

<p>BAR STANDARDS BOARD</p>

REGULATING BARRISTERS

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

Thursday 22 October 2015, Room 1.1, First Floor
289 – 293 High Holborn, London, WC1V 7HZ

Present: Sir Andrew Burns KCMG (Chair)
Rolande Anderson
Rob Behrens
Aidan Christie QC
Malcolm Cohen
Justine Davidge – items 8 - 16
Naomi Ellenbogen QC
Andrew Mitchell QC
Tim Robinson
Andrew Sanders
Nicola Sawford
Adam Solomon
Anne Wright

Note: Patricia Robertson QC was not present for Part 1 of the meeting but did attend by phone for some of Part 2. Rob Behrens did attend for Part 1 of the meeting but was unable to stay for Part 2 due to a prior work commitment.

By invitation: Keith Baldwin (Special Adviser)
Alan Kershaw (former Chair, CILEx)
Neil Marshall (Consultant, Capsticks Consulting)
Matthew Nicklin QC (Special Adviser)
James Wakefield (COIC representative)

Bar Council in attendance: Stephen Crowne (Chief Executive, Bar Council)
Mark Hatcher (Special Adviser to the Chairman of the Bar Council)
James Wakefield (Director, COIC)

BSB Executive in attendance: Andrew Cohen (Senior Projects & Information Officer)
Vanessa Davies (Director General)
Joanne Dixon (Manager, Qualification Regulations)
Oliver Hanmer (Director of Supervision)
Sara Jagger (Director of Professional Conduct)
Faryal Khurram (Senior Supervision and Authorisation Officer)
Andrew Lamberti (Communications Manager)
Ewen Macleod (Director of Regulatory Policy)
John Picken (Governance Officer)
Pippa Prangley (Head of Regulatory Risk)
Amanda Thompson (Director of Strategy & Communications)
Simon Thornton-Wood (Director of Education & Training)
Julia Witting (Supervision Manager)

Press: Nick Hilborne (Legal Futures)

Part 1 - Public

Item 1 – Welcome

1. The Chair welcomed members to the meeting, in particular the following guests and staff attending their first Board meeting ie:
 - Alan Kershaw (former Chair, CILEx and scrutineer for the BSB’s submission on the Regulatory Standards Framework);
 - Neil Marshall (Consultant, Capsticks Consulting);
 - Faryal Khurram (Senior Supervision and Authorisation Officer).

Item 2 – Apologies

2.
 - Sam Stein QC;
 - Emily Windsor (Special Adviser);
 - Chantal-Aimée Doerries QC (Bar Council Vice Chairman);
 - Lorinda Long (Treasurer, Bar Council);
 - Alistair MacDonald QC (Chairman, Bar Council);
 - Viki Calais (Business Manager).

Item 3 – Members’ interests and hospitality

3. None.

Items 4a & b – Approval of Part 1 (public) minutes (Annexes A & B)

4. The Board approved the Part 1 (public) minutes of the meetings held on Thursday 10 September 2015 and Thursday 24 September 2015.

Item 5 – Matters Arising

5. None.

Item 6a – Action points and progress**Action points and progress (Annex C)**

6. The Board noted progress on the action list. The Chair also reminded members of the Board Away Day taking place on Thursday 17 December 2015 at The Hatton, etc Venues, Hatton Garden, London EC1N 8HN.

Item 6b – Forward Agenda (Annex D)

7. The Board noted the forward agenda list.

Item 7 – Report on High Impact Supervision Returns

BSB 080 (15)

8. The following points were highlighted:
 - the report is based on Supervision Returns submitted by 170 chambers which were identified as “highest impact” following an assessment exercise in 2014;

Note: “Impact” concerns the potential size and consequences on Regulatory Objectives should serious problems occur at a set of chambers. “Risk” considers how likely that is to happen. The point of supervision returns is to assess how well a chambers manages those risks to prevent them materialising, or how well it would deal with them if they did occur.
 - of these 64% were assessed as low risk, 27% as medium risk and 9% (16 chambers) as high risk;
 - chambers assessed as high risk were visited by Supervision and actions agreed to reduce the level of risk assessed. For chambers assessed as medium risk, actions were agreed through a follow up call and letter;

Part 1 - Public

- the chambers involved invested significant time on this exercise which is both acknowledged and commended. Feedback has been generally positive and the Supervision Department has adapted its questions for subsequent exercises in the light of the constructive comments received;
 - the data from the Returns has provided significant insight and proved very useful information which will further assist the BSB in its regulatory decision making;
 - the report on high impact chambers will be published so that good practice examples can be shared with others;
 - a similar analysis is currently underway for medium impact chambers and will be concluded shortly.
9. Members commented as follows:
- the positive feedback from chambers is welcome. It is encouraging that the exercise added value;
 - the report suggests a significant level of non-compliance and says that “few chambers actively seek feedback from lay clients”. This latter point is disappointing as it goes to the heart of consumer engagement. It would be helpful to know about the action in hand to help chambers address the areas of concern identified;
 - there seems to be a lack of focus concerning aged debt issues;
 - more guidance may be required for chambers to make progress in the area of equality and fair allocation of work;
 - it may help to review the accuracy of the original impact ratings in the light of experience. Moreover impact ratings may change as chambers diversify eg if they take on public access work.
10. In response the following comments were made:
- the Supervision Department will monitor the progress of chambers in addressing the areas of concern to reduce risk. The Board will be kept informed;
 - the Department is reviewing customer feedback mechanisms in chambers as part of the consumer engagement strand of the ASPIRE programme;
 - the questions about aged debt have since been amended in the Return for Medium Impact chambers. These are now more specific;
 - the risk level of a chambers of a chambers may be changed in the light of further relevant information or, possibly, as a result of a merger;
 - the Supervision Department will review the basis of the Impact Assessment now that the Medium Impact chambers have completed their Supervision Returns.
11. Oliver Hanmer confirmed that the report would be published on 23 October 2015 together with a press release.
12. **AGREED**
to note the report as well as the themes identified and the progress made by the Supervision Department to embed risk-based regulation.
- Item 8 – Supervision Committee Annual Report 2014-15**
BSB 081 (15)
13. The Board received the 2014-15 Annual Report of the Supervision Committee.
14. **AGREED**
to note the report.

Item 9 – Standards Committee Annual Report 2014-15

BSB 082 (15)

15. The Board received the 2014-15 Annual Report of the Standards Committee.

16. **AGREED**

to note the report.

Item 10 – The Enforcement Strategy (second version)

BSB 083 (15)

17. Sara Jagger confirmed the paper was an update to the existing enforcement strategy but that a fuller review is scheduled for the future at which time more substantial amendments may be proposed.

18. **AGREED**

to approve the revised Enforcement Strategy for publication.

**SJ to
note****Item 11 – Complaints about barristers working for or on behalf of the BSB**

BSB 084 (15)

19. Sara Jagger confirmed that the paper codified a recommendation from the Independent Observer with which the Board had previously approved.

20. **AGREED**

to note the policy and guidance document at Annex 1 of the paper.

Item 12 – Chair’s Report on Visits and Meetings (Sept-Oct 15)

BSB 085 (15)

21. The Board received the Chair’s Report on visits and meetings (Sept-Oct 15).

22. **AGREED**

to note the report.

Item 13 – Director General’s Report

BSB 086 (15)

23. Vanessa Davies highlighted the following:
- Smita Shah (Records Manager) is leaving the organisation after 23 years. She thanked Smita for her exceptional service and wished her well for the future.
 - The current Vice Chair, Patricia Robertson QC, concludes her term of office with the BSB on 31 December 2015. An advertisement for a replacement has therefore been published (the closing date is 9 November 2015).

24. **AGREED**

to note the report.

Item 14 – Any Other Business

25. None.

Item 15 – Date of next meeting

26. Thursday 26 November 2015.

Item 16 – Private Session

27. 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) A Review of the Bar Standards Board’s Enforcement Decision Making – Report;
 - (2) Regulatory Standards Framework – BSB self-assessment;
 - (3) Youth Proceedings Advocacy Review;
 - (4) BSB response to MoJ Consultation: *Preserving and Enhancing the Quality of Criminal Advocacy*;
 - (5) Approval of Part 2 (private) minutes:
 - 10 September 2015;
 - 24 September 2015;
 - (6) Matters Arising;
 - (7) Action points and progress – Part 2;
 - (8) Any other private business:
 - Insurance and competition law.

The meeting finished at 5.15 pm.