

BAR STANDARDS BOARD

REGULATING BARRISTERS

Part 1 - Public

Minutes of the Bar Standards Board meeting
Thursday 26 February 2015, Room 1.1, First Floor
289 – 293 High Holborn, London, WC1V 7HZ

- Present:** Sir Andrew Burns KCMG (Chair)
Patricia Robertson QC (Vice Chair) – by telephone
Rolande Anderson
Rob Behrens
Malcolm Cohen
Justine Davidge – items 7-14
Andrew Mitchell QC
Tim Robinson
Adam Solomon
Richard Thompson
Anne Wright
- By invitation:** Nicola Sawford (Board Member designate)
James Wakefield (COIC)
Emily Windsor (Special Adviser) – items 7-14
- Bar Council in attendance:** Alistair MacDonald (Bar Council Chairman)
Poli Avramidis (Chief Information Officer)
- BSB Executive in attendance:** Viki Calais (Business Manager)
Andrew Cohen (Business Support Officer)
Vanessa Davies (Director General)
Joanne Dixon (Manager, Qualification Regulations)
Oliver Hanmer (Director of Supervision)
Sara Jagger (Director of Professional Conduct)
Andrew Lamberti (Communications Manager)
Ewen Macleod (Director of Regulatory Policy)
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**
 - Simon Lofthouse QC;
 - Andrew Sanders;
 - Sam Stein QC;
 - Keith Baldwin (Special Adviser);
 - Sarah Brown (Special Adviser);
 - Chantal-Aimée Doerries QC (Vice Chairman, Bar Council);
 - Lorinda Long (Bar Council Treasurer);
 - Stephen Crowne (Chief Executive, Bar Council);
 - Mark Hatcher (Special Adviser to the Chairman of the Bar Council).

Item 3 – Members’ interests and hospitality

3. Declarations were made as follows:

- Rolande Anderson – coffee with Inclusive Employers (10 February 2015);
- Vanessa Davies – dinner at Lincoln’s Inn (19 January 2015);
- Vanessa Davies and Patricia Robertson QC – dinner at UCL, guests of Richard Moorhead (25 February 2015).

Item 4 – Approval of Part 1 (public) minutes (29 January 2015)

(Annex A)

4. The Board approved Part 1 of the minutes of the meetings held on Thursday 29 January 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. Some of the proposed items for the March meeting will be re-scheduled to allow more time for an in-depth discussion on regulatory risk management.

Item 7 – Performance Report for Q3 (October 2014 – December 2014)

BSB 014 (15)

8. Anne Wright highlighted the following:

- the year-end income target is now likely to be missed by a greater margin ie 18% (£322,630) rather than 13% as previously reported;
- expenditure is likely to be 2% (£108,683) under budget by year-end;
- the income reduction is indicative of significant shifts in the market place for education and training and qualifications. This shortfall could be compounded in the years to come, particularly given uncertainty over income levels for entity regulation and QASA;
- the PRP Committee discussed fees and charges proposed under the full economic recovery model, but remains concerned over the potential impact of this and needs to work through the potential implications;
- KPIs have been introduced for the Qualifications Committee and all of these were met in Q3;
- HR performance figures have improved but the PRP Committee remains concerned over high staff turnover levels. Figures on staff retention will no longer be reported as the Committee considered these did not add value;
- the OPI figure of the PCD Assessment Team was the only one to fall below target in Q3. The reason for this seems to be linked to staff shortages in that team. The Committee will discuss performance with the Director of Professional Conduct at its next meeting. This will also incorporate the management of long running cases;
- several items are not running either to original budget or to timetable ie:
 - ❖ Licensing Authority application;
 - ❖ QASA;
 - ❖ Regulatory Risk Framework;
 - ❖ Review of new Handbook;
 - ❖ CPD;
 - ❖ Complaint expectation management;
 - ❖ Knowledge management strategy;
 - ❖ International strategy;

- performance against Service Level Agreements for the Resources Group has been reported for the first time. KPIs are broadly on target and follow-up action is planned for any exceptions.
9. With reference to the late running items, staff commented as follows:
- the Regulatory Policy Department has needed to focus on two urgent items of business (standard contractual terms and liaison with the BMIF). This has had a knock-on effect for the licensing authority application;
 - the Regulatory Risk Framework is now scheduled for discussion at the Board in May. Considerable investment has been made to ensure this work is progressed;
 - the LSB has agreed that a review of the Handbook can be put on hold;
 - complaint expectation management will now be addressed in next year's business plan.
10. The Board commented as follows:
- the projected spend for outsourced casework is £80k against an original budget of £20k. It would be helpful to know which firms have been engaged in this work;
 - the budget underspend may well be linked to slippage on projects;
 - will projected underspend be used to counter balance reduced income;
 - funds for market and consumer research have not been spent and it would help to have the reasons for this;
 - it is unfortunate that the Board receives Q3 data so near the end of Q4 as it means there is reduced scope for taking corrective action. It would have been preferable to receive the report at the Board's January meeting.
11. In response the following comments were made:
- outsourced casework is sent to a firm of solicitors which has been retained following a tendering exercise. It instructs Counsel as necessary and deals with complex cases that would otherwise take a disproportionate amount of time to manage in-house;
 - the accounts do not operate on profit and loss basis. Any surplus is returned to the Bar Council reserves and any loss is compensated from the same source;
 - the provision for market and consumer research was affected by re-prioritisation of activities within the team and a need to fund additional work for regulatory risk management;
 - management accounts are prepared five working days after month-end. The PRP Committee also has to scrutinise the budget before it is presented to Board. Bearing in mind that papers are dispatched a week in advance, it would be difficult, though perhaps not impossible, to provide budget reports a month earlier for the Board. Having said that, existing PRP Committee meetings would need to be re-scheduled.
12. **AGREED**
- a) to note the report.
 - b) to investigate the possibility of rescheduling quarterly performance reporting for financial year 2015/16.

AT / VC

Item 8 – Changes to BSB Constitution

BSB 015 (15)

13. Amanda Thompson commented as follows:
- the Independent Appointments Panel has suggested amendments to the Schedules A and B of the BSB's Constitution. This concerns the appointment and re-appointment of members to the Board.

- the proposed amendments updates terminology and incorporates an element of flexibility for terms of office to enable greater scope for continuity
In the latter case, it seeks to do two things ie;
 - ❖ make it possible to extend individual Board Member terms of office beyond 6 years;
 - ❖ make it possible to re-start the standard term of office should an existing Board Member be appointed Chair or Vice Chair;
- in both cases, an overall cap of nine year's membership applies;
- the proposals reflect current practice in similar organisations;
- it will also need approval from the Bar Council at its meeting on 6 March 2015.

14. Members commented as follows:

- a nine year period of membership might be considered excessive;
- the schedules should avoid using gender specific terminology.

**AT to
note**

15. In response the following comments were made:

- a nine year maximum, based on three terms of office of three years is a common model for Boards of other organisations;
- an extension to an individual's term of office need not, necessarily, be for the maximum period available and would remain within the remit of the Independent Appointments Panel.

16. **AGREED**

- a) to approve the proposed changes to Schedules A and B of the BSB's constitution as set out in the report.
- b) that the proposals be presented for the Bar Council's agreement at its meeting in March 2015.
- c) to request that the Bar Council change all gender specific references to gender neutral.

**AT to
note
AT**

AT

Item 9 – Report of the Qualifications Committee

BSB 016 (15)

17. Rob Behrens referred to the Annual Report of the Qualifications Committee which summarised its work during 2014. He highlighted the following:

- Adam Solomon is now the barrister Vice Chair for the Qualifications Committee. He joins Professor Carl Stychin who took the post of lay Vice Chair in early 2014;
- the delegation of decision making to staff, with support from Committee Panel members, is working well;
- there has been a marked decrease for certain categories of applications eg waivers from CPD requirements;
- the number of appeals has significantly reduced following the transfer of jurisdiction to the High Court from the Visitors to the Inns of Court. The reason for this is unclear at present;
- KPIs for the Qualifications Committee were introduced in late 2014. Targets have been met, though this is in the context of a period when application numbers have been falling;
- the application fees and Fee Waiver policy has been reviewed and a report will be prepared for the Board's meeting in March 2015.

18. The Chair noted the rise in the number of applications considered by the Pupillage Panel. In response, the Executive commented that this reflects the trend of gaining experience outside the standard pupillage model. The BSB is keen to improve flexibility of qualification routes though this is tempered by the need for effective supervision to manage risk.

19. **AGREED**

to note the report.

Item 10 – Chair’s Report on Visits and Meetings

BSB 017 (15)

20. The Board noted the Chair’s report on visits and meetings. The Chair also reported on his attendance at the Global Law Summit, which he found to be interesting event and a useful networking opportunity.

Item 11 – Director General’s Report

BSB 018 (15)

21. Vanessa Davies commented as follows:

- she has established an effective working relationship with the new Chief Executive of the LSB;
- the recruitment of two new barrister Board members will commence in March 2015;
- since writing her report, Andrew Cohen has been promoted to the post of Senior Project and Information Officer in the Supervision Team as from 1 April 2015.

22. In response to a question on supervision, Oliver Hanmer confirmed that between 20-30 chambers are classed as medium risk. In addition, Ewen Macleod advised that the Handbook Working Group is now finalising its consultation on whether or not single person entities should be required to purchase their primary layer of insurance from the BMIF.

23. **AGREED**

to note the report.

Item 12 – Any Other Business

24. Regulatory standards 2014/15 - An update report on the performance of legal services regulators

The LSB published the above [report](#) on 25 February 2015. The feedback was in line with our expectations and plans are already in place to address this.

25. **AGREED**

to note the report.

Item 13 – Date of next meeting

26. • Thursday 26 March 2015.

Item 14 – 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) Approval of Part 2 (private) minutes – 29 January 2015;
 - (2) Matters Arising;
 - (3) Action points and progress – Part 2;
 - (4) BSB Business Plan for 2015-16;
 - (5) Practical implications of risk-based regulation of the Board;
 - (6) Corporate Risk Register;
 - (7) QASA - Update;
 - (8) Review of standard contractual terms and the cab rank rule: undertaking to the LSB;
 - (9) Update on Regulators’ Summit (19 February 2015);
 - (10) Any other private business.

28. The meeting finished at 5.25 pm.