularly necessary where the forces of unregulated competition will be increasingly felt in other areas of a barrister's work and competence. For example, the public needs to understand the difference between a fully qualified, regulated and insured barrister and a "paid McKenzie Friend."

We will help the profession to embrace closer cooperation with solicitors and other legal professionals, where that may offer advantages for the public. This could be for example in developing regulatory frameworks for business models which combine the strengths of different legal professionals in an efficient way so that benefits can be passed on to consumers.

We will ensure our regulatory frameworks do not pose unnecessary barriers to entering the market and we will reform legal education and training to support the advocates of the future.

Our work programme:

Last year we commenced the regulation of Entities ie businesses with lawyer owners and managers, and after a full year of operation we want to review how this is going. We also last year made an application to the LSB to be designated as a licensing authority for Alternative Business Structures (ABSs ie businesses which include non-lawyer owners and managers). We hope to begin authorising ABSs in October 2016, subject to the necessary statutory approval process.

Last year we commenced a piece of research into the different governance models for barristers' chambers, and we will be looking to address any regulatory risks or opportunities arising from this work in the coming year.

We will continue to reduce the regulatory burdens on practitioners wherever possible so that they can remain competitive and pass the benefits on to users of legal services. We started work in the last business year to review our Scope of Practice and Employed barrister rules, and we want to progress with this work so that we have a much more outcomes-focussed approach. The rules are quite specific and complex, and may be having an unnecessarily restrictive impact on the market - so we envisage that the review will be quite wide-ranging. Section 15 of the LSA07 sets out the circumstances in which an employer of an authorised person must also be authorised (essentially when the employer is providing reserved legal services to the public or a section of the public). Our rules currently impose restrictions on employed barristers that go beyond the requirements of s15, so when we scope the full review of the rules we will ensure that we only impose additional requirements where there is a clear evidence base for doing so. As a first step we expect to agree a change to the scope of in-house practice by quarter two.

We are currently reviewing the public and licensed access rules, which were put into operation during the last strategic plan. These relaxations meant that appropriately qualified barristers could accept instructions directly from the public, and we want to develop a

detailed picture of the current provision of legal services through public access barristers to help us understand better the operation of the current regulatory arrangements.

We are reviewing the way barristers make use of professional indemnity insurance, to protect consumers and support barristers' practices. The first part of this work will be to conduct a market analysis in the area, taking into account competition law and the public interest, and proposing changes to our rules if any are needed. We will also review the governance arrangements between ourselves and the Bar Mutual Indemnity Fund, with whom we currently require all individual self-employed barristers to take their first layer of insurance. We expect to have completed this in year one of the new strategy.

During the course of the Strategic Plan period, we want to review the regulatory provisions for particular types of practice. We have prioritised those types with a high impact on vulnerable consumers and have already conducted research into immigration services and youth courts work. In relation to immigration advice, three key themes have been identified as a result of this process: access to justice, poorly informed consumers and quality of advice and standards of services. We have been developing options in relation to these themes and exploring how the risks could be addressed; we expect to agree some recommendations later in the 2016-17 business year. In November 2015, we published a Youth Proceedings Advocacy report that showed the damaging effects that poor advocacy has on access to justice for young and often very vulnerable offenders, and their perceptions of the system in general. We will be taking decisions on how to address these matters early on in the year and then will plan how to implement our decisions. Another area considered to be high-impact if things go wrong is criminal advocacy, and it has been widely agreed that a compulsory accreditation scheme is required to assure the public of high standards. Early in the year we will be deciding on the exact nature of the roll-out of QASA (the Quality Assurance Scheme of Advocates) and plan to have implemented our plans by the close of the year.

One of the largest programmes of work we have undertaken is Future Bar Training (FBT), the objective of which is to design and deliver a new system of education and training for barristers. In this business year we expect to have completed all of the planning and consultative phases, and then for the remainder of the strategic plan, we will be implementing the agreed changes, ensuring that there is a smooth transition to the new system.

We are aiming to improve our supervision of work-based training for barristers. Last year we piloted a new Continuing Professional Development scheme with a selection of chambers. This helped us to examine whether a more outcomes-focussed approach would be beneficial in the future. We would like to move away from the "tick-box" exercise of completing 12 hours a year, and focus on a new scheme that is sufficiently flexible, tailored to individuals' needs, and is relevant to a professional's area of practice. By the end of 2016-17 we intend to have launched the new scheme.

Throughout the new strategy we will be striving to improve diversity in access to the profession and progression in it. We will shortly be publishing the results of a recent survey we conducted into women's experience at the Bar, and later in the year we will be refreshing our Equality objectives in line with our strategic aims and statutory requirements.

Timeline of activities

Strategic Programme Two - Supporting barristers and those the BSB regulates to face the future				
Activity	Q1	Q2	Q3	Q4
Entity Regulation and Alternative Business Structures		Complete first-year review of Entities	Roll-out of Alternative Business Structures authorisations	
Scope of Practice and Employed Barrister rules (s15 LSA07)		Board decision on narrow change to Employed Barrister rules		Scope the work to review the "Scope of Practice" rules
Public Access	Complete analysis of evidence	Conduct consultation	Board approval on any rule changes	Approval from LSB on any new Public Access Rules
Chambers' governance	Complete governance model research	Board decision on any proposals arising from chambers' governance research		
Professional Indemnity Insurance arrangements	Start insurance market analysis Start BMIF governance review	Board decision on BMIF governance review	Insurance market analysis completed and decision on any rule changes	
Immigration thematic review	Board decision on options and recommendations			
Youth Courts	Board decision on Youth Courts policy proposals			
QASA	Board decision on QASA			
Future Bar Training		Board decision on possible FBT options; consultation	Review consultation responses	Board decision on final FBT option

Strategic Programme Two - Supporting barristers and those the BSB regulates to face the future				
Activity	Q1	Q2	Q3	Q4
Continuing Professional Development		Consult on new CPD rules	Approval from LSB on new rules	Roll-out of new CPD scheme
Diversity	Publish Women at the Bar Research	Develop action plan	Board approval on new Equality Objectives (to include action on diversity disclosure rates)	

We will spend £1,802k on strategic programme two which is 35% of the BSB's direct costs.

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Strategic Programme Three - a strong and sustainable regulator

What this means:

The BSB will continue to position itself as the regulator of legal services which have advocacy, specialist legal advice and litigation at their core. There is a distinct public interest in us doing this because of the close relationship of these services to the upholding of the rule of law and access to justice.

We will actively promote regulatory governance arrangements which are constitutionally and financially independent of government, as well as of the profession we regulate. We need to balance this with ensuring we maintain credibility with government, politicians, the profession and its institutions. We will maintain and extend our accountability to the public.

The BSB will continue to aspire to its core values: fairness, integrity, respect, excellence and value for money. We will maintain our strong track-record of transparency, accountability and good stewardship of resources by setting out clear and meaningful measures of success.

Our work programme:

The Ministry of Justice (MoJ) has stated that it will be consulting on the full separation of legal regulators from the representative bodies and we look forward to responding to this consultation during the year. If there is no change to the current legislative framework, we seek to negotiate a revised internal governance settlement with the Approved Regulator under the current LSA07 (the Bar Council). This will be with the aim of enhancing perceptions of our independence from the profession and giving us more financial accountability and operational control over our resources.

We will also continue to demonstrate our accountability to the public and profession through transparency in our assurance processes, performance monitoring and reporting. During 2016-17 we will be developing a revised assurance framework to help us do this more effectively.

We will be concluding our ASPIRE [insert footnote] programme, which was initiated during the last strategy to ensure that we were adhering to the LSB's regulatory standards framework. We are due to receive our assessment from the LSB imminently and want to be able to bring this programme to a close and fully embed our improvements into our day to day regulatory activities. By mid-year, as part of the internal governance reform, we will have designed a Board development strategy and also completed recruitment for Independent Appointments Panel members, who make fair and open decisions on merit on Board member appointments.

Last year, we disestablished a number of our policy committees and changed the role of Board members and executive staff. To ensure we have access to the best possible expertise and advice to support our work, we will be setting up an advisory pool of external experts (APEX) and we envisage that there will be two recruitment rounds to it in 2016-17.

We will be reshaping the organisation internally to bring greater coherence to the delivery of our strategy and future regulatory approaches, although this will not be completed until the end of the Strategic Plan.

Our HR Strategy will focus on developing staff well-being, performance management, recruitment, retention and career progression and succession planning. It will be continually refreshed during the term of the overarching strategy. However in the first year we will be focussing on a new learning and development strategy, improving our recruitment processes and responding to matters raised in the most recent staff survey.

Throughout the last strategy we significantly improved our internal capacity and capability. We designed regulatory tools such as the policy development framework, research and evidence base and knowledge management. We will be publishing our Risk Outlook and associated materials in April 2016, and we will continue to refine our regulatory tools and fully embed them into our day to day regulatory activity.

During the last business plan, the Bar Council and BSB made a commitment to invest in better Information Management (IM) and technology to promote more agile and smarter working. The long-term IM strategy will span the length of our overarching strategic plan. By the end of this business year, we will have completed the data foundation, management information, and business intelligence phases, meaning that we have much more robust assurances on the information we are using. We will also have commenced implementing new financial software, which will make our internal processes much more efficient.

We will continue to work to enhance our efficiency and financial sustainability. During the course of the strategy we expect to move out of our current premises when our lease expires, which means that we will need to have made a decision this year on our future location.

Timeline of activities

Strategic Programme Three - a strong and sustainable regulator				
Activity	Q1	Q2	Q3	Q4
MoJ consultations on regulatory independence	Respond to the MoJ consultation on regulatory independence		Deal with MoJ outcomes and begin planning as needed	
Assurance Framework	Agree first version of framework	Commence roll-out of revised assurance framework		Complete roll-out of revised assurance framework
Board Governance	Complete recruitment for Independent Appointments Panel; induct panel members	Plan and start to implement a Board development strategy	Complete Board recruitment as required	
ASPIRE	Strengthen consumer engagement capability and capacity	Develop action plan following RSF assessment if required		Implement post RSF assessment actions
Advisory Pool of Experts (APEX)		Complete first round of APEX recruitment		Complete second round of APEX recruitment
HR strategy	Design new Learning and Development strategy for staff; start roll out			Implementation of staff survey action plan.
Risk-based Regulation	Launch of the Risk Outlook			Complete prioritisation of risks in framework for decision-making
Information Management Programme (IT strategy)		Completion of the data foundation, management information, and business intelligence phases	Implementation of ABS on line tools Completion of phase one for finance software	
BSB future premises	Board decision on preferred option for BSB premises			

We will spend £902k on strategic programme three which is 17% of the BSB's direct costs.

Challenges and uncertainty for our plans.

The Treasury and BIS have announced that the government will be consulting by spring 2016 on making legal service regulators independent from the representative bodies. There may be some slippage in this timeline for political reasons outside our control. If following the consultation, there is a demand for swift and / or far-reaching action, we would need to plan for the future and this could impact on our ability to deliver our strategy.

Our Education and Training regulation is being transformed. We will need to plan for a smooth transition from one system to another, allowing an adequate amount of lead-in time and making sure we align with the annual education cycles. There are many uncertainties surrounding this programme of work, and it will be challenging for us to run old systems while getting ready to launch revised ones given our constrained resource base. The response of the higher education market to our proposals may throw our timelines off course.

ASPIRE [insert footnote] is a programme of work to ensure the BSB achieves a satisfactory rating against the LSB's Regulatory Standards Framework. The programme focusses on consumer engagement, governance reform, and the risk framework. This additional work has meant that the BSB has been very stretched, and we have encountered delays to some elements of the programme. Following a read-out of the LSB's assessment of our progress against the RSF, there could be significant demands on BSB resources that are too large to absorb and could impact on our day to day operations.

We have comprehensive corporate risk management processes in place to help us mitigate the negative consequences were any of the above risks to materialise.

Performance Dashboard

This page shows the "Dashboard" performance reporting that we will be using this year. We will give an overall picture of progress against each of our strategic aims, then an update on our key programmes of work and service standards, as well as our corporate governance, resources and risks. We will aim to deliver our Activities on time and to budget. We want a high percentage of our regulatory decisions to be made as efficiently and effectively as we can, and our Service Standards will be an indicator of how well we are achieving this. The Dashboard will be reported to our Planning, Resources and Performance Committee as well as to the Board and then to the public.

Strategic Programmes		
Strategic Programme One – Regulating in the public interest	Strategic Programme Two – Supporting barristers and those the BSB regulates to face the future	Strategic Programme Three – a strong and sustainable regulator

Activities			
Consumer and Stakeholder Engagement Research	Reviewing selected BSB handbook rules Future Bar Training Diversity	Internal governance Human Resources Information Management	
Service Standards			
Timeliness and quality of enforcement decisions		Timeliness and quality of authorisation decisions	
Corporate governance and resource			
Governance and Risk Management	Financial resource	Staff resource	Information Management

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Equality Statement

The BSB is committed to improving diversity in the profession and its internal workforce and ensuring that equality considerations are factored into the delivery of BSB functions.

The promotion of equal access to, and diversity within, the profession is the right thing to do and helps to combat social injustice. It is unlawful for a person to experience disadvantage on the basis of a protected characteristic. All our staff and those with whom we engage are entitled to be treated with dignity and respect and be part of an environment that is free from barriers.

A profession that is representative of the people it serves is more likely to meet the diverse needs of clients and be more effective. The BSB works more productively when we maintain an inclusive workplace free from discrimination.

We have a number of general and specific legal duties arising from the Equality Act 2010. The BSB's commitment to equality and diversity is significant in fulfilling its regulatory objective of 'encouraging an independent, strong, diverse and effective legal profession' as set out in the LSA 2007.

As required by s 149 (1) of the Equality Act 2010, we will work to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The BSB has an equality strategy and objectives that set out how we will deliver our commitment to improve diversity and how we will ensure equality of opportunity and this is due to be refreshed in the course of the business year.

We carry out equality impact analyses of all projects, policies, and initiatives. We provide equality training for staff, committee and Board members. We collect and examine equality data both on the profession and those that use the BSB's services. We engage with equality stakeholders as they are a key source of ideas and provide essential feedback on the BSB's work. We conduct research into the effect of our policies and processes as well as access and retention within the profession.

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Governance

The BSB is led and governed by a Board made up of 15 people, some of whom are barristers and some of whom are not. The Board has a non-barrister majority and a non-barrister Chair.

Leadership

The Board is responsible for leading the organisation. It sets the direction of the organisation, and approves policy and strategy aligned with the direction. The Board represents the BSB with external stakeholders and accepts collective accountability for the organisation's work in regulating barristers in the public interest.

Culture

The Board aims to develop, shape and lead by example in relation to the BSB's organisational culture and values.

Strategy

The Board sets and approves the strategy for the organisation, taking account of the wider regulatory and risk landscape. When approving its strategy, it takes account of short-term pressures but maintains sight of broader long-term trends and the BSB's aims, objectives and mission.

Good Governance

The Board is responsible for ensuring that sound and effective arrangements are in place so that the organisation can operate in accordance with its organisational values and good governance principles.

Chair:

Sir Andrew Burns KCMG

Vice-Chair:

Ms Naomi Ellenbogen QC

Barrister Members:

Mr Aidan Christie QC

Ms Justine Davidge

Ms Judith Farbey QC

Mr Andrew Mitchell QC

Mr Adam Solomon

Vacancy

Lay Members:

Ms Rolande Anderson

Mr Rob Behrens CBE

Dr Malcolm Cohen JP

Mr Tim Robinson

Professor Andrew Sanders

Ms Nicola Sawford

Dr Anne Wright CBE

Special Advisers (non-voting):

Mr Keith Baldwin

Ms Emily Windsor

Details of terms of office and declarations of interest for all Board members and advisers are available on our website (insert link.)

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Our Board currently runs its work through five committees:

- Education and Training Committee
- Governance, Risk and Audit Committee
- Planning, Resources and Performance Committee
- Professional Conduct Committee
- Qualifications Committee

During its Governance Review, the Board recently disestablished three of its policy making committees: Supervision; Standards; and Equality and Diversity. The strengthened executive will be carrying out the policy development responsibilities that used to lie with these committees. In the latter stages of the Governance Review, we expect there to be further changes to our committee arrangements.

The Education and Training Committee oversees all regulatory activity relating to education and training for the Bar. This includes 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.

The Governance, Risk and Audit Committee is responsible for ensuring The Board's corporate governance standards and internal controls are maintained. The Committee keeps under review and advises the Board on all matters relating to the risk management framework and the BSB's internal audit function.

The Planning, Resources and Performance Committee is responsible for work relating to development of strategic direction and plans for the BSB. It advises the Board on developments to the planning, resource setting and performance monitoring processes. It also considers whether financial and operational resources are properly and effectively allocated and efficiently managed across the BSB.

The Professional Conduct Committee makes decisions about complaints regarding the conduct of barristers. Where a barrister has breached the BSB Handbook, the PCC can refer the complaint to disciplinary action (eg a disciplinary tribunal) or impose a warning or fine. The PCC can also dismiss cases due to lack of evidence. There will be changes to the Committee in line with our governance reform.

Our Qualifications Committee deals with applications for waivers or exemptions from provisions of the BSB Handbook relating to qualification and practice as a barrister, as well as applications for licensed access. There will be changes to the Committee in line with our governance reform.

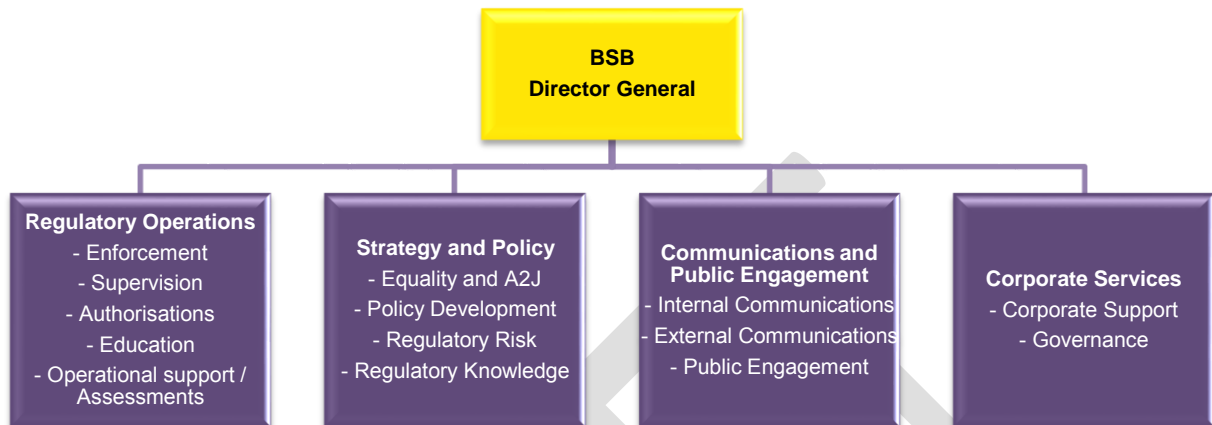
Advisory Pool of Experts (APEX)

The Advisory Pool of Experts (APEX) will be a pool of external expert resources that may be called upon to provide expertise in an area where an in-depth or more independent view is helpful. APEX members will engage with the executive on matters of project, technical policy, strategic policy, business risk and other matters and may also provide more objective challenge to the work of the executive or Board, as requested. The APEX will be formed in response to a governance restructure, requiring more executive-led decision-making and policy development, combined with a reduction in numbers within the governance structure. Alongside this, a focus on consumer and stakeholder views, encourages us to adopt a wider participation and consultation process, which includes gaining expertise from a wider pool of people and backgrounds.

The work of the BSB is overseen by the Legal Services Board, in accordance with the LSA 2007.

Organisational Chart

This organisation chart shows how we intend to structure the executive during the term of this Strategic Plan. At 1 April 2016 we will have 78 people employed at the BSB.



Our budget

Our budget year runs from 1 April 2016 to 31 March 2017 and the budget that the BSB controls directly for this period is £5,213k.

2016-17 Direct expenditure £5,213k

2016-17 Direct income from sources other than PCF £947k

We are pleased to state that our operating expenditure is 3% (£170k) below that of last year's. However because of the changing nature of our Education and Training regulation, our projected revenue from sources other than Practising Certificate Fees is 49% (£928k) less than the previous year's.

The Practising Certificate Fee (PCF)

The Bar Council approves our budget and collects our funding. Its intention when the budget was set last year was to increase the amount of PCF revenue by 1.25%, to meet strategic needs over a three-year period

Rationale

The Bar Council set out its rationale for the compilation of the overarching budget. The headlines for 2016-17 are:

- Practising Certificate Fees will increase by 1.25%;
- The need to meet costs arising from the expiry in 2019 of the lease on the Bar Council / BSB's current office accommodation;
- The need to manage the liabilities from the closed defined benefit pension scheme which materialises over the long term;
- The completion of the BC/BSB three-year programme of investment into our information systems and processes, which will in the future reduce whole-organisation costs by £500k annually;
- To need to manage other risks to income and expenditure.

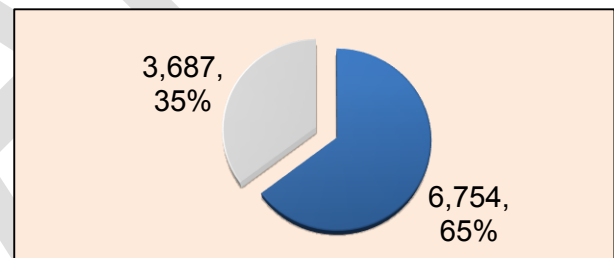
The PCF explained

The PCF can only be spent on the activities that are permitted under s51 of the LSA 2007. Regulation is a permitted purpose and so a significant proportion of the PCF is spent by the BSB. However some of the Bar Council's activities are also "permitted purposes" so a portion of the PCF is also spent by the Bar Council on activities managed wholly separately from the BSB (shown below as "Representative" costs).

Under these rules, the Bar Council has consulted on its budget and PCF proposals with the profession and has received approval of both from the LSB. A copy of the consultation paper for the 2016-17 PCF and budget is on the Bar Council's website.

Diagram of What PCF funds are spent on?

Income band	PCF level for 2016
£0 - £30,000	£110
£30,001 - £60,000	£220
£60,001 - £90,000	£441
£90,001 - £150,000	£803
£150,001 - £240,000	£1,219
£240,001 and above	£1,652



How is the BSB funded?

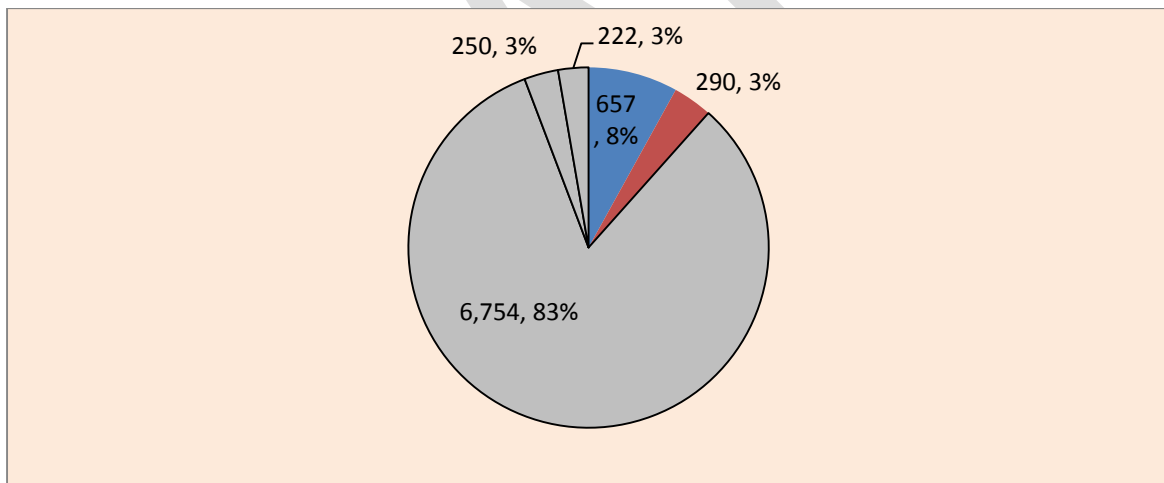
Part of our income comes from charges we make for services we provide. We describe that kind of income as "income streams directly controlled by the BSB". Directly controlled income streams include the fees from BPTC providers, and the Bar Transfer Test (BTT). The remainder of the BSB's funding is from practising certificate fees together with contributions from the Inns of Court. Those latter income streams are not directly controlled by the BSB.

It should be noted that a portion of our activities are this year being funded via the Bar Council's reserves (£222k).

Table of Income

Where will the Bar Standards Board get its income from?	
<i>Income streams directly controlled by the BSB</i>	
	£k
Fines & Cost Recovery	<i>No target set</i>
Education and Training	657
Authorisations (eg waivers, entities)	290
Total BSB generated income	947
<i>Income streams not directly controlled by the BSB</i>	
Practising Certificate Fee contributions	6,754
Inns' subvention	250
Funding from BC reserves	222
Total	8,173

Pie chart of income



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Regulation – the costs explained

The BSB has direct control of a budget of £5,213k for 2016-17. Those funds will be spent on each of the areas shown below and overleaf.

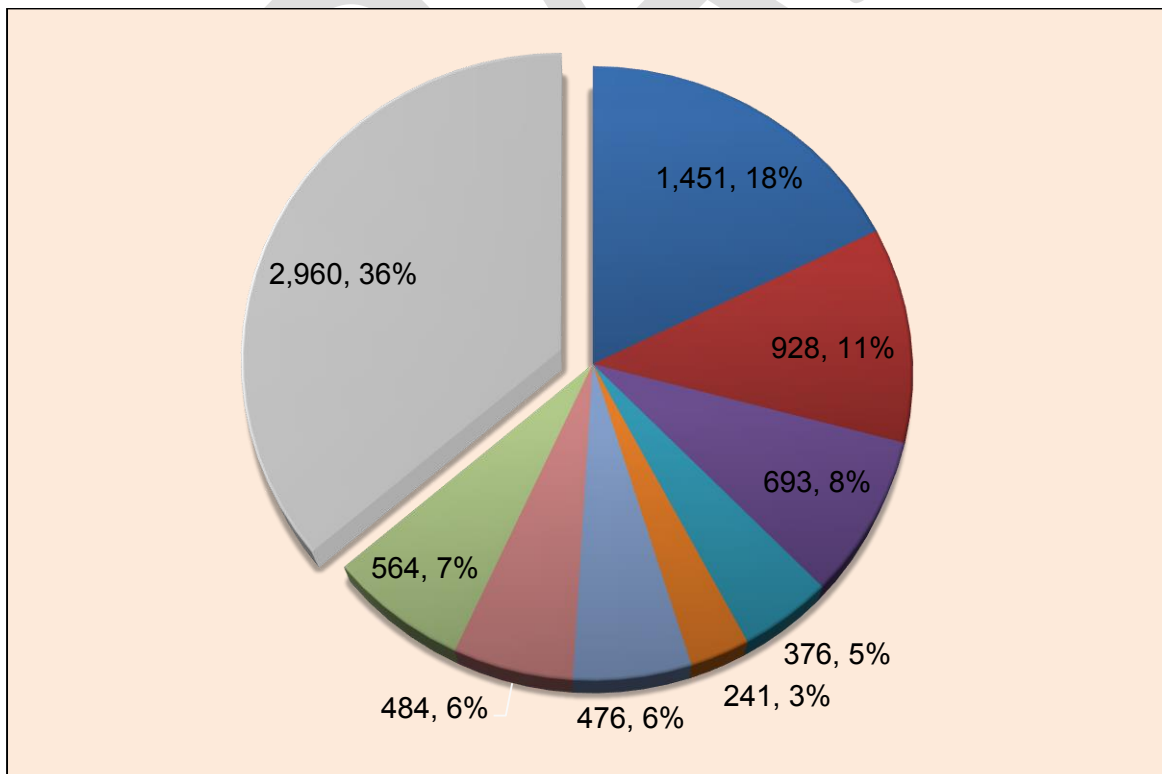
However, this does not reflect the full cost of the BSB. We share the costs of common services with the Bar Council including a share of the premises at 289-293 High Holborn as well as relying upon the Resources Group to carry out support work (HR, IT, and Finance etc). The Resources Group budget is managed separately and part of that budget is apportioned to the BSB.

Table of Expenditure

What will we spend our money on?	
<i>Budgets controlled directly by the BSB</i>	Total budget
Governance and Management	1,451
Strategy and Policy (inc FBT)	928
Regulatory Operations	
Education and Training	693
Authorisations	376
Assessments	241
Support	476
Supervision	484
Enforcement	564
Total BSB Budget	5,213
<i>Budgets not directly controlled by the BSB</i>	
Resources Group allocation (inc premises costs)	£k 2,960
Total cost of regulation	8,173

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Pie chart of expenditure



We are committed to providing a high standard of service and dealing with everyone in a way that is fair, transparent, and proportionate. We welcome your feedback on our services, particularly where the level of service has exceeded or fallen below your expectations.

Your comments and suggestions are important to us as they will help us to meet our obligations to you and to improve our performance.

Write to us:

Bar Standards Board
289-293 High Holborn
London WC1V 7HZ
DX: 240 LDE
Phone us: 020 7611 1444
Fax us: 020 7831 9217
contactus@barstandardsboard.org.uk
www.barstandardsboard.org.uk
Twitter: @barstandards

DRAFT

Future Bar Training – Continuing Professional Development Consultation Report

Status

1. For discussion.
2. This paper is being put to public session for a discussion and approval from the Board of the consultation and pilot Report and the implementation of the next steps regarding the new Continuing Professional Development scheme.

Executive Summary

3. In 2013 the Board agreed to revise the approach to CPD and to move from a prescribed number of hours to an outcomes-based approach. This approach will place the responsibility on individual barristers to determine the type and amount of CPD that they should do each year in order to maintain their competence and standards of practice. The Board's decision was based on recommendations by the CPD Steering Group, established by the Education and Training Committee.
4. The implementation of the new approach is one of the pillars of the Future Bar Training (FBT) programme. Implementation of the new CPD approach falls within the responsibility of the Supervision Department of the BSB, as the department responsible for managing the effective regulation of the new system.
5. In May 2015 following a review from the Supervision and Education and Training Committees the Board agreed to publish a consultation on the proposed new Scheme. The consultation ran from 2 June to 3 September 2015. There were 84 responses.
6. The attached consultation report sets out the responses received. These were principally from members of the profession. It highlights a number of common themes and concerns raised. It also provides the BSB's proposed responses to this feedback. In addition the consultation report provides the initial results of the pilot of the new scheme that was run from January 2015 to March 2016.
7. In the light of the responses to the consultation and the feedback from the pilot of the new scheme, there will be a further consultation on the exact detail of the CPD rules which will underpin the new scheme. The guidance to the new CPD Scheme will also be updated to provide further clarity. The new scheme will take effect from January 2017 (subject to LSB approval).

Recommendations

8. It is recommended that the Board:
 - a. **notes** the consultation report and pilot feedback
 - b. **notes and agrees** the next steps in the implementation of the new CPD scheme.

Purpose

9. The purpose of this paper is to provide an overview of the responses to the CPD consultation and the assessment of the CPD Pilot and to outline the next steps in implementation.

Brief overview of the CPD Consultation responses

10. The detailed consultation report is attached at Annex 1. 84 responses were received. The responses were received from across the profession and practice areas. There were also responses received from a number of organisations. These were the Chancery Bar Association (ChBA) the Immigration Law Practitioners' Association (ILPA) the Inns of Court and the Legal Services Consumer Panel (LSCP).
11. The responses indicated a varied reception to the proposed new Scheme but with a general support for the new approach. Most barristers believed there should not be specific compulsory CPD to complete and supported the flexibility of the new Scheme in the activities available.
12. Concerns about the new CPD Scheme principally focused on the requirement to plan learning objectives and reflect on activities completed and in particular on the practicality of doing so. These concerns were not universally shared and there were respondents who agreed with the principle of setting learning objectives at the beginning of the CPD year in order to focus the activities that barristers completed.
13. There were also concerns about the way in which CPD would be assessed and how an assessment of non-compliance would be treated and enforced against. Some of these concerns were a result of confusion about what was required. Other respondents felt the new system could be more bureaucratic and onerous.
14. A common theme was that respondents felt there was a need for further clarity in the guidance materials provided and in how the BSB would regulate the new scheme. This was to ensure barristers felt confident that they were complying with the requirements of the new scheme.
15. The consultation responses were very valuable. They have indicated broad support for the new approach and provided helpful suggestions on how the detail of the Scheme can be improved so that it is clear and accessible.

Piloting the new approach

16. In January 2015 the BSB initiated a pilot with a range of practitioners to test a prototype of the new scheme and how it works in practice. The pilot ran in parallel with the consultation. There were 76 participants in the pilot covering a range of practice areas, levels of seniority and employment contexts. The objectives of the pilot were to:
 - Test how the above features worked in practice;
 - Explore how we can help the profession to understand the new requirements;
 - Explore the most efficient and effective way to regulate i.e. supervise and enforce the new scheme.

17. The pilot took place between January 2015 and March 2016. The pilot involved the submission of a planning statement, a series of structured surveys to participants through the CPD year to gather their feedback on the new scheme and a final assessment of all CPD records in order to gather feedback and inform our refinement of the scheme.
18. The information we gathered from this pilot will be used in conjunction with responses from this consultation on the new scheme in order to refine our approach and the associated rules, requirements and guidance for practitioners.

Headline outcomes from the pilot

19. 76 barristers have submitted their planning statements. These planning statements have been assessed. Feedback is currently being provided to every barrister about their planning statement and we have provided continuous feedback and guidance throughout the process. Barristers have also been encouraged to provide feedback to us about the pilot. So far the feedback has been positive about the principles underpinning the new scheme.
20. The barrister participants and the assessment process gave enough feedback to begin refining a formal framework for assessing barristers' planning statements. This has allowed us to determine that the majority of barristers involved in the pilot have completed the planning statement successfully, either in full accordance with our proposed regulations and guidance or requiring some feedback on how their planning could be improved.
21. The assessment process has also allowed us to identify those barristers that have not completed the planning statement in accordance with the proposed regulations. We have been able to provide specific feedback and note why an assessment of 'non-compliance' would be reached.
22. In line with the aims of the pilot, assessing the planning statements has helped us understand how the real scheme would work in practice. It has shown us what areas of the guidance barristers understand and what areas they are struggling with.
23. Participants were asked to submit their records via a very simple online portal that allowed the assessment team to extract the record cards into an excel spreadsheet. Although lacking much of the functionality that will eventually be necessary this method was still quicker than relying on submitting via email or hard copy and then transcribing the information onto a spreadsheet.
24. 69 of 76 have been fully assessed. Of these 61 are fully compliant. The other 8 will be asked for further information about the courses they have completed. The pilot participants completed an average of 28 CPD hours. This is more than double current requirements. However barrister participants recorded significantly higher levels of activities that would not currently be counted as CPD. Principally this includes reading and over 4 hours of writing and editing. It also includes claiming more preparation time than would currently be calculated. Calculating the hours completed from the perspective of the current CPD regime requirements, pilot participants completed an average of 10 CPD hours. The most frequently undertaken activities were; seminars, conferences, mock trials, listening to podcasts, self-study (reading of weekly updates, websites, books, articles, case law) and practice management improvement (E&D development, financial and billing skills).

25. The level of planning was fairly wide. Most barristers set at least some specific Learning Objectives with the majority of Objectives being quite general in nature. Learning objectives were generally achieved. However it was the Reflection stage that has been very encouraging and particularly undertaken to a high quality. Barristers explained in detail the choices they made and why, and where Learning Objectives weren't achieved what would be done to address this.
26. In a few instances where barristers had recorded very few hours it was demonstrated how these CPD activities met the learning objectives and were very relevant. This is encouraging as it indicates barristers will spend time focusing on useful relevant CPD rather than simply making up the hours.
27. An online portal will be a very useful means of streamlining the process. It is proposed that an online tool be developed for use from 2018. During 2017 we will provide a simple form that can be downloaded from the BSB website to record CPD activity. The views of the profession will be sought in 2017 on what they would like to see in an online tool and this which will be used to develop the specification of the system. An on-line tool will save time and resources for the regulator and the profession and provide clarity about what is expected by the barrister.

Next steps

28. CPD rules and regulatory guidance will now be drafted in the light of the comments received during the consultation and pilot. The draft guidance will be revised to provide further clarity about what is expected of barristers and to explain how the regulation of CPD will be managed by the BSB. The focus of regulation will be on supervision rather than enforcement. A percentage of barristers will be sampled each year, on a random basis and also on a targeted risk basis (where there is for example a history of non-compliance). Sampled barristers will be required to provide their CPD record and to justify their choices to the BSB. Where the BSB is of the view that further CPD is required, because the justification lacks merit or the barrister has done very little CPD without any explanation as to why, they will be required to enter into an action plan with the BSB in order to undertake further and agreed CPD. The BSB executive will be able to call on members from APEX if expert advice is needed in the assessment of CPD returns. Failure to enter into an action plan or to complete that action plan within a reasonable period of time could result in referral for enforcement action. Enforcement would therefore be a last resort.
29. The revised rules, regulations and guidance will be discussed with the Education and Training Committee in April and the Board will be invited to approve them for consultation at its May meeting. Consultation will run from June- September with final rules put to the Board for approval at its September meeting. An application to the LSB for approval will then be made, subject to which the new Scheme will take effect from January 2017. An education and engagement programme will be run in the Autumn of 2016 so that the profession is clear about what is expected in the new CPD scheme.

Resource implications

30. The final development of the Scheme will be managed within the Supervision Department with support from all other BSB departments as required. For example, the Regulatory

Policy and the Professional Conduct Departments will be engaged in the development of the rules and regulations and the Communications and Public Engagement Department will lead on the awareness and education programme.

31. It will be critical that there are appropriately skilled members of staff within the Supervision Department to undertake that assessment of CPD returns. The skills required to assess information against guidance and criteria is already a core function of the Supervision Department. Technical training specific to CPD will be put in place to ensure that there are adequate resources once the new scheme is implemented.

Equality Impact Assessment

32. Further to responses received from the consultation a further equality assessment will be undertaken on the impact of the new regime. Any new impacts that are identified including those raised by the consultation responders will be assessed to see how they could be mitigated or promoted.

Risk implications

33. The risks are that the profession fails to adequately understand the proposed new CPD scheme which leads to higher levels of non-compliance. There is also a risk that the assessment process fails to satisfactorily assess barristers' compliance of the new CPD requirements. Inadequate compliance with CPD could lead to undermining of the regulatory objective on adhering to professional principles.
34. These risks will be mitigated through improving the clarity of the guidance to the profession on the new Scheme and through effective engagement with the profession about what will be expected of them. The pilot process has been a very useful means of testing the new scheme and the feedback received will be invaluable in making amendments to the operation of the Scheme so that it is clear and accessible.
35. Failure to implement the new scheme would also present reputational risks for the BSB. The new scheme is more in line with the BSB drive towards risk based and outcomes focused regulation.

Impacts on other teams / departments or projects

36. Communications and Public Engagement have developed a communications strategy for the consultation and the future implementation of the Scheme. They will be instrumental in ensuring that the proposed new regime is given the publicity and profile required.
37. Supervision, Regulatory Policy and Professional Conduct Departments will be primarily involved in helping to draft the rules and regulations of the new CPD scheme.
38. All other departments will be involved in the implementation of the Scheme, be it through considering how enforcement should be managed, the drafting of CPD rules or ensuring that CPD is aligned to the other strands of Future Bar Training.

Regulatory objectives

39. The further development of the new CPD Scheme will better assist the BSB in being able to show how all of the activities it undertakes address the regulatory objectives and also the regulatory principles.

Publicity

40. Once approved the consultation report will be published on the BSB's website

Annexes

41. Annex 1 – proposed Consultation Report
42. Annex 2 – Pilot scheme assessment

Lead responsibility:

Bernard MacGregor
Oliver Hanmer

Continuing Professional Development – Consultation Report

The Bar Standards Board’s response to respondents’ views on the consultation paper on the proposed new Continuing Professional Development Scheme

Introduction

1. This report summarises the responses received to the Bar Standards Board’s (BSB) consultation paper on Continuing Professional Development which was published on 1 June 2015. It also seeks to respond to some of the comments made by respondents and to demonstrate how the Board’s policy position has evolved in light of the consultation.
2. The consultation was scheduled to close on 31 August 2015 but the BSB agreed to extend the closing date for the exercise to 4 September 2015. 84 responses were received. The original consultation report is available at;
<https://www.barstandardsboard.org.uk/qualifying-as-a-barrister/future-bar-training/continuing-professional-development-%28cpd%29-reform/cpd-consultation/>

New CPD Scheme Pilot

3. The New CPD Scheme pilot was run from January 2015 to February 2016. A **summary of the results of the CPD Pilot is available at Annex 2.**

Next Steps

4. The outcome of the consultation analysis and the review of the CPD pilot will be used to determine the final shape of the regulatory framework for the new CPD regime. A subsequent consultation on the CPD Rules will be issued in June 2016.
5. The new rules will be introduced as part of the Handbook further details of which will be available in the CPD New Scheme Rules and Regulations Consultation.

Analysis of Consultation Responses

6. Of the questions asked 84 responses utilised the response sheet provided and 42 provided answers to all 9 questions;
 - 84 provided an answer to question 1
 - 77 provided an answer to question 2
 - 77 provided an answer to question 3
 - 82 provided an answer to question 4
 - 81 provided an answer to question 5
 - 80 provided an answer to question 6
 - 75 provided an answer to question 7
 - 56 provided an answer to question 8
 - 50 provided an answer to question 9
 - 3 provided a response in an alternative format. These were from larger membership bodies, the Chancery Bar Association, the Inns of Court and the Consumer Panel.

Q1: Do you agree there should be no compulsory CPD activities for established barristers, but barristers must carry out a balance of activities?

Q1. Yes: 47 No: 35

7. Page 7 of the Consultation presented some of the problems of the current Established Practitioners Programme of CPD. In particular that it operated as a tick box exercise that was overly prescriptive. In addition research showed that encouraging and rewarding voluntary CPD activity was most effective. The Consultation Paper proposed that any new scheme should be focused and flexible in meeting individual barristers training needs.
8. A majority of respondents answered 'Yes' to this Q1. These respondents were positive about the proposals of the new scheme especially when compared to the current CPD regime. The current scheme effectively forced barristers to attend CPD courses even where they were not relevant simply to avoid non-compliance. Barristers noted that this problem was compounded by CPD activities not being cheap and it was also commented upon that the current 'one size fits all' approach to CPD was not useful.
9. Respondents noted that the prescriptive nature of the current scheme did not incentivise attending relevant courses;

“Much of the training under CPD is not attended at all (I have seen people register then walk away) or very little is learned. It has become an industry all its own and very expensive when from external providers.
10. The **Immigration Law Practitioners Association (ILPA)** agreed that there should not be any compulsory topics for CPD. This was because there was great diversity within the profession which did not make CPD suitable for this kind of approach. The ILPA did suggest however that more guidance could be provided for barristers with regards to what topics they would be expected to cover in each of the four knowledge areas and what is meant by a balance of activities. They thought that the appropriate ratio of activities will depend upon the strengths and weaknesses of the barrister.
11. The respondents that answered No to Q1 expressed concern that there was not enough clarity in the provided guidance as to what was expected of barristers. In addition there was a desire for a system that provided more certainty.

This objection to the proposed system could be summed up by one barrister who stated

“A defined compulsory programme provides certainty of what is required, creates an objective standard, and is educationally rigorous and therefore encourages public confidence in the CPD requirement”

12. Other Consultation respondents were worried that the proposed new scheme would be too demanding and bureaucratic to be effective. In addition respondents expressed concern that an outcomes based approach to CPD wouldn't adequately deal with those parts of the Bar which were already currently failing to keep their knowledge and skills up to scratch.

Many respondents also wanted more explanation as to what was meant by 'balance of activities'

13. **The Inns of Court** noted that balance of activities could either mean that;
- A barrister should complete a variety of different types of CPD activities, lectures online courses reading etc
- Or
- It could mean that a barrister needed to complete undertake activities spread across a variety of topics to develop different skills and knowledge in different technical areas.

The Inns said they disagreed with the latter interpretation.

14. Some respondents believed there should be mandatory CPD activities undertaken. In particular the ChBA suggested introducing a compulsory wellbeing section of CPD into the proposed or current requirements.
15. In the view of the ChBA there was a significant risk that removing a minimum number of hours would result in barristers doing less CPD.
16. ChBA said that concerns the BSB had about the relevance of CPD barristers undertook should be tackled directly by looking at the range and quality of online CPD on offer.

BSB Response

17. Apparent certainty of what is required is a benefit to a system but is not a single overriding consideration. Indeed under the current CPD regime certainty of hours incentivises barristers to focus on hours rather than the relevance of a CPD activity. The Legal Services Consumer Panel's response (found at Q9) indicated that the current system does not inspire public confidence in the CPD requirement.
18. However the BSB has noted that there were consistent concerns about the need for further, clearer guidance, particularly with regard to what will be regarded as compliance and also how non-compliance will be managed. The BSB will be producing further guidance on the New Scheme particularly with regard to the planning phase and the BSB approach to Supervision, non-compliance and enforcement.
19. The BSB does not believe that it would be useful to impose mandatory CPD activities across the profession for Established Practitioners. Rather the BSB believes that barristers are best placed to decide their specific training needs and development. A profession should take responsibility for its own learning and development, with the regulator providing a clear framework of guidance and support to that profession. The regulatory function should be to ensure they have made these decisions in a reasoned and focused manner.
20. The BSB acknowledges that the new scheme will require more effort from barristers at the beginning of the year by requiring barristers to formulate a specific plan of what the focus of their CPD is going to be. However this effort will be offset across the year in a number of ways;
- i. There are no compulsory elements including accredited hours that need to be obtained.
 - ii. Barristers can potentially do fewer CPD hours.
 - iii. All the CPD activities a barrister does will be relevant to their practice. There is now no reason for barristers to spend time or money on irrelevant CPD courses just to ensure that they undertake a prescribed number of CPD hours.

Part 1 – Public

- iv. Barristers have more flexibility in the kinds of CPD that can be undertaken. For example legal writing is now not restricted to only 4 hours.
- 21. In relation to balance of activities, to clarify, this means that the CPD activities that barristers carry out should be completed in a variety of formats. For example reading, seminars, online courses and lectures (the Inns of Court preference).
- 22. The BSB hopes to mitigate any issues of quality by encouraging a variety of CPD activities to be undertaken rather than barristers relying on one form of CPD or even one CPD provider.
- 23. The BSB concerns with regard to online course was not about their quality but ensuring that that barristers did actually undertake these activities and in ensuring the activities undertaken were relevant to their area of practice. These concerns could be alleviated by having barristers undertake a range of activities and by incentivising barristers to only undertake relevant CPD

Q2: What do you think will be the challenges that barristers will have to face in the new CPD scheme? What more could the BSB do to help barristers to meet those demands?

Q3: Do you think the Guidance in Appendix A provides adequate support to barristers by outlining what the new approach to CPD requires? Please explain your views.

Q3 No 50 Yes 23

- 24. Pages 10-11 of the Consultation paper explained what would be expected of barristers under the new Scheme. Barristers should maintain CPD records continuously and reconcile them annually. This would mean planning their training needs and explaining how the different CPD activities completed would meet these needs.
- 25. Operational details of the new CPD scheme were included in Appendix A of the Guidance. 26.
- 26. 26. The majority of respondents saw a number of different challenges facing barristers under the proposed new scheme. In addition a majority of respondents did not think that the Guidance in Appendix A provided adequate support.
- 27. Respondents also expressed confusion as to the meaning of terms such as ‘balance of activities’ again in this context please see paragraph 21 for the BSB response.
- 28. There were a number of key themes and concerns raised in the answers to questions 2 and 3. We have addressed and responded to each of these themes individually below.

Planning and reflection

- 29. A primary concern was what exactly was expected of barristers during the planning and reflection stage of the proposed new CPD scheme.
- 30. The ChBA had concerns about the amount of time barristers would have to spend planning and evaluating their CPD. They also wondered how setting learning objectives would apply for very senior practitioners.

31. The ChBA also objected to the principle of setting individual learning objectives for barristers, they commented that “The notion of “identifying learning objectives” on a per barrister basis in advance is quite meaningless in the CPD context. In short, courses and seminars have “learning objectives” – people do not.”

BSB response

32. The BSB response to concerns relating to what is expected during the planning phase this is answered fully in the response to Q4 and Q5 which directly addresses these issues.
33. The BSB would not agree that people cannot have learning objectives. Leaving to one side the fact that the current pilot that is being run has demonstrably shown that barristers can set and work towards specific learning objectives.
34. There is perhaps a question of terminology. People may have goals they want to achieve. Identifying how they want to go about achieving this goal and why is effectively a learning objective.
35. Learning objectives are flexible in the goals they are hoping to achieve and how the barrister can go about achieving those goals
36. Senior practitioners may be challenged to set relevant learning objectives. However senior practitioners may ultimately have less overall CPD that they need to complete. As has been previously stated it is individual barristers who are best placed to determine their training needs. The BSB is principally interested in looking at how the barrister has justified that decision, that they approach their decision in a formal way and that they follow through with what they say they are going to do.

Assessment and compliance

37. Another concern was with assessment and compliance. Specifically the uncertainty of how a barrister’s record card would be assessed and what would constitute compliance.
38. This concern was particularly expressed that compliance was only guaranteed after assessment rather than meeting a completely objective static standard. This was a concern shared by the ChBA and the Inns of Court.
39. The Inns worried that a barrister may only complete a very small number of CPD hours in good faith but would nonetheless face disciplinary action.
40. The Inns of Court suggested that 12 hours should remain a benchmark number of hours that would ensure compliance under the new scheme

BSB response

41. The BSB would disagree that there should be a minimum number of hours that would automatically ensure compliance under the new scheme. This would be directly contrary to the principle that the CPD completed should be relevant and outcomes focused. It would undermine the purpose of the planning statement and reflection stage of the proposed CPD scheme.

42. A barrister who had completed a particularly small number of hours in good faith would also have provided some indication and justification in his learning objectives as to why he only required a small number of hours.
43. If there was a concern at the assessment phase in the first instance this would not be a matter for enforcement. The barrister would be contacted to provide context for their decision and if appropriate they may be requested to undertake further CPD activities in the following CPD cycle.

Separating General Skills from Professional Statement Competencies

44. The Inns made a specific point that the BSB should be clear in separating the general skills and competencies that Barristers requires (exemplified in Professional Statement) and the technical legal knowledge which should be a positive and necessary part of CPD.

BSB Response

45. The BSB would broadly agree that there should be clear distinction between the general skills and competencies that Barristers requires and the technical legal knowledge which should be a positive and necessary part of CPD.
46. BSB is unlikely to be as prescriptive as dictating a clear separation of the two. Maintaining adequate knowledge of technical skills is an important part of CPD and it is likely that all barristers will routinely include this as part of their CPD plan. However we wouldn't penalise a barrister who wanted to devote some of their CPD learning to develop further the core knowledge skills and attributes that all barristers need.

Provision of CPD activities

47. Some barristers feared that regardless of the merits of the scheme itself the lack of useful relevant CPD activities provided to the profession could hamper any efforts of barristers to meaningfully engage with the process.

BSB Response

48. CPD would remain a compulsory element of the Handbook. In addition there would be more flexibility as to CPD activities that could be completed. While there would be no requirement to attend accredited activities there would still be a clear demand for CPD activities. On this point it is worth noting that barristers already on average complete over the number of the minimum hours. It is unlikely therefore that removing the requirement to complete a set number of hours would very adversely affect CPD provider market.

Guidance

49. One of the consistent messages from barristers who did not agree with the proposed new schemes was that the guidance available did not adequately explain what was required.

An example of this concern was;

“Appendix A does not provide sufficient guidance in formulating the expression of the requirements. The guidance will be generate anxiety about compliance and whether the practitioner is 'doing it right'. More examples are required to

assist in expressing the identified needs in terms the BSB will be satisfied by. Practitioners will need guidance in thinking more broadly about the skills they may need to develop. Broad statements are unhelpful and more specific examples or case studies may be needed.

50. A significant number of respondents were more positive about their answers, either believing any challenges could easily overcome or that adequate guidance was provided to support barristers.

“There is no challenge as such! Any able and competent member of the Bar should comply with such requirements to update their knowledge to provide services for their respective clients.”

And

“Appendix A is very explicit and understandable, there are no issues or concerns in this regard and the scheme is perfectly explained”.

51. The ILPA acknowledged that there would be challenges in the early years of any scheme. Further guidance on how to identify suitable topics, record learning objectives, devising a plan and reflection may be required.
52. The ILPA suggested that outcomes could be best demonstrated with reference to how they benefited clients.
53. The ILPA suggested that detailed examples of completed learning plans were provided to give examples of good and bad practices. They also suggested that the BSB could hold webinars or other sessions that could help individual practitioners, chambers, practice managers clerks and education providers support individuals in devising learning plans and setting learning objectives.

BSB Response

54. Based on the consistent feedback that the consultation and pilot has provided the BSB will produce updated guidance. The guidance will provide more detail on the process that a barrister needs to follow to be compliant with the New CPD Scheme. It will also have examples of how a planning statement should be formulated.

Other comments

The ILPA answer provided some useful insights into completing CPD.

“There is no single correct way to do CPD. You should, however, seek a variety of activities that allow you to learn in different ways. There is evidence that undertaking a range of different CPD activities to address a particular learning need is likely to be more effective than one-off events. Your CPD should be a mix of formal and informal learning. It should include activities that take place locally where you work, as well as at regional, national or international levels. It may be helpful to set out how particular activities will support the learning objectives in your Personal Development Plan, and to discuss with relevant colleagues what resources you will need. Some of your learning should aim to help improve how your teams work, their contribution to the organisation in which they are based and how you work within those teams. In a multi-professional team, for example, it may help to develop leadership skills. If your CPD is focusing on making the team more effective, it should be undertaken

alongside team colleagues. You should participate in peer-based learning in your specialty or field of practice. There are many ways to do this, such as peer reviews and peer tutoring. You can also learn in specialty networks, or through CPD schemes or programmes run by medical royal colleges or professional associations. Discussing and disseminating your learning to others may help consolidate your learning and enhance that of the team. (Organizing your CPD [web-based resource, undated, accessed 29 July 2015], available at http://www.gmc-uk.org/education/continuing_professional_development/26746.asp)”

Q4: Do you agree that requiring a barrister to plan their CPD learning objectives for a year will help to make the CPD activities more relevant to the barrister’s needs? Please explain your view.

Q4 No 56 Yes 22

55. Page 12-14 of the CPD Consultation Paper explained the requirements for barristers to plan their CPD and reflect on them at the end of the year. Barristers would be expected to identify learning objectives for the year which focus on the outcome of learning achieved at the end. Barristers could then self-assess the outcomes they hoped to achieve in order to choose appropriate CPD activities.
56. During the year but particularly at the end of the year barristers should reflect on the CPD activities they have completed. Barristers would assess the impact of their CPD activities. In particular, they should note whether the learning objectives were achieved as a result of the CPD or whether additional CPD is required in order to meet the desired outcome of learning.
57. The process is intended to be continuous and the Consultation Paper presented the idea that CPD completed in previous years should be considered when assessing CPD compliance.
58. The requirement to plan and reflect on CPD activities done is central to the new Scheme and it was also the most contentious point of the proposed new Scheme. The majority of respondents did not agree with the planning CPD activities in advance would be helpful. Nor did they believe that reflecting on CPD activities at the end of the year would be helpful. A significant minority did agree with these proposals.
59. Many barristers believed that what was being proposed was effectively a complete diary of every specific CPD activity. On this basis some respondents objected that the scheme could be too onerous and bureaucratic. The changing pace of legal developments made planning specific courses too difficult to achieve.
60. There was a concern that planning ahead could be restrictive if new relevant courses presented themselves. The question was raised as to whether any learning objectives could remain relevant over a twelve month span. Barristers worried that they would be locked in to a plan that was not useful and over how they could go about changing their CPD plan.
61. The new requirements were also objected to on the basis that they were a waste of time.
62. This objection was either based on the view that CPD of any kind was a waste of time or alternatively because barristers only ever attended relevant CPD and keeping a record would serve no function.

63. Finally concerns were raised that any plans would simply be generic formulations or only pay lip service to the requirements. Equally barristers may produce useful detailed plans but would not actually follow through with delivery.
64. The ChBA had a balanced view of the proposal that barristers should plan their CPD in advance.

They agreed that;

“requiring a barrister to consider, in advance of engaging in particular CPD activities, how those activities will improve their knowledge and skills areas will help to make the CPD activities more relevant to the barrister’s needs”.

65. However the ChBA disagreed that requiring a barrister to plan specific measurable outcome-based objectives for a year will help make CPD activities more relevant or useful,
66. The reason for this was that detailed planning of specific outcomes gave little room for changes to the law during the course of the year or unexpected opportunities during the year that may arise.

There were respondents who saw the value of producing a plan;

“This will clearly ensure that training is specific and directed towards areas where the practitioner requires knowledge development.”

67. Some respondents noted that barristers were often very busy so a measure of planning at the beginning of the year would aid compliance. It was noted that a plan would concentrate the mind as to where there were deficiencies of practice.
68. Some barristers noted that they already planned out their CPD and thought it would be good practice for others to do likewise. It was even suggested that it could become standard practice in Chambers to have practice meetings where this occurred.

BSB Response

(Note that this response also addresses concerns raised in answer to Q2 and Q3)

69. The proposed new CPD scheme is designed to allow barristers plan to be as flexible as possible. The BSB is not proposing that individual CPD activities are planned in advance only that learning objectives are planned in advance. Learning objectives should generally not be so specific that developments in the law in a 12 month period would render them completely irrelevant.

For example a barrister does *not* need to state;

‘I will attend the seminar ‘Cross Examining child witnesses’ on 3rd June at Example Chambers’ in the plan

Instead they should state something like;

‘I wish to become more adept at taking instructions from and dealing with vulnerable clients in order to provide better service in my public access work’

70. This also allows for a variety of different types of CPD activities to be undertaken and to take into account developments in the law.
71. Barristers should be recording a number of learning objectives in any case and general maintenance of their practice including keeping up to date with legal developments is likely to be included in most barristers' plans.
72. In addition if necessary there is nothing stopping a barrister from updating their plan or their learning objectives if there has been a change to their practice or the law.
73. The BSB will update the guidance to include an example of how a plan can be recorded including some sample acceptable and unacceptable learning objectives.

Q5: Do you agree that requiring a barrister to reflect on the CPD activities at the end of a CPD year will help to make sure that CPD is relevant and addresses a barrister's future CPD needs? Please explain your views.

Q5 No 50 Yes 28

74. As with the proposed requirement to plan there was a similar breakdown of responses for the requirement for reflection, with barristers objecting stating that they felt it would be a waste of time and bureaucratic and that barristers would not produce more than a very cursory reflection.
75. Others, also objecting, took a different view. Here the comments were that barristers already reflect on their practice at the end of the year and having the BSB review this process served little regulatory purpose.
76. Again however there were barristers who could see the value in reflection, particularly how it could help plan for the following year. It was noted that for reflection to be useful it should occur throughout the year rather than at an arbitrary end of year cut off.
77. **The ChBA** agreed that reflection was useful both at the end of the year and after individual CPD activities.
78. The ChBA did have concerns about how in practice the BSB would be able to ensure that the profession meaningfully engaged with a process of planning and reflecting rather than simply providing lip service to these concepts.
79. **The Inns of Court** were very positive about end of year reflection while having some reservations about the idea of a barrister planning their CPD at the beginning of the year.

“An end of year reflection is likely to be more productive than an attempt at forward planning. It will enable a barristers both to review the quality of the CPD they have achieved and to think more critically about what CPD they should undertake in the following year”

80. The Inns did state however that the requirement to plan and reflect should not be too onerous and that the BSB should also not object if the learning objectives were different at the end and beginning of the year.

BSB Response

81. Reflection is an important part of the new scheme because it helps the barrister identify whether the plan was successful and also helps to plan for future.
82. The BSB does not believe that barristers who follow the CPD process as intended in terms of planning and reflecting will find it bureaucratic. It will ensure they are not wasting time or money on irrelevant CPD activities. The BSB acknowledges that it may be possible for barristers to game the system by producing detailed plans and reflections that they do not intend to follow. However for a barrister to put the effort in producing a useful plan and then not follow it seems somewhat counterproductive for their own practice.
83. The planning and reflection stage will be a focus of the CPD assessment process by the BSB. Very cursory plans or reflections will be addressed through that process and advice given to barristers on how they may make better use of these stages in the future.

Q6: Do you agree the CPD regulations should take into account previous CPD records when assessing CPD in any one year? Please explain your views.

Q6 No 34 Yes 43

84. There was overall support for the idea that CPD should be taken into account in the next year, in particular if barristers were short some hours in one year but had many more hours in the next.
85. Both the ChBA, ILPA and the Inns of Court agreed with the proposal that the BSB should take into account CPD completed in previous years. The Inns did provide the caveat that this should be in the context of barristers who complete a small number of CPD hours one year but many CPD hours the next or a barrister who consistently fails to complete CPD.
86. Those respondents who objected to this proposal outright were of the view that the current system works and that a system which looked at previous years is not continuous.

BSB Response

87. The BSB believes that a barrister's professional development should build year to year. This necessarily requires the barrister and the regulator to take into account what CPD has been completed in previous years.

Q7: Do you agree with the proposed approach to the regulation of CPD compliance? Please explain your views.

Q7 No: 44 Yes: 25

88. The Consultation paper proposed a change in the way that CPD was regulated; compliance would be assessed not with reference to whether a barrister has completed a defined number of hours but whether the activities they have carried out are relevant and appropriate to satisfy the regulatory requirements in the CPD Rules and Regulations.

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89. The Consultation paper explained the process of how CPD could be supervised and if necessary supervisory and corrective action could be set. Enforcement through disciplinary action would only be taken in exceptional circumstances. This approach builds upon the current regulatory approach to managing CPD compliance where only persistent non-compliance results in enforcement action.

90. The main objections to the new scheme was that it lacked clarity and further guidance was needed to make it effective.

One respondent commented that;

“It creates uncertainty, and increases the administrative burden on sole practitioners, without any commensurate benefit to the public.”

91. However these concerns were set against those respondents who thought that proposed scheme offered more flexibility and was more supportive for barristers wishing to undertake relevant CPD. It was commented that the new scheme was no longer a tick box exercise.

The ChBA stated a number of concerns about the new scheme;

“We are particularly concerned that (a) the present guidance is not clear as to what is acceptable planning and reflection (b) many barristers will not turn their mind to this activity and effectively and (c) this will be difficult for the BSB to police”.

92. The ChBA also expressed concerns that barristers may complete relevant CPD but be found to be non-compliant due to poor planning and reflection. They also expressed a hope that the BSB wouldn't stifle barristers from exploring the edge of their practice.

However the ChBA did state that

“We do agree that it would be better to assist barristers with an agreed action plan if they are perceived to be in breach and that enforcement action should only occur if the particular barristers' obligations have been blatantly disregarded”.

93. Another specific concern included a worry that the BSB were determined to punish any alleged breach and would use the increased subjectivity of the new scheme to do this.

94. Further there was a worry that the process may lead to too many disputes as to whether there had been compliance or not.

95. The Inns of Court had considerable concerns about the proposed supervisory regime. The Inns of Court recommended that the assessment body should consist of legal practitioners and a practitioner's case should be considered by a panel consisting of a barrister in the same field. The Inns of Court also suggested that barristers should have access to documents and be able to make written submissions.

Finally they stated that “

“Barristers should be able to make their own choices on CPD. The circumstances of intervention should be closely defined. Since this is part of enforcement regime procedure outlined in in paragraph 43-44 is problematic”

96. The ILPA reiterated points that the BSB should work carefully to encourage barristers to set appropriate learning objectives. In particular they wanted to see Chambers take more of a role in CPD rather than it being a completely individualised process.

“Chambers who offer little support to members after the first few years following call may nonetheless have some good system in place for junior members of chambers, with which all members are familiar as pupil masters/mistresses. The consultation paper appears to suggest a highly individualized process, with learning done in private and in isolation. We do not consider that this accurately reflects how many barristers learn.”

BSB response

97. The BSB acknowledges the concern that subjectivity creates an element of uncertainty but does not believe that this is insurmountable. It reflects the focus on outcomes rather than prescribed rules and regulations that the BSB has adopted. There are currently numerous parts of the Handbook that are subjective for example rC87 states that barristers;

“Must take reasonable steps to ensure that your practice is efficiently and properly administered having regard to the nature of your practice”

98. Further guidance is provided to ensure barristers have context in which to do this but much is not prescriptively defined. In addition the process of Supervision returns and supervision visits has allowed the supervision department to set actions to ensure this requirement is met. This has not led to numerous referrals to Professional Conduct Department for enforcement action.
99. In a similar way the intention of the BSB with regard to the proposed CPD scheme is to provide a framework to allow barristers to improve the CPD they undertake and to set specific actions where potential non-compliance is identified.
100. The primary point is that the BSB is not seeking to catch the profession out or to seek out opportunities to take enforcement action. Our focus is to make sure that standards are being maintained and that barristers are taking their professional responsibilities to continue to learn and develop seriously. The new CPD regime will, we believe, help to ensure that the Bar takes greater ownership of their CPD choices and uses CPD as a more effective means of maintaining standards. Enforcement will be reserved for flagrant or persistent non-compliance. The BSB will be seeking to build constructive relationships with barristers to understand their CPD choices (where they are not immediately clear) and to agree with the barrister, where the view is that those choices fall short of what the guidance on compliance states, what action should be taken. This approach has been successfully introduced within the Supervision Department in relation to the effective management of chambers and barristers’ practices and has been positively received by the Bar. We believe that it strikes the right regulatory balance and has significantly reduced enforcement action that would previously have been taken for minor infractions of the rules.
101. The BSB would note that some of the elements of the proposed new scheme’s assessment and supervision are already part of how CPD is currently administered and supervised. For example;

- i. Relevance is already part of the CPD requirements as it is included in the definition of what a CPD activity is.
 - ii. The CPD team already provides some direction to barristers on which specific activities would or wouldn't count towards CPD in terms of relevance.
 - iii. Compulsory Corrective Action is already set by the CPD assessment team in lieu of immediate enforcement action for non-compliance. This has been the case for the last two years without objection.
102. From a supervisory perspective the BSB encourages Chambers, particularly those with the resources to do so, to take an active part in helping to ensure their members are fully compliant with their CPD obligations. The BSB considers this to be good practice on the part of Chambers. However CPD must remain the regulatory obligation of individual barristers rather than a core function of Chambers administration.
103. The ILPA also noted that the scheme would potentially require significant resourcing for it to be effective.

Q8: Please describe any impacts (positive or negative) you foresee in relation to the proposed CPD scheme on Equality and Diversity.

104. The CPD consultation explained that an Equality Impact Assessment had been carried out. Some benefits had been identified, particularly with regard to the flexibility the new proposed scheme afforded practitioners. No major negative impacts had been identified.
105. Many respondents felt the new scheme would have no impact on Equality and Diversity. Disappointingly some made derogatory comments regarding the inclusion of this question.
106. Some respondents felt it would have a negative impact on this area. In particular there was a concern that a lack of clarity around what constituted compliance could have a negative impact on Equality and Diversity within the Bar.
107. However others saw some benefits for working parents, disabled barristers with access issues and with less well-off barristers.
108. The Inns of Court were positive about the new scheme. They said that;
- “The impact will be very positive”**
109. In particular broadening activities will better provide for those who find it difficult to attend other CPD activities. The ChBA agreed that broadening the range of CPD activities would be positive. However they also warned that increased cost of regulation would be a negative that the BSB should work hard to mitigate.
110. The ILPA noted that
- “This approach may be more straightforward for barristers who work in larger Chambers with more established performance management systems and/or those Chambers who were awarded the Barmark quality standard operated by the Bar Council. Sole practitioners and the self-employed in smaller chambers may find it more difficult to demonstrate effective planning, identification of learning needs and evaluation of learning needs. We encourage the Bar Standards Board to closely monitor the feedback from the pilot in this regard**

and to explore whether there are any differences between barristers working in different workplaces.”

BSB Response

- 111. One of the purposes of the increased flexibility of the new scheme is to be able to take into account these different circumstances rather than be overly prescriptive.
- 112. With regard to the specific point about the time period for planning and reflecting on CPD this won't be very prescriptive but should generally be completed reasonably promptly at the beginning of the CPD year.
- 113. BSB overall believes the new Scheme will have a positive impact because of broadening the areas of CPD that will be included. Also there will be more flexibility with the amount of CPD that needs to be completed. For example a barrister on maternity leave would only need to reflect the fact she isn't working in her learning objectives when completing CPD rather than applying for a waiver from the requirements.
- 114. It is also hoped that the increased flexibility of the scheme will help those barristers who have difficulty physically attending CPD activities.

Q9: Please provide here any other comments on the proposed approach to the regulation of the new CPD scheme

- 115. There weren't any additional substantive comments that did not cover points that had already been addressed. However the comments from the Legal Services Consumer Panel (LSCP) should be addressed at this point.

Statement from the LSCP

- 116. The Legal Services Consumer Panel did not answer each question individually but did provide a detailed and helpful statement in response to the CPD consultation.
- 117. The LSCP explained that they had concerns about the current provision for barristers' ongoing legal training and therefore overall welcomed the proposed reforms.

“The proposals to make the CPD scheme outcomes focused should help to create a culture where individuals lead their own development and focus on what they need to do to stay up to date and improve their performance. The onus is placed on the barrister to identify personal objectives and to provide hard evidence to demonstrate delivery against these.”

- 118. However in some areas the LSCP did not think the BSB's proposed CPD scheme went far enough. In particular the Consumer Panel believed there should be periodic reaccreditation of high risk areas of legal practice.

“The Panel has consistently argued for periodic reaccreditation in higher risk areas of law. This is not something which has been considered in the consultation, and is an area we would strongly recommend looking into before finalising these proposals, particularly in the light of the Quality Assurance Scheme for Advocates”.

119. In addition the Corrective Action for non-compliance should be more significant as should the general sanctions for repeated failure to complete CPD.
120. There should also be more frequent monitoring between annual returns to ensure that barristers do not fail to maintain their standards or skills.
121. The Consumer Panel made it very clear that they believed that CPD was a very valuable tool in protecting the consumers of legal services.

BSB response

122. The BSB agrees with the importance the Legal Services Consumer Panel places on CPD and the value barristers get from carrying out meaningful CPD activities.
123. At the moment the evidence does not point to higher risk areas being more likely to be non-compliant with CPD so it is likely to be disproportionate to require these barristers to be involved in a reaccreditation process as a response to that.
124. The BSB would certainly be flexible with the type and amount of Corrective Action to allow an appropriate response. However the experience so far has been that corrective action with the aim of ensuring ongoing compliance has been beneficial.

CPD Pilot Results

1. In January 2015 the BSB initiated a pilot with a range of practitioners to test a prototype of the new scheme and how it works in practice. The pilot ran in parallel with the consultation. There were 76 participants in the pilot covering a range of practice areas, levels of seniority and employment contexts. The objectives of the pilot were to:
 - Test how the above features work in practice;
 - Explore how we can help the profession to understand the new requirements;
 - Explore the most efficient and effective way to regulate within the new scheme.
2. The pilot took place between January 2015 and March 2016. The pilot involved the submission of a planning statement, a feedback loop, a series of structured surveys to participants through the CPD year and a final assessment of all CPD records in order to gather feedback and inform our refinement of the scheme.
3. The information we gather from this pilot will be used in conjunction with responses from this consultation on the new scheme in order to refine our approach and the associated rules, requirements and guidance for practitioners.

Assessment of the Pilot

4. To date 76 barristers have submitted their planning statements. These planning statements have been assessed. Feedback is currently being provided to every barrister about their planning statement and to provide continuous feedback and guidance throughout the process.
5. Barristers have also been encouraged to provide feedback to us about the pilot. So far the feedback has been positive about the principles underpinning the new scheme.
6. The barrister participants and the assessment process gave enough feedback to begin refining a formal framework for assessing barristers' planning statements. This has allowed us to determine that the majority of barristers involved in the pilot have completed the planning statement successfully, either in full accordance with our proposed regulations and guidance or requiring some feedback on how their planning could be improved.
7. The assessment process has also allowed us to identify those barristers that have not completed the planning statement in accordance with the proposed regulations. We have been able to provide specific feedback and note why an assessment of 'non-compliance' would be reached.
8. In line with the aims of the pilot, assessing the planning statements has already provided valuable feedback about how the real scheme would work in practice. It has shown us what areas of the guidance barristers understand and what areas they are struggling with.
9. Participants were asked to submit their records via a very simple online portal that allowed the assessment team to extract the record cards into an excel spreadsheet. Although lacking much of the functionality that will eventually be necessary this method was still quicker than relying on submitting via email or hard copy and then transcribing the information onto a spreadsheet.

Part 1 – Public

10. 69 of 76 have been fully assessed. Of these 61 are fully compliant while 8 will be asked for further information about the courses they have completed.
11. The pilot participants completed an average of 28 CPD hours. This is more than double current requirements. However barrister participants recorded significantly higher levels of activities that would not currently be counted as CPD. Principally this includes reading and over 4 hours of writing and editing. It also includes claiming more preparation time than would currently be calculated.
12. Calculating the hours completed from the perspective of the current CPD regime requirements, pilot participants completed an average of 10 CPD hours.
13. The most frequently undertaken activities were; seminars, conferences, mock trials listening to podcasts, self-study (reading of weekly updates, websites books, articles, case law) and practice management improvement (E&D development, financial and billing skills).
14. The level of planning was fairly wide. Most barristers set at least some specific Learning Objectives with the majority of Objectives being quite general in nature.
15. Learning objectives were generally achieved. However it was the Reflection stage that has been very encouraging and particularly completed to a high standard. Barristers explained in detail the choices they made and why, and where Learning Objectives weren't achieved what would be done to address this.
16. In a few instances where barristers have recorded very few hours for example it was demonstrated how these CPD activities met the learning objectives and were very relevant. This is encouraging as it indicates barristers will spend time focusing on useful relevant CPD rather than simply making up the hours.
17. Assessment of the pilot participants has been time consuming as it has meant assessing more information and making comparative judgements of activities against learning objectives.
18. An online portal will be very useful for streamlining the process. This includes the planning and recording process for barristers and the assessment process for the BSB. This will save time and resources for the regulator and the profession.

Conclusions from the Pilot

19. As a whole Pilot respondents engaged with the process in the manner in which it is intended. The planning phase was completed, learning objectives were set, relevant CPD activities were completed and useful reflections were made. In this regard the first objective was met in that it demonstrated the new scheme can work in practice.
20. In particular barristers made use of the additional flexibility afforded to them by undertaking atypical CPD activities, but without reducing the number of hours undertaken. Indeed total hours spent on CPD activities was higher than the current average. The number of hours spent on CPD activities that would normally count towards CPD was only slightly under the current requirements. This indicates that barristers will not simply stop doing CPD if the hours' requirement is removed.

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21. There were no instances of barristers recording they had attended courses that they in fact hadn't. This may be reflective of the fact that there is little incentive now to attend irrelevant CPD activities.
22. Areas for improvement primarily focused on planning the learning objectives. The learning objectives set were fairly generic in many cases. This is to be expected for two reasons. First this is a new process so it is not unexpected that barristers will be unsure as to what learning objectives to articulate. Secondly a certain level of generic learning objectives is probably necessary. For example all barristers are likely to have a basic objective of keeping up to date with their practice areas.
23. However the BSB can do more to help the profession understand the new requirements. This will include preparing updated guidance that will provide examples of specific relevant learning objectives.
24. A principal area of improvement that the pilot highlighted was the assessment process. While the assessments could be carried out they were quite time consuming and resource intensive.
25. The first step to improving this process would be ensuring that barristers know exactly the information that we require from them when recording their CPD plans and activities. For example we will need a clear indication of how many hours each activity lasted who the provider was and when it was completed. Generally it is not helpful for barristers to leave blank spaces on the record form.
26. Having the Plan and Record Card in an electronic format is almost essential to ensure the assessment team can extract the records they wish to sample, view the relevant data and then make an assessment. This online portal will save barristers time as it will combine the process of recording and submitting their CPD records and will allow barristers to upload evidence of the activities completed.
27. As it is important that the finalised online portal has the desired level of functionality it is worth deferring development of this portal so that it sits with the rest of the Information Management systems that are being developed, and can be scoped with the experience and demands of users to the fore. This may mean that while the CPD process goes live in 2017 the necessary finalised electronic portal is developed for the subsequent year
28. The assessment process is more time consuming for the assessor. It requires an individual approach to every barrister in paying attention to the learning objectives completed, the reflection recorded and the activities completed. This will certainly require additional training for assessors and a clear understanding of the training needs of the profession as well as enough knowledge to make a judgement regarding whether the content of a course is likely to have assisted the achievements of the learning objectives recorded.

Bernard MacGregor
March 2016

Chair’s Report on Visits and External Meetings, February – March 2016**Status:**

1. For noting

Executive Summary:

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

List of Visits and Meetings:**Sir Andrew Burns**

26 February	Attended the Family Law Bar Association (FLBA) annual dinner at the Honourable Society of Middle Temple
27 February	Met with the Circuit Leaders and the Chair and Vice Chair of the Criminal Bar Association
27 February	Attended the Bar Council meeting
1 March	Met and had lunch with departing BSB Board member, Sam Stein QC
14 March	To attend a panel event on “legal needs and legal capability”, chaired by Sir Henry Brooke at the Bingham Centre for the Rule of Law
16 March	To meet and have lunch with the Chair, Vice Chair and Executive of the Young Bar Association
16 March	To attend the Inns Strategic Advisory Group meeting at Inner Temple
16 March	To attend and Chairmen’s Committee meeting
17 March	To meet with the Chair and Chief Executive of the Legal Services Board

Equality Impact Assessment

3. No Impact

Risk implications

4. These reports address the risk of poor governance by improving openness and transparency.

Consultation

5. None

Regulatory objectives

6. None

Publicity

7. None

Lead responsibility:

Sir Andrew Burns KCMG

Director General's report - BSB meeting 17 March 2016

For consideration and noting.

Director General

1. My work in the three weeks since the last Board meeting has concentrated on finalising the Strategic and Business Plans and overseeing completion of the Risk Outlook work. In preparation for the new business year, we have been ensuring all staff are familiar with the performance management system as appraisals of last year's performance will start in April. Other necessary preparation has taken place, such as meetings with line managers to validate proposed ratings (to ensure consistency of assessment across the BSB), as well as work to roll out the 16/17 learning and development strategy. Simon Thornton Wood led presentations to and discussion with all staff on that subject on 10 and 14 March.
2. Externally, the Chair, Vice Chair and I have had opportunities to maintain communication with Circuit and specialist Bar association leaders (CBA, FLBA), other regulatory Chairs and CEOs and bodies with whom we have regular (though not necessarily frequent) contact such as the CPS and HMRC.
3. Finally, Board members may be pleased to hear that Sir Andrew and I were at last able to come good on the formal thank-you to our recently departed Board member Sam Stein QC, who had been unable to attend the December 2015 event due to trial commitments outside London.
4. Recruitment to the barrister Board member vacancy created by Naomi Ellenbogen QC's appointment as vice chair is proceeding and we expect to make an announcement shortly.

ASPIRE

5. Much of the focus of ASPIRE (the regulatory change programme) over the last few weeks has been on finalising the risk framework documentation and the development of plans for the next phase of the governance review. In the light of recent board decisions in respect of the approach to authorisation decisions, work has commenced on putting in place implementation plans for the transition to executive led decision making.
6. Risk training has been taken place for staff. The training takes a creative approach to testing the risk based approach to regulation in a simulated case study. It really helps to bring to life the fundamental role that risk plays in everything that is done at the BSB.
7. We should hear from the LSB in the next few weeks with their report on the self-assessment process under the Regulatory Standards Framework. The Board will receive further information on that once the LSB has reported.

Regulatory Policy***Regulatory Risk***

8. The Risk Outlook is nearing completion. Some Board members met ahead of February's meeting to provide feedback – as have the Senior Management Team. Further refinements have been made. The infographics in the document have been sent to our design agency who have provided some promising initial drafts. It is still intended that the content will be agreed formally at this Board meeting. It will then be

published in early April, alongside our Risk Index and Risk Framework. A joint launch event with the strategic plan will follow.

9. We are starting to pilot the use of a discussion board on Verity for the Risk Forum. This helps meet the Forum's objective to disseminate outputs to the wider organisation. We have been designing some templates to ensure these outputs are provided in a user-friendly way. The discussion board will also contribute to the Risk Forum's objective to facilitate a culture of information sharing. Staff members can suggest topics for the Risk Forum and contribute their own knowledge to those topics.
10. Our risk training programme started in late February, following the earlier successful pilot. Two types of session, one providing an overview of risk and the other applying risk practically, have been delivered. These will continue throughout the year, ensuring that both existing – and new – staff have a consistent understanding of risk.
11. Finally, we have been focusing on how we assess regulatory risk and how we evaluate and assure the decisions we make. This is continuing to evolve our understanding of how regulatory and corporate risks inter-relate. Learning from this is being directed at Project CIARA and the assurance framework.

Professional Standards

12. At the end of February the reference group for the immigration thematic review met to discuss options/solutions to the risks that have been identified. The meeting was successful and a range of ideas were put forward and discussed. The project board will be refining the options further over the next month and preparing for a workshop to be held as part of the Board away day in April. Work has also begun on a final report which will be presented to the Board in May.
13. Work is progressing on the public and licensed access review. Law for Life have begun work on reviewing the guidance for lay clients and we hope to start some demand side research soon in conjunction with a research company. The staff team are currently working on sourcing participants for the research and developing the project plan.
14. The team are finalising a report which reviews the litigation authorisation process for the 2015 calendar year which will be submitted to the LSB in due course. Planning has also begun for the 2016/17 business year.

Equality and Access to Justice

15. The BSB Equality Champions group now has the benefit of one-to-one mini coaching sessions delivered by the E&AJ team. These sessions have led to Champions taking actions forward within their own teams such as EIAs, further training and opportunities for champions to resolve E&D issues with the E&AJ team in-between formal meetings.
16. The survey on women's experiences at the Bar closed in February and a large number of responses are being analysed. An initial analysis has been completed on the quantitative results of the survey, which appears elsewhere on the agenda. A final report with analysis of both qualitative and quantitative responses will be sent to the Board in May 2016.
17. A pilot leadership diversity session was designed and delivered for a member of the SMT. The training involved: visiting a Swaminarayan Hindu temple, meeting their volunteers and leaders and exploring anti-discriminatory leadership theory and practices. An outcome of the session was to consider how the BSB can widen its

commitment to consumer engagement with diverse organisations and the inclusion of corporate diversity objectives in development of our future diversity strategy.

18. One of the recommendations from the recent Diversity in Complaints research report was for unconscious bias training to be delivered to the Professional Conduct Department. The E&AJ team have identified a suitable company to provide accredited 'train the trainer' training on unconscious bias to the two members of the team. The trainer training is due to take place in May and will enable the E&AJ team to deliver tailored unconscious bias training initially to the PCD and then to wider organisation.

Supervision

Youth Courts

19. A roundtable has been scheduled for 5 April at which senior representatives from the youth justice sector will be invited to discuss the regulatory response to concerns expressed about the standards of advocacy in proceedings involving youths.
20. The Director of Supervision will attend Stratford Youth Court on 21 March to meet with Youth Offending Teams and others within the operation of the youth justice system. He is also engaged with a Working Group looking at Problem Solving Courts and their potential use within Youth Courts. The Group comprises a range of organisations from within the youth justice sector and provides a valuable opportunity to build relationships and to work collaboratively towards improvements within the system.

Supervision activity

21. The team have been busy with the programme of visits to chambers assessed as "medium impact" and "high risk", and follow up of actions agreed with chambers.

Project CIARA –new unit for risk assessing incoming information

22. The project team have defined which types of information will flow through the new unit and this will be presented to SMT for agreement on 15 March. The Project Team is currently working on the risk assessment principles and methodology for processes to be followed. The Project Team is liaising closely with the Project Management Office to ensure that it dovetails into the Information Management Programme of work. The Project Plan is based on the new team going live in Q2 2017, however this depends on both Information Management Programme timelines and also the timing of the Board decision regarding the future of the Professional Conduct Committee.

Anti-Money Laundering/Counter Financing of Terrorism

23. HM Treasury and the Home Office are in the process of producing an Action Plan to address the findings of the UK's National Risk Assessment of Money Laundering and Terrorist Financing. We anticipate that this will be published in early March. As part of the Action Plan, HM Treasury is leading a review into the UK's AML/CFT supervision. This is in response to the NRA's findings around the potential for inconsistencies in supervision across the various bodies. A Call for Information on the AML/CFT Supervisory Regime will be published shortly. Supervision will co-ordinate a response.

Entity Authorisation

24. As of 7 March 2016 40 entities have been authorised and paid the authorisation fee with a further 6 entities authorised but yet to pay the authorisation fee. There are a further 7 entities that have had an initial assessment and the entity authorisation team is awaiting further information from them.
25. The Entity Renewals process allows entities to pay their annual fee and also make a declaration confirming they have appropriate insurance are now under way. Entities have until 25 March to complete the process. So far 17 entities have paid the annual fee. 4 entities have made the appropriate declarations but have yet to pay the annual fee.

CPD

26. Development of the new CPD scheme is continuing. Currently the activities completed by barristers involved in the CPD pilot are being assessed. In addition the consultation report is being finalised. The CPD consultation report is on the March Board agenda.

ABS Implementation Project

27. As indicated in February, the data-gathering phase of the ABS implementation project closed at the end of January. We expect the LSB Board's decision at the end March 2016. In the interim, detailed planning for delivery remains underway.

Work Smart Pilot

28. The Work Smart pilot is continuing. All staff are actively engaged and are working remotely and hot-desking when in the office. There were some initial technical challenges but IT has been very supportive and prompt in responding. Regular feedback is being provided to the programme and has been generally very positive. Department reviews are being held to identify suggested improvements.

Education and Training***Future Bar Training***

29. The proposed Threshold Standards for the Professional Statement are now out to consultation.

Operational update

30. The announcement has been made that the Bar Course Aptitude Test will be reopening for candidates applying for 2016 entry to the BPTC. The Test will reopen on 4 April and changes have been announced to the Test, providing candidates with their Test score (rather than simply pass/fail). It has further been announced that the Test pass mark will be raised in 2017, subject to approval by the Legal Services Board (LSB). The Education & Training and Research teams are now progressing with implementation of the changes, addressing the required policy changes, preparing for roll-out of the revised Test format, and preparing the submission to the LSB.
31. Monitoring visits to BPTC Providers have progressed over the past month, the annual cycle of visits being nearly complete by the end of the period. Themes emerging from the review process will be considered by the management team and actions discussed with the forum of BPTC providers that is convened regularly through the year.

Part 1 – Public

32. The team of Examiners and the relatively new “Syllabus Team” (Prof Marc Howe, academic, Philip Turton and Tim Godfrey, barristers) met on 7 March to develop further the links between the revised syllabus and both current examinations and those planned for introduction in 2017. Changes to assessment format have now been announced for all three of the centralised examinations: both civil and criminal procedure adopting a “Single Best Answer” format, Professional Ethics changing to an entirely “Short Answer Question” format.
33. One of the three-strong team of Examiners for civil procedure has resigned due to a change in their main job; we will now be advertising for the position.
34. Discussions have been held with BPP University concerning the future timing of the Bar Transfer Test (BTT), following the decision to incorporate BTT assessments for civil and criminal procedure and Professional Ethics with the centralised examinations; announcements have been made of the timetable for centralised examinations in 2017, including the BTT.

Qualification Regulations

35. A consultation exercise with staff in the Qualification Regulations team is running from 1 March to 1 April, with the intention of a restructured team merging into the Supervision department from 1 April.

Professional Conduct

36. The KPIs for the current quarter are being exceeded. However in light of the dips in performance earlier in the year combined with the impact of a temporary reduction in committee member numbers, we may fall short of the 80% target at year end.

Staffing issues

37. There are two changes in the staffing of the Professional Conduct Department to report this month.
 - Alex Williams joined the PCD on 29 February as the Operational Support Team Manager. Alex qualified as a Probation Officer in 2000 and has worked in Probation and Youth Offending Services. From 2007 – January 2016 she was employed as Senior Practitioner for Court at Lewisham Youth Offending Service.
 - Scott O’Keefe joined the PCD on 7 March as a new Professional Conduct Assistant. He has previous administrative experience working within Her Majesty’s Courts and Tribunals Service in South Wales.

Vacancies on the Professional Conduct Committee

38. The vacancies that occurred at the end of last year have now largely been filled from other committees and via a public recruitment exercise for barrister members. The current composition of the Committee is now 21 barristers and 16 lay members, including the chair. The situation is being monitored and consideration may be given to recruiting further lay members to take the Committee back to parity.

Public Information Project

39. Phase 2 of the project is almost complete with the final content for the updated website pages ready for approval. The project will then move into Phase Three which will focus on the improvement of the written materials available in hard copy, such as information leaflets.

Litigation

40. Since last month, there has been no alteration to the position in relation to the litigation before the Court of Appeal and High Court. The department currently has two Court of Appeal matters, on which permission was previously refused, listed for appeal hearings in May and July 2016. The only other outstanding judicial review is at the permission stage and there is no indication when a decision might be received.
41. The BSB is also facing an Employment Tribunal matter associated with a professional conduct case (not a matter concerning an employee). This is at the preliminary stage and the Tribunal is considering whether it has jurisdiction to hear the matter.

Governance Review

42. Work has continued on the proposal for an Advisory Pool of Experts (APEX). The Board has received a paper on this proposal in the private part of this meeting. Following the Board's decisions in the area of authorisation at its February meeting, work is also underway to amend the scheme of delegations. This will ensure that the decision-making powers set out in the scheme of delegations align with the agreed operational change.
43. Work has progressed on more fully developing the assurance framework. A workshop has been held to develop a proposal on how measures of internal systems (performance) and external impact (effectiveness) can be used to build an optimal assurance system for the organisation. This proposal has been reviewed by the SMT and Head of Regulatory Risk. At its March meeting, the Governance, Risk and Audit Committee also discussed the proposed assurance framework and the appropriate division between oversight of operations and systems. Work on developing the assurance framework now continues.
44. The process for recruiting a new Chair and members of the Independent Appointments Panel, which undertakes recruitment to the Board, has also continued.

Communications and Stakeholder Engagement

Communications

45. A new Director of Communications and Public Engagement, Wilf White, took up post on 14 March. As part of his induction, Wilf hopes to be able to meet as many Board members as possible individually.
46. Since this report was prepared for the February Board meeting, the following press releases and announcements have been issued:
 - 24 February: Press release about the statistical report on diversity within our complaints-handling system.
 - 2 March: Press release announcing changes to the Professional Ethics exam in the BPTC from 2017.
 - 4 March: Statement to support recruitment for a Chair and members of the Independent Appointments Panel.
47. The Board will have seen the fortnightly media coverage that the above announcements generated.

Work in Progress

48. In addition to business-as-usual activities, at the time of writing, the following pro-active communications are scheduled over the next few weeks and months:
- Publication of a post-event review of the recent “Does cross-cultural communication at the Bar matter?” symposium;
 - Forthcoming Education & Training announcements, including work to publish the consultation about Threshold Standards in support of the Professional Statement, and an announcement about BCAT;
 - the 2016 Risk Outlook and related documents, and Strategic and Business Plans;
 - Planning for an event in April to publish the Risk Outlook and the new BSB strategy;
 - Work to induct Oliver Finlay-Smith, who joined the team on 7 March as our new Communications and Public Engagement Officer.

Online and social media

49. During February, 28,512 users visited the BSB website. At the time of writing, we have 13,818 followers on Twitter.

Research

50. Since the meeting in February, work has progressed as follows:
- Public release of the Complaints Diversity Analysis report that was presented to the Board in January;
 - Preparing for the release of updated statistics on the profession for 2015 to be added to the research and statistics pages on the BSB website;
 - Supporting the development of policy responses to the Immigration Thematic Review, including meeting with stakeholder reference group
 - Completing the quantitative analysis of the “Women at the Bar” online survey, with initial findings reported to the Task Completion Group on 29 February - see also Board agenda
 - Starting work with Supervision team on a review of the governance models for barrister services and a drafting project initiation document with research scope and first ITT for stage 1 of the project.
 - Continuing work on the Consumer Research project to explore new research approaches and to link overall project with other ongoing, consumer-focused projects.
 - Continuing work on User feedback project to reshape initial research proposal with a consumer angle.

Corporate Services

Staffing

51. Eva Hales is due to commence as the new Corporate Support Manager at the end of March 2016 and we hope to appoint a new Senior Corporate Support Officer shortly.

Business Planning

52. The team has been finalising the Business Plan for 2016-17, and in tandem the budget for the next financial year has also been settled, as shown in this month’s Board papers.

53. The team is currently working on the systems that we will use to monitor progress and performance against the 2016-17 Business Plan and budget. Team members will be crafting a new dashboard and structure of accounts to align with our objectives.

Resources Group

As previously noted, the format of EG reporting is being rationalised and a revised full report will appear for the first time at the May Board.

54. A key achievement of the Group since the last Board meeting has been the successful launch and running to date of the annual Authorisation to Practise round. The Records Team, under the new management of John Mathias, have been performing extremely well, providing very good levels of customer service from an improved operating model. Records are of course supported by the Project Management and IS teams in this exercise, and the Board may wish to note formally its thanks for the collective efforts.

Vanessa Davies
Director General BSB
9 March 2016