

BAR STANDARDS BOARD

REGULATING BARRISTERS

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

Thursday 26 March 2015, Room 1.1, First Floor
289 – 293 High Holborn, London, WC1V 7HZ

- Present:** Sir Andrew Burns KCMG (Chair)
Patricia Robertson QC (Vice Chair)
Rolande Anderson
Rob Behrens
Malcolm Cohen
Andrew Mitchell QC
Tim Robinson
Andrew Sanders
Adam Solomon
Sam Stein QC
Richard Thompson
Anne Wright
- By invitation:** Keith Baldwin (Special Adviser)
Robin Field Smith (Chair, Professional Statement Working Group)
Nicola Sawford (Board Member designate)
James Wakefield (COIC)
- Bar Council & Resources Group in attendance:** Stephen Crowne (Chief Executive, Bar Council)
Chantal- Aimée Doerries QC (Bar Council Vice Chairman)
Catherine Shaw (Director of HR, Bar Council)
- BSB Executive in attendance:** Chris Adiole (Legal & Policy Assistant)
Viki Calais (Business Manager)
Vanessa Davies (Director General)
Joanne Dixon (Manager, Qualification Regulations)
Oliver Hanmer (Director of Supervision) – items 8-14
Sara Jagger (Director of Professional Conduct)
Andrew Lamberti (Communications Manager)
Ewen Macleod (Director of Regulatory Policy) – items 7-14
John Picken (Governance Officer)
Pippa Prangle (Regulatory Risk Manager)
Amanda Thompson (Director of Strategy & Communications)
Simon Thornton-Wood (Director of Education & Training)

Item 1 – Welcome and introductions**ACTION**

1. The Chair welcomed members and guests to the meeting.
2. **Item 2 – Apologies**
 - Justine Davidge;
 - Simon Lofthouse QC;
 - Sarah Brown (Special Adviser);
 - Emily Windsor (Special Adviser);
 - Alistair MacDonald (Chairman, Bar Council);
 - Lorinda Long (Treasurer, Bar Council).

Item 3 – Members’ interests and hospitality

3. Vanessa Davies made the following declarations of hospitality received:
- Annual President’s Reception, Society of Legal Scholars (4 March 2015);
 - Dinner at the invitation of the Law School of Bangor University (10 March 2015);
 - Reception at the House of Lords hosted by the Council of Licensed Conveyancers (16 March 2015).

Item 4 – Approval of Part 1 (public) minutes (26 February 2015)

(Annex A)

4. The Board approved Part 1 of the minutes of the meetings held on Thursday 26 February 2015.

Item 5 – Matters Arising

None.

Items 6a & b – Action points and Forward Agenda

Action points and progress (Annex B)

6. The Board noted progress on the action list.

Forward Agenda (Annex C)

7. The Board noted the forward agenda list. The Board Away Day (23 April 2015) will take place at the Royal College of Surgeons, Lincoln’s Inn Field, London.

Item 7 – Bar Standards Board Business Plan 2015-16

BSB 024 (15)

8. Vanessa Davies referred to the revised business plan and thanked both the PRP Committee and the Business Support Team for their work on the re-draft. She also thanked Rolande Anderson for her help in finessing the text about equality and diversity.
9. She commented as follows:
- the plan identifies five priority areas ie:
 - ❖ the “Future Bar Training” programme – some critical milestones need to be achieved in 2015-16;
 - ❖ becoming a licensing authority for alternative business structures (ABSs);
 - ❖ review and reform of BSB governance structures;
 - ❖ developing capacity and capability in risk-based regulation;
 - ❖ increased focus on the consumers of barristers’ services and wider public engagement.
 - the revised plan reflects points raised at the last meetings of both the Board and the PRP Committee;
 - income generated from non-PCF funded work is budgeted to increase by 3%. However the Inns’ subvention will reduce as will the proportion the BSB takes from PCF.
 - BSB expenditure will increase by 3% in 2015-16 (from £5,287k last year to £5,438k). The overall cost of regulation will, though, be lower (falling 4% from £8,635k to £8,274k). This is due to a 15% fall in Resource Group and overhead costs;
 - the revised budget was approved by the Finance Committee at its meeting on 23 March 2015.

10. At the time that papers were dispatched, the BSB had not received the final version of the LSB's business plan. The BSB did provide feedback on earlier drafts and, whilst this is not wholly reflected in the final version, there are no new items of business. Notwithstanding this, there may be some impact on the BSB during a year which will be pivotal to it in the longer term.
11. Anne Wright confirmed that the revised draft reflects the views of the Planning, Resources & Performance (PRP) Committee meeting of 9 March 2015 ie:
- a reduction in overall resource requirements;
 - an emphasis on meeting a "satisfactory" standard for the LSB's Regulatory Standards Framework (RSF) by March 2016.
12. Members commented as follows:
- the foreword might be re-ordered to place greater emphasis on meeting RSF requirements. At present, the impact is less than it might be as it falls in the middle of the text. To address this first may give the wrong impression ie that the BSB is primarily concerned with meeting LSB targets than its statutory regulatory objectives. We could, however, underline the Board's commitment to the RSF in the closing summary;
 - we should be cautious about publishing specific proposals on staffing figures (P24 of the draft). Discussions at the April Away Day may focus on resourcing and further influence decisions on this issue. We should therefore be less prescriptive in this section;
 - the sentence in P6-7 of the draft beginning "clients of BSB-regulated entities..." is incorrect and should be deleted;
 - we should check the wording of the second bullet point under P22 of the draft concerning equality. This seems ambiguous.

Note: in discussing an item on regulatory risk in private session, the Board agreed to include reference to regulatory risk management under section P4 – "what the BSB does".

13. **AGREED**
- a) to approve the text of the 2015-16 business plan for publication subject to the amendments in paragraph 12 above;
 - b) to provide any further comments on the draft to Amanda Thompson by return.

AT

Board
Members
to note

Item 8 – Future Bar Training: Professional Statement consultation
BSB 025 (15)

14. Andrew Sanders introduced Robin Field Smith who has kindly chaired the Professional Statement Working Group. The other members were Emily Windsor, Tope Adeyemi and Stuart Weinstein assisted by consultant Judith Willis. The Group's objective was to set out a statement to cover the technical knowledge, skills, attributes, values and professional behaviours that a barrister should know and display at the point of final qualification. This is in response to a recommendation in the 2013 Legal Education and Training Review report.
15. Robin Field Smith commented as follows:
- the draft Statement has been developed from a series of meetings across the country with practising barristers and legal academics;
 - it is distinct from the Code of Conduct – it sets out what barristers must be *able* to do, as opposed to duties they must do (covered by the latter document);

Part 1 (Public)

- its practical purpose is to inform prospective barristers, training providers and the general public of what is expected of a newly qualified barrister;
- it has been successfully “road tested” with three academics and barristers who had no previous knowledge of the development work;
- the Board papers were dispatched in advance of the Education & Training Committee held on 19 March 2015. Some further amendments were recommended at that meeting ie:
 - ❖ revision of paragraph 9 to make clear the distinction between the Statement and the Code of Conduct
 - ❖ some re-ordering of paragraphs and typographical corrections;
 - ❖ an additional question concerning the above distinction and whether this is sufficiently clear;
 - ❖ revision of paragraph 14 making clear that barristers might use the Statement for their own CPD.

16. Members commented as follows:

- the Statement aims to describe our expectations of a newly qualified barrister. There is a difference between what might be aspired to at this point and what can realistically be expected in all cases. As currently written, the Statement could be said to reflect just the former rather than the latter;
- there should be further clarification on its purpose. We need to avoid any misinterpretation of it as a form of QASA that applies at the point of qualification. This is not its purpose;
- it might be helpful to use less directive language. For example, in describing the Statement (para 3 of the consultation document) we might say it represents what barristers should to *aim* to have. Likewise, the inclusion of imperatives throughout the document eg “must / will have”, “minimum standards” might be reconsidered;
- there is a question over assessment and enforceability. It is not clear how it links to the threshold required to pass pupillage. If the expectations of the Statement are aspirational in nature, then there may need to be a different document against which to assess completion of pupillage;
- paragraphs 14 and 15 of the consultation document relates the Statement to ongoing CPD requirements. This may be confusing, given the Statement is meant to set out all the competencies expected at day one of professional practice;

17. In response the following comments were made:

- the Statement is not unrealistic in its content, given it represents the views of a wide range of current practitioners and legal academics;
- it provides a welcome and practicable framework against which providers can organise training programmes;
- we should place a strong emphasis on high standards and expectations. Were this not the case, it might adversely affect the subsequent development of training pathways by providers and put educational standards at risk;
- other organisations, eg the Police, have greatly benefitted from such Statements which are now accepted as fundamental to training standards;
- enforcement action only applies to breaches of the Code - the Professional Statement falls outside of this. There may be some circumstances, however, when reference to it could be made for evidential purposes;
- chambers / pupillage training organisations will continue to sign off the competence of pupils. The threshold standards for this are not set out in the Statement, though this will provide the framework for their later development. Feedback from the consultation will help to inform this;

- the Statement is still only at consultation stage and different audiences (pupils, qualified barristers, training providers, academics) will each be able to contribute their views on its potential impact. We could segment the front end of the consultation by addressing specific questions to specific respondents.

18. **AGREED**

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| a) to endorse the concept of the Professional Statement but to request that the text be revised to clarify its purpose. | STW |
| b) that the revised document uses language that is appropriate to make clear the aspirational nature of its content. | STW |
| c) that the revised document be circulated electronically to Members with a view to publication before May 2015. | STW |

Item 9 – Chair’s Report on Visits and Meetings – March 2015

BSB 026 (15)

19. The Board
- noted**
- the Chair’s report on visits and meetings.

Item 10 – Appointments to the Audit Committee

BSB 027 (15)

20. The Board
- noted**
- the appointment of Steve Carter and Stephen Whittle as independent members of the Audit Committee (a term of three years each, effective from 1 February 2015).

Item 11 – Director General’s Report

BSB 028 (15)

21. Vanessa Davies reminded Members that the advertisement for the recruitment of two barrister Board Members will be published on 29 March 2015.

AGREED

22. to note the report.

Item 12 – Any Other Business

23. None.

Item 13 – Date of next meeting

24. • Thursday 26 March 2015.

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 – 26 February 2015 (Annex A);
- (2) Matters arising : QASA update;
- (3) Part 2 Action points and progress – (Annex B);
- (4) Introducing the Regulatory Risk Index and accompanying plan of work
- (5) s69 order update;
- (6) Fees and Charges policy;
- (7) Update on work following the “Regulators’ Summit”; proposals for a legal services / regulation “think tank” style forum;
- (8) Any other private business.

26. The meeting finished at 5.35 pm.